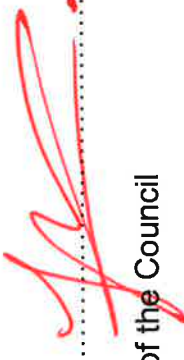


**NOTICE OF DELEGATION OF DECISION TO CABINET MEMBER BY STRONG LEADER**

Section 15(4) of the Local Government Act 2000, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

I, J-P Champion, as Strong Leader, delegate the decision Discharging Homeless Households into the Private Rented Sector detailed in the Forward Plan to the Cabinet Member detailed below:

Cabinet Member/~~Officer~~ Anne Hingley

Dated: 3/12/12.  
Signed:  .....

Leader of the Council

**NOTICE OF DECISION OF CABINET MEMBER**

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

In accordance with the authority delegated by the Leader, I have made the following decision:

Subject	Decision	Reason for decision	Date for Decision to be taken
Discharging homeless households into the private rented sector	To approve the policy that enables the Council to discharge the full statutory rehousing duty into the private rented sector, following the Suitability of Accommodation order and Guidance.	To comply with the requirement to have a policy agreed by Local Authorities who want to fully utilise the ability to discharge the statutory rehousing duty in this way. This will support the Council in discharging it's duty when the supply of social housing is very limited.	6/12/12

**I confirm that the appropriate statutory officer consultation has taken place with regard to this decision.**

Dated: \_\_\_\_\_  
 Signed: *Alex Hingley* .....  
 Councillor: .....14/12/12.....  
 Cabinet Member

## **Discharging Homeless Households into the Private Rented Sector**

### **Introduction**

This policy looks in more detail at the way Wyre Forest District Council will discharge its rehousing duty, for statutory homeless households, into the private rented sector. It will consider the circumstances that must be present to consider and discharge and the checks that will need to be undertaken to do this.

### **Background**

In Wyre Forest the demand for social rented accommodation considerably outstrips supply, with over 6000 households currently on the waiting list and over 500 approaches for housing advice and homelessness a year. The Council supports the placement of households into 'suitable' Private Rented Accommodation and has for some years been actively engaging with Private Landlords to place those who are homeless or threatened with homelessness into this tenure, with their consent.

Wyre Forest District Council has various duties under the homelessness legislation (Part 7 of the Housing Act 1996). The main homelessness duty requires the Council to secure accommodation for households who are homeless through no fault of their own; are eligible for assistance; and in 'priority need' e.g. families with dependent children and those who are vulnerable for some reason. Currently, households can turn down offers of suitable private rented sector accommodation and await an offer of social housing, whilst being housed in temporary accommodation. The homeless function is currently part of the service level agreement with Community Housing Group, who deliver it on the Council's behalf.

The Localism Act contains measures to allow local authorities to end the main homelessness duty with an offer of private rented accommodation, with a minimum 12 month assured shorthold tenancy, without requiring the applicant's consent. The order came into effect on 9<sup>th</sup> November 2012 and any household approaching as homeless prior to this date is not bound by this policy.

The opportunity to discharge the Homelessness Duty into the Private Rented Sector without consent is voluntary and the Council can continue to place households in social housing. However, the lack of social housing in the District means that this alternative tenure will enable the Council to accommodate those to whom they owe a Duty more easily.

This new policy approach formed part of the Tenancy Strategy, which was approved by Cabinet in October 2012.

### **Legislative Framework**

This policy will be applied within the constraints of current legislation to include:

Localism Act 2011	Housing Act 2004
Homelessness (Suitability of Accommodation) (England) Order 2012.	Equalities Act 2010
Part VI and VII Housing Act 1996	Human Rights Act 1998
Homelessness Act 2002	Articles 6 & 8 of the European Convention on Human Rights
Allocation of Accommodation Code of Guidance	Homelessness Code of Guidance

### **Who will be considered for a discharge into the Private Rented Sector?**

All households, where we accept the full rehousing duty, will now be considered for initial screening to deem their suitability for accommodation in the private rented sector. This will be in addition to all the households we currently consider for accommodation in the PRS; where they are not accepted for the full rehousing duty (e.g. those found intentionally homeless); where they want help to access the private rented sector specifically (usually because they want to find housing of a particular type or location) and those to whom we are trying to prevent their becoming homelessness. The initial screening should identify any risk factors that might make the PRS an unsuitable solution e.g. where the household has high level support needs and other forms of housing would be more appropriate, where the household has a history of failed tenancies in the PRS and is unlikely to be accepted by a landlord or where the person has already been in receipt of a rent deposit, rent bond or rent in advance which has not been repaid (if applicable). A homeless household that has a contractual or other obligation to existing housing may also be deemed to be unsuitable for discharge into the PRS until the contract / obligation issue is resolved.

