

CABINET

25 April 2017

Title: Policy on the Discharge of the Homeless Duty with a Private Rented Sector Offer (PRSO)	
Report of the Cabinet Member for Economic and Social Development	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
Report Author: James Goddard, Group Manager, Housing Strategy	Contact Details: Tel: 020 8794 8238 E-mail: james.goddard@lbdd.gov.uk
Accountable Strategic Director: John East, Strategic Director, Growth and Homes	
Summary <p>Housing need continues to outstrip the available supply of affordable homes. The borough currently has 1,800 households in temporary accommodation (TA). A 25% increase in private rents in the last two years has meant that alternative accommodation in the local private rented sector has become increasingly unobtainable for many residents. The retreat of landlords from the temporary accommodation market has also diminished the Council's ability to fulfil its statutory homelessness duties under Part VII Housing Act 1996.</p> <p>As a result of Government welfare reforms, the number of clients seeking advice to mitigate homelessness has been growing. With limited housing resources at its disposal, it has become ever more important for the Council to challenge the culture of expectation for social housing and ensure that households are offered the opportunity of a fresh start and an affordable housing choice as a means to support their families and sustain their budgets and tenancies.</p> <p>Barking and Dagenham therefore intends, in appropriate cases, to begin the discharge of its housing duty by way of a Private Rented Sector Offer (PRSO) ensuring that an affordable housing choice is realised for applicants.</p>	
Recommendation(s) <p>The Cabinet is recommended to approve the policy framework for the discharge of the homeless duty with a private rented sector offer, as set out at Appendix 1 to the report.</p>	
Reason(s) <p>To assist the Council to achieve its priorities of:</p> <ul style="list-style-type: none">• Enabling social responsibility• Growing the borough	

1. Introduction and Background

- 1.1 The Council has a statutory duty to assist households presenting as homeless where they are eligible for assistance and in priority need under the Housing Act 1996. Sourcing either temporary accommodation or securing a permanent housing solution for clients has become increasingly difficult because of rising rents in the local private rented sector, the retreat of landlords from the temporary accommodation market and the impact of Government welfare reforms on household incomes.
- 1.2 Private sector rents in the borough have increased by 25% in the last two years such that there is an average £465 a month gap between the market rent and what households can claim towards housing costs under the Local Housing Allowance. There are currently 1,200 households in temporary accommodation through either nightly lets or private landlord leases and the Council subsidises the shortfall of each household by an average of £1,460 per year. There are a further 600 households in hostel and other accommodation which tends to be cost neutral.
- 1.3 In the latest survey of letting agents in November 2016, 90% of landlords stated they were uninterested in letting to TA households and housing benefit claimants. This response needs to be seen in the light of the most recent Government reforms to welfare, including the Total Benefit Cap, which are expected to affect 700 local households, threatening tenancy sustainment and risking a new wave of evictions from the private rental market.
- 1.4 With limited housing resources it is important that the Council deals with clients' expectations realistically and honestly; that can include offering a fresh start outside of Barking and Dagenham. With lower rents, households will have a better chance of meeting their household and subsistence costs as well as sustaining their tenancies.
- 1.5 In response to the difficulty of procuring affordable local accommodation, Cabinet agreed in November 2016 to the lifting of the one hour from Barking and Dagenham travelling restriction when placing temporary accommodation households. The report also authorised the preparation of a policy which could provide a private rented sector offer outside of the capital as a means of ending the Council's housing duty to homeless clients.
- 1.6 This report sets out the policy framework (Appendix 1) in which the Council will implement the discharge of its housing duty by way of a Private Rented Sector Offer (PRSO).

2. Issues and Proposals

The Framework

- 2.1 The Allocations Scheme, approved by Cabinet in 2014, allows for the use of a PRSO for the discharge of the homeless duty. Under previous legislation homeless clients could be made an offer of an assured short-hold tenancy in the private rented sector as a permanent solution to their lack of accommodation but they had the right to refuse the offer. In such circumstances the Council was obliged to find an alternative in temporary accommodation or social housing. The Localism Act

2011 allows the Council to make a PRSO and if the client refuses to take it up without good reason then the Council is no longer liable to source further accommodation.

