

# Southend-on-Sea Borough Council

Corporate Director of Adult & Community Services

to

Community Services and Culture Scrutiny Committee

on

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Agenda  
Item  
No.

12

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and Planning for Housing and Culture

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## Statutory Homelessness Discharge of duty policy

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### 1. Purpose of Report

- 1.1 To outline a draft policy on how the Council will interpret and implement new powers set out in the Localism Act allowing a more flexible approach to discharging statutory homelessness duty using private rented sector accommodation.

### 2. Recommendation

- 2.1 The Committee's views are sought on the Statutory Homelessness Discharge of duty policy.
- 2.2 To endorse the Statutory Homelessness Discharge of duty policy for consultation with key stakeholders.

### 3. Background

- 3.1 The year since the publication of Southend's *Housing Strategy 2011-2021*<sup>1</sup> has seen significant changes to national and local housing policy. A number of new powers and duties have been enacted which mean that Local Housing Authorities (LAs) can exercise greater control over how housing is delivered in their areas.
- 3.2 The key legislative instrument for these changes is the *Localism Act 2011*<sup>2</sup> (the *Act*). Enacted in stages throughout 2012 the *Act* has increased LA freedom to amongst other things; locally determine the allocation of social housing, introduced changes to the type and length of social housing tenancies including flexible tenancies, allow greater flexibility when discharging homelessness duty into private rented sector properties and introduced long awaited reforms to the Housing Revenue Account.

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<sup>1</sup> [The Southend-on-Sea Housing Strategy 2011-21, SBC \(2011\)](#)

<sup>2</sup> [A plain English guide to the Localism Act, CLG \(2012\)](#)

- 3.3 Other changes outside of the *Act* have seen higher cost, (up to 80% of market rent) *Affordable Rent*<sup>3</sup> tenancies introduced in the Housing Association sector (as direct capital subsidy has been reduced), housing market stimulus initiatives announced within the *Housing Strategy for England*<sup>4</sup> and the re-invigoration of the *Right to Buy*<sup>5</sup> policy.
- 3.4 In addition to these direct housing policy changes, reforms within other areas of public policy, particularly in welfare and planning, will have considerable impacts on the housing market and housing supply in the future.
- 3.5 The *Act* provides the opportunity for LAs to more easily discharge their homelessness duties through re-housing in the private rented sector (PRS) although a number will still be re-housed into social rented housing. Whereas currently homeless applicants can refuse offers to discharge duty into suitable PRS accommodation without consequence, the new powers mean that if applicants refuse a suitable offer, the LAs duty will be discharged and they will not receive associated homeless priority on the Council's Homeseekers Register.
- 3.6 A draft policy has been developed **Appendix 1** which proposes how discharge of duty into the PRS will operate in Southend.
- 3.7 The policy also outlines how the Council will seek to ensure that the standard of properties into which homeless households are re-housed meet minimum acceptable standards. The policy will provide a chance to work to improve the standards of private rented sector accommodation within Southend through closer working with SEAL and local accredited landlords.
- 3.8 Southend-on-Sea Borough council has considered use of powers brought in by the *Act* that enable local authorities to more easily discharge homelessness duty into suitable private sector accommodation. The three policy options available are;

**1. Do not adopt the power.**

Continue to use PRS for homelessness prevention cases and have the duty ended through social housing in the majority of statutory homelessness cases.

This approach does not provide flexibility in dealing with homelessness and is unlikely to contribute to culture change locally especially around parental evictions. It is not believed that this option would provide sufficient housing options to deal with potential increases in demand for statutory homeless re-housing.

<sup>3</sup> [Affordable Rent, HCA \(2012\)](#)

<sup>4</sup> [Laying the Foundations: A Housing Strategy for England, HM Government \(2011\)](#)

<sup>5</sup> [Right to Buy, CLG \(2012\)](#)

## **2. End the duty for some, but not all, cases through a targeted approach.**

The policy could be applied on the basis of ending the homelessness duty in the PRS for some households but not others.

A list of exemptions for vulnerable singles and families who are considered at risk in some way, or for whom accommodation in the PRS may not be suitable could include;

- Care leavers
- People requiring supported accommodation
- Families requiring adapted properties

The exemptions could be framed so that they are flexible – i.e. where appropriate, PRS accommodation may become available and the Council will consider it as an option to address their housing need (this may require a risk assessment and support planning prior to making the offer to ensure it would be appropriate).

This approach gives flexibility in being able to use the new powers and provides the chance to determine situations in which re-housing in the PRS is not deemed appropriate. This option would provide a greater supply of housing options for re-housing statutory homeless households.

## **3. Adopt the power to end the duty for all accepted cases.**

There may be no exemption categories except for those in “exceptional circumstances” and the level of PRS supply will determine the number of cases that have the duty ended with an offer of PRS accommodation.

This approach provides the most flexibility to deal with homelessness cases but would require robust guidelines for how exceptional circumstances are determined.

- 3.9 The policy proposes that every homeless household is assessed as to the suitability of re-housing in the PRS. Although it is considered that for most statutory homeless households, discharge into the PRS will be acceptable it is recognised that for some households this will not be the case and that they will require re-housing in social rented accommodation.
- 3.10 Using PRS accommodation to discharge statutory homeless duty where appropriate enables the Council to meet its statutory duty whilst potentially increasing the proportion of properties available for non-homeless households on the housing register who have other housing needs eg medical, overcrowding.
- 3.11 If an applicant refuses an offer of suitable PRS accommodation the Council will consider its homeless duty discharged. The policy includes details of the review process open to applicants should they believe that

the accommodation offered to them is not suitable. This review process mirrors that which already exists for offers made to discharge duty in the social rented sector.