### **The current bond scheme and rent in advance**

Wyre Forest District Council operates a rent bond scheme to assist all households who approach as homeless either as a prevention, or as a possible discharge, of the homeless duty. We also assist applicants to access Crisis Loans for rent in advance (soon to be replaced by a District Council scheme) and Discretionary Housing Payments. In addition St Basils operate a rent bond scheme for people aged under 25, partly funded by the Council, and Whabac also provide access to the private rented sector (PRS) through their social letting agency (also partly funded by the Council) and various specialist schemes.

We are driving up standards in the PRS by working with landlords directly, through working with the NLAS to deliver landlord accreditation and by our licensing role (for 3 storey Houses in Multiple Occupation).

Within the current rent bond scheme properties are inspected to ensure they meet current basic standards (e.g. free from category one hazards) and that the Landlord is complying with legislation around gas safety etc. This work would be strengthened in the future, where we discharge homeless households into the PRS, through compliance with the Suitability of Accommodation Order.

We ensure the rent charged is at or below local housing allowance levels for the district or, where it is above this, that the district council is satisfied that the property is affordable for the tenant and that any top up is reasonable.

### **Making an offer of PRS**

A private rented sector offer is defined by section 193(7AC), Housing Act 1996 as an offer of an assured shorthold tenancy made by a private landlord to an applicant in relation to any accommodation which:

- (a) has been made available for the applicant's occupation by arrangements made by the local authority with a private landlord or
- (b) is made with the approval of the authority, in pursuance of arrangements made by the authority with the landlord with a view to bringing the section 193(2) duty to an end, and
- (c) is a fixed term Assured Shorthold Tenancy for a period of at least 12 months.

The applicant must be informed in writing of the following matters (as mentioned in section 193(7AB)) when the PRS accommodation is offered:

- (a) the possible consequence of refusal or acceptance of the offer,
- (b) that the applicant has the right to request a review of the suitability of the accommodation, and

(c) the effect under new section 195A of a further application to the authority within two years of acceptance of the offer (the 'reapplication duty'). Any decision to discharge duty in this way will be subject to the usual homeless request for a review under section 202(1)(f).

### **Re-application within two years of acceptance of a private rented sector**

The Homeless household has the right to make a re-application within two years of accepting a PRS offer if they become homeless again and the duty for rehousing will reapply regardless of priority need, where the applicant has not made themselves homeless intentionally. For example, where a homeless household is served a s21 notice, within the two year period, they will be treated as threatened with homelessness from the date the notice is issued, and reasonable attempts should be made to secure accommodation so they don't become homeless. They will be treated as homeless from the date the notice expires.

### **Considerations for the property**

Where the private rented sector is used for discharging the homeless duty, the district council (or its agent) will always undertake a rigorous assessment of the suitability of this option and whether the private rented sector represents an appropriate solution to a household's housing need (please see suitability of accommodation order and guidance for further details).

The property must be suitable and in the guidance this means giving consideration to the following things;

#### **1. Physical condition of the property**

The Council (or its agent) will ensure that the property is inspected and that it is free of major hazards under the Housing Health and Safety Rating System especially around thermal comfort.

#### **2. Health and Safety**

The Council will ensure that all relevant health and safety standards / legislation are complied with e.g. fire safety, electrical fixtures and fittings, furniture, carbon monoxide, EPC and gas

#### **3. Licensing**

All houses in multiple occupation, if used, should be checked to see if a license is required and if so, in place, with the Private Sector Housing team.

#### 4. Landlord Behaviour

The Council should satisfy itself that landlords of accommodation secured under s 193(7F) Housing Act 1996, are fit and proper persons to act in the capacity of a landlord. Local authorities are required to consider any convictions in relation to landlord and tenant law, fraud or other dishonesty, violence or drugs as well as any discrimination and/or sexual offences as set out in the legislation. If our record checking does not satisfy them that the landlord is a fit and proper person to act in the capacity of a landlord then the local authority can require the landlord to carry out a Criminal Records Bureau check, but they are not required to do this in every case.

