

Report to:	EXECUTIVE CABINET
Date:	23 November 2022
Executive Member:	Councillor John Taylor, Executive Member, Adult Social Care, Homelessness and Inclusivity
Reporting Officer:	John Gregory, Head of Community Safety and Homelessness
Subject:	CONSULTATION RE: DISCHARGE OF HOMELESS DUTIES THROUGH THE PRIVATE RENTED SECTOR
Report Summary:	Tackling homelessness and reducing the number of households in temporary accommodation is a key priority for the Council's Homelessness Service. This report proposes a change in policy to increase options available to the council to house those who are or at risk of homelessness.
Recommendations:	That permission is given to commence a 12 - week consultation on a draft policy which would allow the Council the flexibility to seek to end the main homeless duty towards a household by the offer of suitable Private Rented Sector accommodation, in accordance with the provisions of the Localism Act 2011.
Corporate Plan:	Nurturing our communities and having pride in our people, our place and our shared heritage – reduce homelessness.
Policy Implications:	This would be a change and a use of powers set out in the Localism Act 2011.
Financial Implications: (Authorised by the statutory Section 151 Officer)	As this report is seeking permission to consult there are no direct financial implications at this stage. The consultation will run via the Council's "Big Conversation" website so will not result in additional costs.
Legal Implications: (Authorised by the Borough Solicitor)	<p>The legislation in relation to the use of the private rented sector is detailed in the main body of the report.</p> <p>With regards to the consultation process 12 weeks is considered good practice and there should be an EIA to show the consultation is effective as it can be, particularly given the vulnerability of those affected. The outcome of the consultation will then require careful consideration by Cabinet before deciding on whether to implement the policy and/or consider any changes to the draft policy.</p>
Risk Management:	It is intended that this approach will reduce the risk of families being in inappropriate accommodation.
Background Information:	The background papers relating to this report can be inspected by contacting John Gregory, Head of Community Safety and Homelessness



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1. INTRODUCTION

- 1.1 This report seeks permission to commence a period of consultation in respect of a draft policy which would allow the Council the flexibility to seek to be able to fulfil its homelessness duty towards a household or individual by the offer of suitable private rented sector accommodation.

2. BACKGROUND

- 2.1 Tackling homelessness and reducing the number of households in temporary accommodation is a key priority for the Council's Homelessness Service.
- 2.2 There is a wealth of evidence regarding the adverse effects on people living in temporary accommodation especially in the areas of health, wellbeing, education and employment. The impacts on children can be particularly damaging.
- 2.3 Tameside MBC, as with most local authorities, has seen a sustained increase in homelessness and reliance on temporary accommodation since 2010. The view of most experts in the sector is that COVID 19 and the emerging cost of living crisis will have a further adverse impact on levels of homelessness for at least the next 18 months to 2 years.
- 2.4 It is therefore crucial that the Council has the power to use as many tools as are available to address this increase and reduce/ minimise the numbers of people living in temporary accommodation.
- 2.5 The homelessness service has seen a gradual increase in the numbers of people and families in temporary accommodation (TA). In June 2022 the number of TA placements reached 220, which costs the Council around £18,000 per night.
- 2.6 A key priority of the Homelessness service is to reduce the number and the cost of TA placements. There are three strands to this work:
- Preventing homelessness so that TA placements are not used as frequently
 - Moving people in TA on to permanent housing as quickly as possible
 - Reducing the cost of TA provision

This report looks to build on the second element of this work – moving people in TA on to permanent housing as quickly as possible. This will allow the Authority to significantly reduce the existing TA costs and will ensure that people are given a permanent home which is more suited to their needs.

