

Report to Cabinet

Subject: Use of private sector housing for homeless households

Date: 6 December 2012

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Wards Affected

Borough-wide.

Purpose

To seek Cabinet's approval to use the new power introduced in the Localism Act to discharge its homelessness duties by securing offers of private rented accommodation.

Key Decision

This is a Key Decision.

Background

The Housing Act 1996 creates a duty on local housing authorities to secure permanent accommodation for any person they accept as being eligible for assistance, homeless, in priority need, not intentionally homeless and having a local connection to the district. Until now, it has been usual for homeless households to go into council-owned temporary accommodation, then be nominated to a social housing property. When a homeless household is offered a social housing property that is deemed suitable for their household, if they refuse that offer then the council can discharge its duty (i. e. there is no further duty to offer them something else).

There is no reason a homeless household could not move to the private rented sector, and many do, assisted by officers who negotiate with landlords and facilitate placements. However, they cannot currently be obliged to take the offer – if they choose to refuse it, the council has to continue accommodating them and looking for another property. Many applicants wish to move into social housing, and prefer to hold out for this, even when adequate private rented housing is available to them.

Following commencement of sections 148 and 149 on 9 November 2012, section 193 of the Housing Act 1996 is amended such that offers of private rented housing can now be treated

in a similar way to social housing. This means that if the council can find a suitable private rented property where the landlord is willing to offer the applicant a tenancy of at least 12 months, they must accept it or the council will be in a position to discharge their duty, and potentially require them to leave any temporary accommodation being provided.

A safeguard is in place whereby if the household presents again as homeless within 24 months from accepting the tenancy, through no fault of their own (i. e. they did not choose to leave the accommodation provided), then the test of priority need does not have to be applied, and the homelessness duty automatically reoccurs so long as they are then eligible, homeless and not intentionally so. The duty reoccurs for the local housing authority that originally made the private sector offer, even if that property was located outside their district. Of course, they can then be offered another suitable private rented property, so this is not a “fast track” into social housing.

Safeguards are in place to ensure that both the property and the landlord are suitable, and do not put homeless households at risk. Details of these are included at Appendix 1.

The Council has discharged its homelessness duty to 29 households since January 2012, of which 10 accepted an offer of private rented sector housing. 8 of these 10 were single adults; 2 were parents with children. As at 15 November 2012, the Council has an outstanding duty to accommodate a further 40 households. No separate figure is recorded for the number of applicants who refused an offer of private rented sector housing. Recording is being introduced from November 2012 onwards, in order to report this figure to Government as part of the quarterly P1E homelessness return.

Proposal

It is proposed that the Council makes full use of the new power to discharge its homelessness duty to the private sector (i. e. if a household turns down the offer, the council has no further duty towards them). This will effectively force some homeless applicants to accept suitable housing in the private sector and prevent them waiting for scarce social housing. However, the Council can still end its duty with an offer of social housing where appropriate, and especially where no suitable or affordable private rented accommodation can be found.

This will have a positive impact on temporary accommodation, because we will be able to move people on more quickly, and hence should reduce the extent to which we have to use Bed & Breakfasts, which are very expensive. There are safeguards in place to ensure the rented accommodation offered is of decent quality, and to provide that if the landlord forces the applicant to leave again within two years, the homelessness duty is automatically resumed.

It is further proposed that homeless households should be expected to move across local authority boundaries if that is necessary to find an affordable place to live, rather than wait longer for the ideal property in Gedling itself. Within the Greater Nottingham housing market, many lower cost rental properties lie within the City, but are within very easy travelling distance of Gedling, and benefit from excellent public transport.

This policy position is necessary because:

- There is insufficient social housing available to meet demand for it, with 2392 households on the Housing Register and 301 properties let in Gedling in 2011/12
- The Council provides temporary accommodation on the basis that it is an interim solution until the household can find a permanent home
- Many households prefer to wait in temporary accommodation for many months until they are offered a social housing property, when there is private rented housing immediately available
- Even when an offer is made, notice periods and the period needed to do void works mean a social housing property may not be ready for occupation for several more weeks, leading to households staying in temporary accommodation
- Private sector housing is usually available immediately it is advertised
- Even accounting for Local Housing Allowance reductions, it is possible to find rented accommodation. A survey of one website alone found 245 private rented properties that could be afforded by Housing Benefit claimants in Gedling in the first six months of 2012, with many hundreds more in the City of Nottingham (albeit a large number of these were flats, and there tends to be less choice available for larger properties – see Appendix 2)
- If all temporary accommodation is full, the Council is forced to use Bed & Breakfast rooms to meet its duty to accommodate households
- Bed & Breakfast is costly to the Council as the cost cannot all be recovered through Housing Benefit
- The Council is strongly discouraged from placing families in Bed & Breakfast by Government regulations and guidance
- Health and wellbeing outcomes for children living in Bed & Breakfast accommodation are considerably worse than for other homeless children, research by Shelter shows.

Alternative Options

The alternative option would be not to allow the Housing Needs Team to use the private sector to discharge its duty to rehouse those homeless applicants to whom it has accepted a duty. However, in view of the considerable demands on the service and the limited number of social housing properties available, this is not recommended.