#### 5. Elements of Good Tenancy Management

The Council will need to see a copy of the written tenancy agreement and will check that it is clear, fair and concise.

#### 6. Tenancy Deposit Scheme

The Council will need to satisfy itself that (in the circumstances where a bond isn't used) that the landlord is complying with one of the two tenancy deposit schemes.

#### 7. Property Location

Existing guidance on this aspect is set out at paragraph 17.41 of the Homelessness Code of Guidance offers. The suitability of the location for all the members of the household must be considered by the authority. Section 208(1) of the 1996 Act requires that authorities shall, in discharging their housing functions under Part 7 of the 1996 Act, in so far as is reasonably practicable, secure accommodation within the authority's own district.

Consideration should be made to each member of the households individual needs and in particular the following should be considered; access to current employment, schools, medical facilities and caring responsibilities.

#### 8. Affordability

The Council is concerned that due to the buoyant private rented sector there may be only a few properties offered within LHA rates. We will therefore undertake an assessment of affordability of homeless households where the full Homelessness Duty is being discharged into the private rented sector. The affordability assessment will help to ensure that homeless households are not placed into accommodation which they cannot afford as this may result in them failing to sustain their tenancy and lead to repeat homelessness.

In order to make an affordability assessment a financial assessment will be carried out in order to ascertain a household's income and outgoings. In carrying out this assessment, any non essential expenditure will be identified and discounted from the affordability calculation.

If the assessment shows that the private sector is affordable the Homelessness Duty may be discharged by an offer of private rented accommodation. If the household fails to meet their rental payments and is made homeless as a result, the Authority will investigate the reasons for the household's homelessness and unless there are mitigating circumstances, may make an intentional decision.

A detailed procedure in assessing affordability is set out in the Affordability Assessment Procedure (Appendix 1) and will be piloted for 6 months and then reviewed.

### **Monitoring of this procedure**

The use of this power will be closely monitored, through a new system, to ensure that private rented sector tenancies can be sustained over a medium to long term and do not result in repeat homelessness.



## Financial Affordability Assessment

## Appendix 1

We will expect the finances of households approaching for housing advice, debt management and those at risk of homelessness to be assessed on the basis of what is considered to be essential expenditure when making a decision regarding the affordability of accommodation in the Private Rented Sector.

### Essential Expenditure

Only essential expenditure will be considered when looking at the housing options for a household, or to determine whether they are able to afford to remain in their current property.

Essential Expenditure is defined as expenditure on:

Rent

Council Tax

Water

Electric

Gas

Transport

Housekeeping

Phone

Priority Debts – including council tax / rent arrears

Contents Insurance

### Housekeeping

The Council has looked at a minimum amount required for housekeeping where the household is reliant on welfare benefits as their sole income. The Housekeeping amount is adjusted to take into account family size as set out in the examples below. Where a member of the household requires special consideration, for example, due to a disability, then account will be taken of additional expenditure required to meet this occupants needs.

### Gas, Electric and Water

Where there are no previous utility costs to inform a financial assessment, the following guideline figures will be used.

	One and Two Bed Properties	Three Bed Properties
Gas	£15pw	£25pw
Electric	£15pw	£25pw
Water	£8pw	£12pw

## Telephone

For households on out of work benefits, there will be a total allowance of £10 pw for either landline or mobile charges.

## Transport

For households on out of work benefits, where there is an expectation that they are actively seeking work, an allowance of £7.50 pw per adult within the household has been allowed for public transportation cost.

## Priority Debts

For households that have incurred debts, it is accepted that priority debt repayments will be an essential expenditure. If the household have non priority debts then they should be supported to contact creditors providing them with details of affordability assessment.

## Contents Insurance

For households wishing to continue with or take out contents insurance, it is accepted that this would constitute essential expenditure due to the level of risk if any incident or damage occurs.

## Exceptional Circumstances

If households have exceptional circumstances, for example due to disability, whereby the above guidance would not be sufficient for them to manage their finances then special consideration may be given. In these circumstances we would expect the officer working with them on their financial assessment to make the necessary annotations and justifications as to why special consideration should be given.