3.12 The policy takes into account the implications of the revised draft Allocations Policy and implications of welfare reform. The policy will be developed in line with the principles set out in Southend's Homelessness Prevention Strategy 2012-14

3.13 The new powers came into effect on 9<sup>th</sup> November 2012. The guidelines which determine suitable accommodation have been outlined by the CLG<sup>6</sup>. The *Order* defines unsuitable Accommodation where;

- The accommodation is not in a reasonable physical condition.
- Any electrical equipment provided does not meet with the identified Electrical Equipment (Safety) Regulations.
- The landlord has not taken reasonable fire safety precautions with the accommodation and any furnishings supplied.
- The landlord has not taken reasonable precautions to prevent the possibility of carbon monoxide poisoning.
- The landlord is not a fit and proper person to act in the capacity of landlord.
- A House of Multiple Occupation is subject to mandatory or discretionary licensing and it is not licensed
- The property does not have a valid Energy Performance Certificate
- The property does not have a current gas safety record
- The landlord has not provided the local housing authority with a written tenancy agreement which the local housing authority considers to be adequate

3.14 The *Suitability of Accommodation Order* also includes a section discouraging LAs from placing homeless applicants outside of their own district. An additional safeguard is included whereby when LA duty is discharged in to the private rented sector it has to be for a minimum term 12 months. Where the household experiences homelessness again within two years of being placed in private rented sector accommodation the duty of the placing authority is automatically re-instated.

#### **4. Other Options**

4.1 The draft policy outlines the extent to which the Council will seek to exercise the powers included in the Localism Act and the processes which will govern the discharging of statutory homelessness duty into PRS accommodation

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<sup>6</sup> [The Homelessness \(Suitability\) of Accommodation \(England\) Order 2012](#)

Not adopting the power carries the risk of reducing the Council's options of being able to discharge statutory homelessness duties. This could potentially increase the prevalence and length of temporary accommodation occupancy which has cost implications. In a worst case scenario this may mean that the Council has to use B&B style accommodation.

Conversely, adopting the power for all applicants regardless of circumstances would not meet the needs of homeless applicants and could potentially leave the Council open to greater risk of legal challenge.

The draft policy presents a balanced approach which seeks to best meet the needs of applicants whilst managing the demand for homelessness using the Council's limited resources.

## **5. Reasons for Recommendation**

5.1 To fulfil the Council's statutory commitments and to ensure that the Homelessness discharge policy increases the opportunities for the Council to prevent and resolve homelessness in line with the Homelessness Prevention Strategy 2012-14.

## **6. Corporate Implications**

### **6.1 Contribution to Council's Vision and Corporate Priorities**

The policies discussed in this paper help to contribute to achievement of the corporate aim- *Enabling well planned quality housing and developments that meet the needs of Southend's residents and businesses*

### **6.2 Financial Implications**

It is considered that discharging duty in the private rented sector for a greater number of statutory homeless households would require higher investment in terms of officer time and financial investment as opposed to rehousing into social rented housing.

This extra cost is associated with staff time to ensure compliance with the suitability of accommodation order, sourcing and allocating private rented properties and financing the deposits for those households who require them.

Conversely the ability to use PRS more widely to discharge statutory homelessness duty could help to reduce expenditure on temporary accommodation by reducing demand and average length of stay.

Officers will need to operate the policy in line with budget allocations and ensure that wherever possible the increased budget and resource demands arising through payments of deposit loans and suitability inspections is balanced by a reduction in temporary accommodation usage.

### **6.3 Legal Implications**

The policy outlines how the Council will implement changes to discharging its homelessness duty in accordance with s148 of the Localism Act 2011 which amends s193, s195 and s197 of the Housing Act 1996 (as amended by the Homelessness Act 2002).

### **6.4 People Implications**

The Policy acts to increase the rehousing options available to statutory homeless households to include suitable accommodation in the social and private rented sector.

### **6.5 Property Implications**

None identified.

### **6.6 Consultation**

Consultation with key stakeholders in order to refine policy to be carried out prior to publication of the policy.

### **6.7 Equalities and Diversities Implications**

An Equality Assessment on the policy will be carried out to assess the impact of the policy against the nine protected characteristics included in the Equality Act 2010.

### **6.8 Risk Assessment**

The policy will be assessed and reviewed to ensure compatibility with ongoing welfare reforms so that where duty is discharged into PRS accommodation it remains affordable.

The financial risks associated with implementing the policy have been considered and are discussed in more detail in paragraph 6.2 *Financial Implications*. It is believed that these risks can be managed through frequent officer monitoring of the financial implications of implementing the new policy.

### **6.9 Value for Money**

Officers will need to operate the policy in line with budget allocations and ensure that wherever possible the increased budget and resource demands arising through payments of deposit loans and suitability inspections is balanced by a reduction in temporary accommodation usage.

### **6.10 Community Safety Implications**

It is not considered that the policy will have a significant impact upon community safety.

## **6.11 Environmental Impact**

It is not considered that the policy will have any notable Environmental Impact.

## **6.12 Background Papers**

The Southend-on-Sea Housing Strategy 2011-21, SBC (2011)  
The Homelessness (Suitability) of Accommodation (England) Order 2012, HM Government (2012)

## **7 Appendices**

**Appendix 1** Draft Statutory Homelessness Discharge of duty policy