- 2.7 The Localism Act 2011 created the opportunity for councils discharge their main statutory homeless duty with a private rented sector (PRS) offer. The Localism Act 2011 is clear that where the Council does wish to make use of these powers, it is required to publish a Private Rented Sector Offer (PRSO) Policy.
- 2.8 When this legislation was originally introduced, most local authorities adopted it and introduced a PRS policy. Tameside did not consider it at the time. Other local authorities such as Salford and Rochdale have reported that the use of the private rented sector has increased options for both homeless households & individuals and for the local authority, whilst fostering a closer relationship between the council and private landlords.
- 2.9 There are no records to show why the adoption of a PRS policy was not considered on the introduction of the new legislation in 2011 & none of the current members of staff in the homelessness service worked in the service at the time, so there is no corporate memory as to whether the matter was considered or not. Following a review of the functions of the

service, the lack of a PRS policy was identified and it was felt appropriate to consider the adoption of a policy now, in light of increasing cost-of-living issues for Tameside residents.

- 2.10 Appropriate use of the private rented sector has been a significant tool, which the Council has utilised to reduce and eliminate rough sleeping (i.e. those for whom the Council does not have a statutory duty to house) in the district over the last 3 years.
- 2.11 As part of the push to reduce the numbers currently accommodated in TA, It is vital that the Council considers using all the opportunities available, including the powers to make appropriate use of the private rented sector to tackle the wider homelessness problem in Tameside and reduce the use of temporary accommodation for those to whom it has a main homeless duty.
- 2.12 Currently, the council can only discharge its duty to those in temporary accommodation by offering them a tenancy with a registered social landlord. This limits the number of available properties and results in many households and individuals remaining in temporary accommodation for extended periods of time.
- 2.13 It is anticipated that this additional policy will result in a greater choice of appropriate properties for those people in temporary accommodation, and better opportunities for the Council to place households and individuals in more appropriate accommodation within a shorter timeframe.
- 2.14 As with all proposed changes to policy, the Council seeks to consult with key partners, those people affected by the proposed change to Policy, and the public.

3. THE HOMELESSNESS LEGISLATION

- 3.1 The key piece of legislation covering homelessness is the Housing Act 1996, Part 7. This was amended by the Homelessness Act 2002 and again by the Homeless Reduction Act 2017.
- 3.2 The main housing duty owed by a local authority to someone who is homeless, eligible, has a priority need and is not intentionally homeless. The main housing duty is a duty to provide temporary accommodation until such time as the duty is ended.
- 3.3 Under the Housing Act 1996, Part 7 (as amended), a Local Authority could only end its main homeless duty in the following circumstances:
 - a. The applicant ceases to be eligible for assistance
 - b. The applicant becomes homeless intentionally from accommodation provided under the main duty
 - c. The applicant voluntarily ceases to occupy the accommodation provided
 - d. The applicant accepts an offer of a fully assured tenancy from a private landlord, including a housing association
 - e. The applicant accepts a private rented sector offer or a final offer under the authority's Part 6 allocation scheme
 - f. The applicant refuses certain offers of accommodation.

4. THE LOCALISM ACT 2011

- 4.1 The Localism Act 2011 gives local authorities an additional power to be able to end the main duty to homeless households through an offer of an assured short hold tenancy in the private rented sector, without a requirement for agreement from the homeless applicant.

4.2 This effectively ended the link between Part 6 and Part 7 of the Housing Act 1996 as there is no longer any duty to offer social housing where a suitable offer of private rented accommodation has been made by the local authority.

4.3 However, the Localism Act 2011 placed a requirement on local authorities who wished to use a private rented sector offer to discharge the main homeless duty, to produce and publish a private rented sector policy.

5. THE SITUATION IN TAMESIDE

5.1 Tameside MBC does not currently have a private rented sector policy as described above, and so cannot currently legally discharge its main homeless duty via a suitable offer of private rented accommodation.

5.2 During 2019-20, 365 households were accepted as being owed a main homeless duty. For the majority of these cases, the duty will end when the household is made an offer of social housing.

5.3 The shortage of social housing and existing nomination agreements which require registered providers to provide just 30% (20% in the case of Jigsaw Homes to the Housing Register) contributes to rising numbers of people and families being accommodated in TA.

5.4 It is therefore vital that the Council explores a wider range of options to increase move on opportunities.

5.5 Alongside this, the development of the (non-statutory) Rough Sleeper Service in Tameside has led to closer working relations with the private rented sector and in 2021, 200 single households were offered move on accommodation in the private rented sector.