- 2.2 The policy also severs a long-standing perception that making a homeless application or obtaining temporary accommodation provides an alternative route to accessing social housing. The offer of a PRSO will also end the client's 'Reasonable Preference' on the housing register for permanent social housing by virtue of being homeless. Applicants will be expected to take the accommodation offered to them at that moment in time and therefore bring the Council's duty to an end.
- 2.3 PRSOs are widely used by London boroughs as a proactive tool in securing permanent, affordable accommodation for homeless clients. In comparison, Barking and Dagenham is behind the curve in exercising discretion in its use.
- 2.4 In deciding on an offer of a PRSO, the Council has to show regard to its obligations under section 208 Housing Act 1996 which requires the authority to do its best to source private accommodation in Barking and Dagenham. However, there will be a general presumption that the Council will discharge its duty with placements outside of London where suitable and affordable accommodation cannot be found locally.
- 2.5 Through the Localism Act 2011, the policy will only apply to households that approached as homeless cases from 9th November 2012 and will affect households who are homeless, eligible for assistance and in priority need under section 193 of the Housing Act 1996 and where the Council has accepted a main housing duty in accordance with Part VII of the Act. This will primarily affect clients housed in temporary accommodation.

Suitability of Accommodation

- 2.6 The PRSO will be a minimum 12 month assured short-hold tenancy with a private landlord and made depending on the availability of accommodation and full consideration of each household's personal circumstances as set out in the Homelessness (Suitability of Accommodation) (England) Order 2012. Due to the shortage of affordable and suitable accommodation in Barking and Dagenham in general, the presumption will be that placements will be made outside of London unless mitigating circumstances mean the placement will need to be prioritised for local or near-local accommodation.
- 2.7 A summary of the factors when deciding the suitability of the offer (Section Four of the Policy and Appendix 2) are given below:
 - Property size: to ensure adequate space, room standards and compliance with Housing Health and Safety Risk System (HHSRS) requirements
 - Location: although there is a duty to try and find local accommodation, there will be a presumption of out of London relocation, subject to mitigating circumstances and referenced against an affordability matrix mapping out Local Housing Allowance areas across the country

- **Affordability:** to ensure that PRSOs are offered in areas deemed affordable when assessed against the households' entire income, costs of travel for work, education or health services where relevant
- **Health:** to ensure properties meet the needs of mobility and other health factors of the client
- **Education:** attendance at school will not be a reason to refuse accommodation although near-local priority will be assessed where households have EHC statemented children or students taking public examinations such as GCSEs
- **Employment:** consideration will be given to applicants who are in paid employment where appropriate

General Exemptions from Out of London placements

- 2.8 In line with the current process of allocating temporary accommodation there are some households which will be prioritised for placements in Barking and Dagenham or near-local. In Section Six, the policy lists a series of exemptions around severe and enduring health conditions; access to specialist and localised health and social care; educational and schooling requirements of EHC pupils; employment responsibilities and children subject to Child Protection Plans.
- 2.9 Where further afield relocation is considered likely to have a detrimental impact on the client and/or the household following a robust suitability assessment then such a placement would be inappropriate. Part Six of the policy illustrates some examples of this in more detail but the list is not exhaustive.

Advice and Guidance on Relocation

- 2.10 To assist the smooth relocation of clients the Council will provide training to help residents maintain their tenancies and supply a comprehensive directory of their resettlement area covering transport networks, health and educational services; community facilities and employment and training opportunities.
- 2.11 Where appropriate the Council will provide discretionary services ensuring:
- links are made with the local JobShop, training courses and where feasible employment transfer opportunities
 - signing-up clients to local income maximisation services and carry out the appropriate checks with the resettlement authority such as round Local Council Tax Support and primary care authorities where necessary
 - accompanied viewings to the properties and there will be a consideration on a case by case basis of a reasonable furniture allowance and removal costs
- 2.12 The PRSO policy will be used as another tool in tackling homelessness allowing the Council more latitude in providing a permanent housing solution for clients currently occupying temporary accommodation.

Implementation

- 2.13 The policy is proposed to be operational from Autumn 2017 at which time Community Solutions and My Place will be able to use PRSOs as a tool in tackling homelessness.
- 2.14 Procurement options, including remote tenancy management matters, relocation incentives and sourcing accommodation are being appraised to support the objectives of this policy.
- 2.15 An affordability matrix has been devised by the Council for regular review. It maps out assumptions about applicants' household income levels and is compared with the Local Housing Allowance Broad Rental Market Areas (BRMA) for each region to give the Council an indication idea of which areas are affordable to the client. This will form part of the suitability assessment.

