

**CITY OF CARDIFF COUNCIL
CYNGOR DINAS CAERDYDD**

CABINET MEETING:

2nd April 2015

IMPLEMENTING PART 2 OF THE HOUSING WALES ACT 2014

REPORT OF DIRECTOR

AGENDA ITEM:

PORTFOLIO: HEALTH, HOUSING & WELLBEING (Councillor Susan Elsmore)

Reason for this Report

1. To outline the approach being taken to comply with the requirements of the Housing Wales Act 2014 with regard to homelessness.
2. To agree the way forward in relation to the use of private rented properties in meeting the Council's homelessness duty and to agree how to treat households who have made themselves intentionally homeless.

Background

3. Part 2 of the Housing Wales Act 2014 comes into force on 27th April 2015 and sets out the duties of local authorities to assist those facing homelessness. This new legislation requires local authorities to do more to help households to prevent homelessness and to find alternative accommodation. For the first time the legislation allows local authorities to use the private rented sector to discharge its homeless duties. Funding has been provided to assist with the implementation of the new legislation.

Issues

Homelessness Strategy

4. The new act places a duty on authorities to carry out a homelessness review and formulate a homelessness strategy in 2018 and every 4 years thereafter. Cardiff currently has a homelessness strategy and it is proposed to update this during the current year. Although the new duty does not come into force until 2018 it is proposed to take into account the new guidelines, wherever possible, when carrying out the current review.

Homelessness Duties

5. The duties under the new act have been extended to include a wider advice and prevention role for households who are homeless or at risk of becoming homeless.
6. The Council will have a duty to:
 - Provide information, advice and assistance for all people with a local connection to the area.
 - Provide help to prevent homelessness and help to secure accommodation. This duty applies to all households other than some persons from abroad.
 - Provide accommodation for applicants in priority need. This duty is similar to the current requirement and applies only to those in the priority need categories such as pregnant women, those with dependent children and those with physical or mental disabilities. Prison leavers are no longer regarded as in priority need unless they are vulnerable. A full list of the priority need categories is set out at Appendix A.

Information, Advice & Assistance

7. Information to assist those facing homelessness is already provided through the Cardiff housing website and the Housing Options service. This information is currently being reviewed and improved in preparation for the new duties. The advice available through the Hubs will also be improved and will be provided alongside information on the social housing allocation policy to give more holistic approach.

Help to Prevent Homelessness and Secure Accommodation

8. Currently the Council's Housing Options Centre assists approximately 100 people each week who are seeking assistance regarding their housing situation and potential homelessness. Advice and mediation services to prevent homelessness are part of current service provision. Help for people without priority need to secure accommodation is provided through assistance with bonds for private rented properties and access to Hostel accommodation via a multi agency Gateway.
9. To respond to the increased demands of the Act a new Housing Solutions Team is being created within the Housing Options Centre to improve prevention services and to encourage private sector landlords to let their properties to homeless households.
10. The service currently operates a bond scheme and this will be extended using the funding provided by the Welsh Government. Additionally other options for extending the bonds are being investigated by reviewing best practice from other authorities.

11. In addition work will be undertaken to better co-ordinate floating support and supported housing to ensure it is focused on helping those most in need.

The provision of accommodation for those in priority need

12. At present, where a person is assessed as in priority need, the Council's homeless duty can only be met by providing social housing, i.e. a Council or Housing Association property.
13. Due to the shortage of social housing in the city homeless households can spend a long time in temporary accommodation waiting to be housed. This puts pressure on the Council's supply of temporary accommodation. There are currently 572 homeless households accommodated in temporary accommodation waiting to be housed.
14. Homeless households are often housed in a property that is not close to their support networks due to the lack of availability of social housing stock and high demand in many areas of the city.
15. Due to the need to give homeless households priority for social housing 40% of all available social lets are allocated to homelessness cases reducing the properties available for those on the Common Waiting list. There are currently 8,605 households registered on the list, many have significant levels of housing need and face long waiting times.
16. Under the new act, using the private rented sector to discharge the Council's duty to those in priority need becomes an option for the first time. Use of private sector properties, if used effectively, could help alleviate the issues caused by lack of social housing.

Proposed approach to use of private rented properties

17. It is proposed that the Council does make use of private rented properties to discharge its homeless duty subject to careful consideration of the needs of the individual and suitability of the property.
18. Each applicant would be assessed on an individual basis for their suitability for private rented accommodation, including factors such as their physical, mental and emotional health needs, their location preference and their previous tenancy history.
19. A financial assessment will be carried out to ensure that any tenancy offered is affordable. Any private sector properties that are made available will be at Local Housing Allowance rates and so will be affordable to those on benefits.
20. The officers at the Housing Options Service will in effect offer an 'accommodation finder service', looking to see if a property is available

that meets the individual needs of the household, whether in the social or private sector.