Financial Implications

There are no direct resource implications. Increased use of the private rented sector may lead to greater use of the deposit guarantee scheme, and the need for more property inspections to be carried out by Public Protection officers. However, these can be met from existing resources.

There is potential for this policy position to lead to savings in Bed & Breakfast expenditure, by making better use of the Council's temporary accommodation units and reducing the need to use Bed & Breakfasts. However, these savings cannot be quantified at this stage.

Appendices

1. Suitability of accommodation
2. Rental properties advertised in Gedling

Background Papers

Response to [DCLG consultation](#) on draft Homelessness (Suitability of Accommodation) (England) Order 2012.

Recommendation

To approve the policy position of the Council as set out in the proposal of the report in discharging its homelessness duties by means of a private rented sector offer where appropriate.

Reasons for Recommendations

To make best use of limited Council temporary accommodation.

To reduce expenditure on Bed & Breakfast accommodation.

To secure prompt rehousing for homeless households.

Appendix 1: Suitability of accommodation

The Government has given some attention to what will constitute a “suitable” offer of a property for the purposes of homeless legislation. There is already both statute and case law covering this for social housing, and the approach is quite similar for private sector housing. The [Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#), which came into force on 9 November 2012, updates the existing regulations on location of accommodation provided under Part VII of the Housing Act 1996 for all offers, of social housing, private rented housing and temporary accommodation.

Location

Councils are required to place applicants in their own area “so far as reasonably practicable” and aim to place them as close as possible to where they were previously living, in order to retain their existing support networks. However, this is not always possible, especially because there are relatively few private properties in Gedling that are affordable for a larger family that needs to claim full Housing Benefit. It is likely that the Council would have to seek placements in properties in the City of Nottingham for some homeless households.

As to location, the Order requires the Council to consider:

- where the accommodation is outside the district, the distance from the district;
- the significance of any disruption caused by its location to the employment, caring responsibilities or education of any member of the household;
- the proximity and accessibility of the accommodation to medical facilities and support which are currently used by any member of the household and are essential to their wellbeing;
- the proximity and accessibility of the accommodation to local services, amenities and transport.

Condition of property and fitness of landlord etc.

For offers of private rented sector accommodation only, the Order states that a property is to be regarded as suitable unless, in the view of the local housing authority:

- It is not in a reasonable condition
- Any electrical equipment supplied does not meet safety regulation standards
- Reasonable fire safety precautions have not been taken
- The landlord has not taken reasonable steps to prevent carbon monoxide poisoning
- The landlord is not a fit and proper person (further details are given about how this is to be assessed)
- It is a House in Multiple Occupation subject to licensing (either mandatory or discretionary), and has not been properly licensed
- It does not have a valid Energy Performance Certificate
- It does not have a current gas safety record
- An “adequate” written tenancy agreement has not been provided

Public Protection staff currently visit private rented properties where the Council is going to provide a guarantee in lieu of a deposit, and it is proposed they would also visit and inspect

any property which was to be offered to a homeless household. Therefore it should be relatively easy to check all the above criteria before an offer is made.

Appendix 2: rental properties advertised in Gedling on www.rightmove.co.uk

January – June 2012

	Nottingham LHA rate (pcm)	Total advertised	Rent below LHA rate
1 bed flat	£385.02	99	29
2 bed flat	£450.02	279	99
3 bed flat	£499.98	7	3
2 bed bungalow	£450.02	31	0
3 bed bungalow	£499.98	32	0
1 bed house	£385.02	7	2
2 bed house	£450.02	251	60
3 bed house	£499.98	302	35
4 bed house	£675.00	73	17
5 bed house	£675.00	17	0
Total		1098	245

July – October 2012

	Nottingham LHA rate (pcm)	Total advertised	Rent below LHA rate
1 bed flat	£385.02	44	13
2 bed flat	£450.02	136	43
3 bed flat	£499.98	3	1
2 bed bungalow	£450.02	22	1
3 bed bungalow	£499.98	3	0
1 bed house	£385.02	5	0
2 bed house	£450.02	88	20
3 bed house	£499.98	102	19
4 bed house	£675.00	27	1
5 bed house	£675.00	7	0
Total		437	98

LHA – Local Housing Allowance – the maximum Housing Benefit that can be paid for a property of that size in that Broad Rental Market Area (BRMA). Most of Gedling is within the Nottingham BRMA; some of the borough is in the North Nottingham BRMA, where the LHA rates for all property types are lower. LHA is worked out by the size of accommodation a household requires, not what they actually occupy, so a family that requires 2 bedrooms and occupies a 3 bed house would only be entitled to the 2 bed rate.

Rightmove is only one of a number of property websites. Because it is a market leader, its listing fees are quite high, so it may be that it represents the higher end of the market. However, it has a convenient Google-powered property map that makes it the only website feasible to use for this purpose. Listing sites such as Gumtree and classified sections of local newspapers can be better for finding less expensive properties, but these adverts rarely provide a precise enough location to compare prices across the borough.