3. Options Appraisal

- 3.1 Under the Homelessness Act 2002 local authorities are bound to review their homelessness services and set out a comprehensive assessment of emerging trends. Subsequently the borough is required to prepare strategic activities to tackle homelessness and has to be mindful of further duties to support households at risk of becoming homeless in the provisions of the Homeless Reduction Bill progressing through Parliament.
- 3.2 A failure to review those trends, budget pressures and the impact of new policy guidance would leave the local authority exposed to the adverse effects of increased homelessness without a broad range of tools to discharge its duties under the Housing Act 1996.
- 3.3 The one hour travelling restriction for finding temporary accommodation placements has already been removed in response to the acute shortage of affordable local housing. By introducing the flexibility to source affordable housing further afield, the Council can avoid bottle-necks in TA and hostel accommodation as new homeless cases present themselves as a result of the second phase of welfare reform.

4. Consultation

- 4.1 Public consultation events and workshops on the 2015/16 Draft Homelessness Strategy were presented to various management teams within the Council and is tabled for discussion at the Health and Wellbeing Board, Community Safety Partnership, Landlords and Letting Agents Forum, Corporate Strategy Group and the Strategic Volunteers Forum. During that consultation, there was widespread recognition of the need for further afield housing placements to tackle the shortage of affordable accommodation in Barking and Dagenham.
- 4.2 As a result of those representations this policy has been drafted and the public consultation ran from 25 January to 22 March 2017 through the Council's Consultation Portal. Two responses were received which supported the policy in its entirety. A presentation on the core principles of the policy was given to the Strategic Voluntary Sector Forum on 20 January in recognition of the third sector's role in dealing and assisting with clients who are or at risk of homelessness.

5. Financial Implications

Implications completed by: Katherine Heffernan – Finance Group Manager

- 5.1 The Housing General Fund is currently forecasting a pressure of £2.9m at the year-end due to the net cost of placing people in accommodation provided by private sector landlords, which is the largest source of temporary accommodation. The income that the Council can collect from tenants is constrained by the level of Housing Benefit payable which has been frozen for several years and is now below the cost of most accommodation in the borough and neighbouring areas.
- 5.2 Around two thirds of the properties used for temporary accommodation produce a net cost to the Council, the average net cost is now calculated to be around £3 per night. Performance bonuses are also paid to agents for providing seven or more properties and are forecast at £145k for the year.
- 5.3 The impact of welfare reform is expected to result in increased levels of homelessness unless preventative measures are effective. A new phase of Welfare changes has recently come into force with the lowering of the overall benefits cap. The impact of this is not yet fully known but is likely to result in increased numbers of homelessness applications or increased levels of bad debt.
- 5.4 The November 2016 Cabinet meeting received a report on the Homelessness situation and approved the high-level strategy and an outline recovery plan. The Policy on the Discharge of the Homeless Duty with a Private Rented Sector Offer (PRSO) was an integral part of this strategy.
- 5.5 The policy, if approved by Cabinet, will enable the Authority to place homeless families in private sector accommodation further away from the local area at locations where rents are less expensive and more in line with the level of Housing Benefit payments received by the tenants. This will reduce the net cost to the Council in providing accommodation with private sector landlords and go some way to reducing the current financial pressures on the service.
- 5.6 As set out in paragraph 2.3, the adoption of the policy will enable the Authority to discharge its duty to homeless clients as the offer of a PRSO will nullify any client's reasonable preference for an allocation for social housing by virtue of being homeless. Applicants will be expected to take the accommodation offer available to them at that moment in time thus bringing the Council's duty to an end. This change in approach will help reduce the considerable demands that are currently being placed on the Housing Advice Service.
- 5.7 Financial savings will no doubt be achieved through the adoption of this policy, however, as each individual homelessness case will need to be judged on its own merits, it is not possible to quantify their magnitude at this stage.
- 5.8 There will also be some costs as a result of this policy. These include the costs involved in finding and securing accommodation outside of the borough and carrying out assessments to ensure the accommodation is suitable. In addition, the policy provides for assistance to be given to families with travel and relocation costs where appropriate. These costs should only be incurred where this is the best

overall value for money option for the council. Any costs will need to be covered within the existing resources of the Housing Advice Service.