21. Housing Solutions officers will visit each private sector property to check on the quality of accommodation to be offered, including compliance checks under the Housing Health and Safety Rating System. Inventories will be taken to ensure and validate any future claims on bonds.
22. The Housing Solutions service will also offer the private landlord an ongoing service and single point of contact to help resolve any issues with the tenancy that might arise.
23. Only tenancies which will last at least six months will be considered appropriate. Where possible the landlord will be encouraged to offer a longer term at the outset.
24. It is proposed that use of the private rented sector will generally be considered for all applicants, the following groups will not normally be offered private accommodation:
 - where a person requires specialist supported accommodation
 - Where a household needs specific adaptations to their property due to infirmity, disability or life-limiting illness
 - People aged 16 or 17 years
25. For those with a limited 'leave to remain' decision, these households will predominantly be offered private sector accommodation due to the uncertainty over their length of stay in the country.

Households who have made themselves intentionally homeless

26. The new Act gives local authorities the option to continue to assess whether the applicant is intentionally homeless and to take this into account in determining whether they should be provided with accommodation.
27. While it is not envisaged that this power would be used in a large number of cases (only 5% of homeless cases were found to be intentionally homeless in 2014) it is still considered important that this remains an option.
28. Consideration of intentionality works as a deterrent to households to discourage them from giving up accommodation which is suitable for their needs. It also deters behaviour which could lead to loss of accommodation such as deliberately failing to pay the rent or serious antisocial behaviour. It recognises the expectation that, where possible, people should take responsibility for their actions.
29. To continue to consider "Intentionality" the Council must notify the Welsh Government and publish which priority need categories the 'intentionality test' will be applied to. These categories are set out in appendix A

30. It is proposed that intentionality should be considered for all of the priority need categories with the exception of 16/17 year olds, who it is felt cannot be deemed responsible for any loss of previous accommodation.
31. Each case will be considered carefully on an individual basis to ascertain whether the loss of tenancy was really deliberate and to identify any mitigating factors which should be taken into account such as whether they had unmet support needs which resulted in difficulty sustaining the tenancy or whether failure to pay rent was a result of financial difficulties beyond the applicants control.
32. If found intentionally homeless the Council will not have a duty to provide accommodation however will still have a duty to provide advice and assistance and also help to secure accommodation. The Council will also be need to provide temporary accommodation while the applicant seeks their own accommodation.

Reason for Recommendations

33. To agree the approach to be taken to the implementation of the new homelessness legislation. The decision to consider intentionality in making homeless decisions must be forwarded to the Welsh Government and published on the Council's website 14 days before it can be brought into force.

Financial Implications

34. The Welsh Government has made available transitional funding for the implementation of the new homelessness legislation under the Housing Wales Act 2014. This funding is for the 3 year period 2015/16 to 2017/18 and the grant award for Cardiff for 2015/16 has been confirmed as £520,714. It is proposed that this grant will be utilised to meet all costs of the new responsibilities including additional staffing resources and the payment of bonds and other measures.

Legal Implications (including Equality Impact Assessment where appropriate)

35. All decisions taken by or on behalf of the Council must (a) be within the legal powers of the Council; (b) comply with any procedural requirement imposed by law; (c) be within the powers of the body or person exercising powers on behalf of the Council; (d) be undertaken in accordance with the procedural requirements imposed by the Council eg. standing orders and financial regulations; (e) be fully and properly informed; (f) be properly motivated; (g) be taken having regard to the Council's fiduciary duty to its taxpayers; and (h) be reasonable and proper in all the circumstances.
36. The Council may not have regard to intentionality, unless it has decided to have regard to one or more of the categories of applicants of applicants specified by Welsh Ministers in Section 78(1) of the Housing Wales Act 2014.

37. When discharging a housing function to secure that accommodation is available for an applicant who is homeless, or threatened with homelessness, a local authority must ensure that is suitable.
38. The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties). Pursuant to these legal duties Councils must in making decisions have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of protected characteristics. Protected characteristics are:
- Age
 - Gender reassignment
 - Sex
 - Race – including ethnic or national origin, colour or nationality
 - Disability
 - Pregnancy and maternity
 - Marriage and civil partnership
 - Sexual orientation
 - Religion or belief – including lack of belief

As such a decision to implement the proposal has to be made in the context of the Council's equality act public sector duties.

39. The report identifies that an Equality Impact Assessment has been carried out and is appended at Appendix B. The purpose of the Equality Impact Assessment is to ensure that the Council has understood the potential impacts of the proposal in terms of equality so that it can ensure that it is making proportionate and rational decisions having due regard to its public sector equality duty.
40. The decision maker must have due regard to the Equality Impact Assessment in making its decision.
41. The decision maker must also have regard to certain other matters when making its decision as outlined in the Statutory Screening tool. The decision maker is therefore referred to the Screening Tool attached at Appendix C.

HR Implications

42. There are no direct human resources implications.

RECOMMENDATIONS

To approve the approach to implementing the homelessness legislation contained within the Housing Wales Act 2014 as outlined in the report with effect from 27th April 2015.

Sarah McGill
Director for Communities, Housing and Customer Services
March 2015

The following appendices are attached:

Appendix A - Priority Need Group
Appendix B – Equality Impact Assessment
Appendix C – Statutory Screening Tool