5.6 This work provides an opportunity to enhance the role of the private rented sector in meeting the needs of people to whom the Council holds a main homeless duty.

5.7 The proposed policy will be reviewed following the consultation process, taking into the feedback and views of those consulted.

6. PRIVATE RENTED SECTOR OFFER POLICY

6.1 The proposed Private Rented Sector Offer Policy is attached at **Appendix 1**

6.2 Under the Policy, the Council would look to end its main homeless duty via a Private Rented Sector offer only in circumstances:

- Where there is sufficient availability of private rented stock,
- Where an offer of a private rented sector property is appropriate taking into account the needs of the household
- Where the Council is fully satisfied that the offer is suitable under the relevant legislation.

6.3 There are a range of measures enacted in the legislation and described in more detail below which provide protection to homeless people and mean that the Council can only use a PRS offer to discharge the main duty where such an offer provides suitable accommodation for those households.

6.4 The homeless legislation also gives applicants the right to request a review of suitability of any offer made for the purposes of ending the main duty. This includes an offer of private rented accommodation.

7. APPROPRIATE USE OF PRIVATE RENTED SECTOR POLICY

7.1 It is important to note that the draft policy states that the Council will only use a private rented sector offer to end the main homeless duty when it is fully satisfied that the property is suitable. Section 8 describes the issues that the Local Authority must satisfy in order to determine that a property is suitable.

7.2 The Service recognises that it should only look to use this Policy in appropriate circumstances. The Service has developed a range of pathways to facilitate move on into the private rented sector. This includes the provision of appropriate support where needed.

7.3 The Local Authority will carry out a full suitability assessment of any private rented accommodation unit that it intends to use to discharge the main duty.

7.4 This assessment of suitability will cover the following elements:

- Affordability,
- Physical Condition of the Property, Safety, Size and Space Arrangements,
- Location,
- Period of Rental Agreement,
- Right to Rent,
- Compliance with the Equality Act 2010,
- Landlord Suitability.

7.5 The Council will carry out a property inspection to ensure that the property is in good physical condition, complies with all Health and Safety regulations, and is of an appropriate layout in order to confirm the suitability of any offer of private rented accommodation made to end the main duty.

7.6 The Council will require the landlord to provide copies of Gas Safety Certificate, Electrical Safety and an Energy Performance Certificate. The landlord will be required to provide smoke alarms, Carbon Monoxide monitors and any other safety equipment required by legislation relevant at the point of letting.

7.7 The Council will not consider PRS accommodation where there is a risk of violence or harassment to be suitable for the purposes of ending the main duty.

7.8 The Council will ensure that the property was of a suitable size for the household and that they would not be overcrowded in order to determine the suitability of any offer of private rented accommodation used to end the main duty.

8. CONCLUSION

8.1 This report requests approval for a period of 6 weeks consultation to enable the views of key partners, affected service users and the public to be considered. Once the consultation has ended, the results will be submitted in a further report for Elected Members to make a final decision on whether it is appropriate to adopt the policy.

8.2 The dates for the consultation will be determined following the decision requested in this report, but the consultation will be started as soon as practicable after the decision has been made (if approved).

- 8.3 The consultation will run via the Council's "Big Conversation" website and additionally the Service will ensure all key stakeholders are given their opportunity to submit their comments.
- 8.4 The Big Conversation consultation will involve publication of the draft policy and an invitation to submit comments. There is no plan to ask very specific questions about the policy other than "Do you support the introduction of a policy which allows the discharge of homelessness duty into the private rented sector in accordance with the draft policy".
- 8.5 The consultation will also include a summary of the reasons why the Council is considering the introduction of the PRS policy.
- 8.6 In addition, the Consultation will seek the views of stakeholders during a consultation event which will take place in person and will ensure that all relevant partners have examined the proposed policy in detail and that their views have been taken into account in the final draft of the policy.

9. RECOMMENDATIONS

- 9.1 As set out at the front of the report.