6. Legal Implications

Implications completed by: Martin Hall, Housing Solicitor / Team Leader

- 6.1 The policy has been drafted taking in to consideration the relevant legislation and recent case law on out of borough offers of accommodation as set out in paragraph 2.1 of the policy.
- 6.2 Use of the policy is likely to result in a significant increase in challenges of suitability of the accommodation offered and in turn a greater number of appeals to the County Court. Careful consideration will need to be given to the assessment of the suitability of accommodation and to the needs of the household before the offer is made.
- 6.3 When operating such a policy the Council will need to ensure appropriate terms, such as a break clause, are included in any tenancy agreements between the individuals concerned and landlords to enable agreements to be brought to an end should a review be successful.

7. Other Implications

- 7.1 **Risk Management** - The main purpose of this policy to allow the Council the flexibility to tackle homelessness and cease its housing duty in a way which provides a permanent and affordable housing solution for clients found to be owed a duty already and tailor the use of its temporary accommodation to manage new clients who would need to be assessed under s.188. Failure to approve this flexibility could cause a bottle-neck in accommodation, add to the problem of finding local housing and increase costs for expensive nightly lets

The use of PRSOs is likely to lead to a high volume of requests for review under section 202 Housing Act 1996. It is important, therefore, that the suitability assessments under taken by Community Solutions are robust and mindful of all recent guidance and case-law in this area. Safeguards have also been built into the draft policy which has been reviewed by Counsel and tested against recent court judgments.

- 7.2 **Contractual Issues**- Where the approach indicates a procurement or contractual solution this will be delivered with best practice and in consultation with corporate procurement services.
- 7.3 **Staffing Issues** - Any staffing related implications arising from this approach will be dealt with through the policies, procedures and consultative processes agreed between the Council and the trade unions.
- 7.4 **Corporate Policy and Customer Impact** - Homelessness is a key indicator in the JSNA's annual assessment of current and future health and social needs of the population and includes recommendations for public policy commissioners on strategic outcomes in reducing homelessness. It also meets the corporate priorities of enabling social responsibility. This essentially means assisting residents to take

responsibility for themselves, their homes and their community as well as protecting the most vulnerable, keeping adults and children healthy and safe.

The impact on clients and user groups has been highlighted in the report and where further afield placements are deemed detrimental, the policy allows for exemptions and local or near-local accommodation. Where further afield placements are considered appropriate the Council offers relocation advice and a range of discretionary services.

In compliance with the Equality Act 2010, the policy is subject to an equality impact assessment, following public consultation. An initial data trawl of the current list of temporary accommodation households suggests that 71% are comprised of women; the largest ethnic group in the list is African, constituting 37%; in terms of faith statistics 46% were Christian and 26% Muslim. Only 67% of the list offered details on sexual orientation with the remainder either being children or adults failing to disclose. Of those disclosing their orientation, 99% described themselves as heterosexual.

In formulating this policy due regard has been given to the protected characteristics and that the policy, its exemptions, safeguards and proposals to support households being relocated provide a proportionate and justifiable means of achieving the legitimate aim of the Council performing its statutory duties.

- 7.5 **Safeguarding Children and Health Issues** - Recommendations in the approach look to improve the outcomes for vulnerable persons who are homeless. All client suitability assessments will have regard to the Council's obligations under the Children Act 2004 and the Care Act 2015, including the need to safeguard and promote the welfare of children and vulnerable adults.
- 7.6 **Crime and Disorder Issues** – While there are no crime and disorder issues per se the policy could affect clients who are homeless through being victims of domestic violence, rough sleeping, suffering from substance and alcohol misuse and such circumstances will be evaluated as part of a robust suitability assessment for each applicant.
- 7.7 **Property / Asset Issues** - The paper assesses the Council's current use of accommodation, stock and assets and suggests ways to rationalise and utilise it more effectively as part of a more strategic approach to relieving homelessness and source move-on accommodation.

Public Background Papers Used in the Preparation of the Report:

- Cabinet minutes 15/11/2016: <http://moderngov.barking-dagenham.gov.uk/ieDecisionDetails.aspx?AllId=66079>

List of appendices:

- **Appendix 1** – Policy: Discharge of the Homeless Duty by Private Rented Sector Offer
- **Appendix 2** – Suitability Guidance