



Derby City Council

## **COUNCIL CABINET** **15th July 2015**

# **ITEM 12**

Report of the Cabinet Member for Urban  
Renewal

### **Private Rented Sector Offer Policy.**

#### **SUMMARY**

- 1.1 Under Part V11 section 193(2) of the Housing Act 1996, a housing authority has a duty to secure accommodation for homeless households that are deemed eligible for assistance, unintentionally homeless or threatened with homelessness and in priority need. Under the original provisions a housing authority may discharge its duty in the private rented sector with the agreement of the applicant. The Council is a housing authority.
- 1.2 The Localism Act 2011 has amended the Housing Act 1996 in respect of the homelessness provisions. These changes will allow housing authorities to end the main homelessness duty with a private rented sector offer, without the applicant's consent.
- 1.3 Whilst the Localism Act enables a Council to discharge its duties with a private sector offer, it is never the less proposed that the Council, through a local policy, allow homelessness applicants to retain the right to consent or refuse an allocation to private rented accommodation being determined as a discharge of the authority's homelessness duty. In effect, the proposed policy gives applicants greater protection than is actually required under the legislation.

#### **RECOMMENDATION**

- 2.1 To approve the Private Rented Sector Offer Policy referred to within the report and attached at Appendix 2.

#### **REASONS FOR RECOMMENDATION**

- 3.1 To enable the Council to utilise the powers granted to it under the Localism Act 2011 in respect of the discharging of its homelessness duty in the private rented sector, while introducing a local policy that retains an applicant's right of consent to any allocation to private rented accommodation where it will be determined as a discharge of the Council's homelessness duty.



|                               |
|-------------------------------|
| <b>SUPPORTING INFORMATION</b> |
|-------------------------------|

- 4.1 Under Part V11 section 193(2) of the Housing Act 1996, a housing authority has a duty to secure accommodation for homeless households that are deemed eligible for assistance, unintentionally homeless or threatened with homelessness and in priority need.
- 4.2 This is referred to as the main housing duty and under the original provisions of the Housing Act 1996, this duty could be discharged, principally by:
- Securing suitable accommodation in social housing defined under Part V1 of the Housing Act 1996
  - Securing private rented accommodation only with the applicant's explicit consent. This was known as 'a qualifying offer'.
- 4.3 Under the provisions of the original legislation if an applicant refused to accept the offer of private rented accommodation as a discharge of duty, even if the household moved into the accommodation, then the duty under S193(2) of the Housing Act would remain.
- 4.4 The Localism Act 2011, has amended the Housing Act 1996 in respect of the homelessness provisions. Specifically sections 147 and 148 of the Localism Act amend Part V11 of the Housing Act 1996. These sections and the Homelessness (Suitability of Accommodation) (England) came into force on the 9<sup>th</sup> November 2012.
- 4.5 In summary, the key effect of the legislative changes is to amend the way in which the duty on authorities to secure accommodation under section 193(2) of the 1996 Act can be brought to an end with an offer of suitable accommodation in the private rented sector.
- 4.6 These changes will allow local authorities to end the main homelessness duty with a private rented sector offer, without the applicant's consent. The duty can only be ended in the private rented sector in this way with a minimum 12 month assured shorthold tenancy.
- 4.7 The provisions on 'qualifying offers' referred to in 4.2 are repealed. This means a local authority will no longer be able to end the section 193(2) duty with a 'qualifying offer' of 6 months assured shorthold tenancy by consent for new applicants. The provisions on securing accommodation in the private rented sector are amended so that they are now referred to as 'private rented sector offers' and authorities can consider bringing the duty to an end in this way for all cases by offering suitable accommodation in the private rental sector as set out in 4.6.

- 4.8 However, it is proposed that in Derby the consent of the applicant to accommodation in the private rented sector as a discharge of duty is a right that should be retained as a local policy. To that end and in order to be able to utilise the amended powers in respect of homelessness duty granted in the Localism Act, while retaining the consent option for applicants, the Council needs to approve its own policy in respect of 'private rented sector offers'.
- 4.9 The 'Private Rented Sector Offer Policy' has been drafted to create a local policy to allow the consent of applicants in respect any discharge of the main homelessness duty in the private rented sector, while adhering to amended homelessness provisions in respect of private rental sector allocations set out in the Localism Act 2011.

## OTHER OPTIONS CONSIDERED

- 5.1 The Council could utilise its powers under the Localism Act to secure allocation of private rented accommodation for homeless households without their consent. However this will not accord with the proposals of the report.
- 5.2 The Council could simply not utilise its powers under the Localism Act in respect of private rented sector allocation. However this will restrict the Council's options particularly when suitable social housing is not available- for example for large and extended households.

**This report has been approved by the following officers:**

|  |   |
|--|---|
| <b>Legal officer</b><br><b>Financial officer</b><br><b>Human Resources officer</b><br><b>Estates/Property officer</b><br><b>Service Director(s)</b><br><b>Other(s)</b> | Richard Burton<br>Toni Nash<br>Liz Moore<br>Alistair Burg<br>Perveez Sadiq<br>Ian Fullagar, Clare Mehrbani                  |
| <b>For more information contact:</b><br><br><b>Background papers:</b><br><b>List of appendices:</b>  | James Beale, Housing Development Team Leader 01332 640316;<br>james.beale@derby.gov.uk<br>None<br>Appendix 1 – Implications |

|                     |
|---------------------|
| <b>IMPLICATIONS</b> |
|---------------------|

**Financial and Value for Money**

- 1.1 Options to discharge homelessness duty in the private rented sector will reduce the risk of using expensive temporary accommodation.

**Legal**

- 2.1 The relevant provisions are detailed in the report above.

**Personnel**

- 3.1 None arising from this report

**IT**

- 4.1 None arising from this report

**Equalities Impact**

- 5.1 The proposed policy gives applicants greater protection than is actually required under the legislation, thereby affording greater protection to vulnerable households.

**Health and Safety**

- 6.1 None arising from this report

**Environmental Sustainability**

- 7.1 None arising from this report

**Property and Asset Management**

- 8.1 None arising from this report

**Risk Management**

- 9.1 The proposal minimises cost risk to the Council by enabling rehousing for consenting applicants within the private rental sector.

## **Corporate objectives and priorities for change**

### **10.1 A strong community**