



REPORT TO: Housing Portfolio Holder
LEAD OFFICER: Director of Housing

16 October 2013

Use of Council Housing as Temporary Accommodation

Purpose

1. This Policy sets out when council homes can be used as temporary accommodation and clarifies the terms for when a Licence Agreement or a Non Secure Temporary Tenancy Agreement is granted.
2. This is a key decision because it is significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority and it was first published in the October 2013 Forward Plan.

Recommendations

3. It is recommended that the Housing Portfolio Holder approves the Policy on the use of Council housing as temporary accommodation at Appendix 1, and more specifically:
 - a) The use of Licence Agreements pursuant to the Housing Act 1996 S188 (pending a homeless decision) and S190(2) (intentionally homeless).
 - b) The use of a Non Secure Temporary Tenancy pursuant to S193 of the Housing Act 1996 where the Council has a duty to house until such time that suitable alternative accommodation can be found.
 - c) The use of a Non Secure Temporary Tenancy where a former tenant has died or moved away and the remaining household has been given discretionary agreement to stay temporarily until more suitable accommodation can be found.
4. That delegated authority be given to the Director of Housing to amend the Tenancy Policy to specify the inclusion for the use of Licences and Non Secure Temporary Tenancies, as defined in the Policy at Appendix 1.

Reasons for Recommendations

5. This Policy will enable the Council to ensure it is making best use of Council stock, ensuring households are treated equally and fairly, and that we have a readily available supply of temporary accommodation without the need to resort to bed & breakfast accommodation.

Background

6. Since 2010/11 South Cambridgeshire has seen an increase in homeless acceptances year on year.

7. The Homelessness Strategy identifies an urgent need for more temporary accommodation to help meet the increased demand and reduce the need to use bed & breakfast accommodation which is both costly and unsuitable.
8. There is a corporate commitment to increase the supply of temporary accommodation, prioritising council-owned properties whilst not restricting options in other sectors.
9. Under the empty homes project 9 properties have been bought back into use as temporary accommodation for homeless households and a further 40 existing council properties are also being used for this purpose.
10. As well as the use of temporary accommodation for homeless households, the Council's Tenancy Policy sets out the position on succession and allows discretionary powers to grant a new tenancy to family members to ensure there are safeguards in place to protect the vulnerable. Where this discretion is applied but the existing accommodation does not match their needs, the remaining household will be granted the property on a temporary basis until more suitable alternative accommodation can be found.

Considerations

11. Currently all households living in temporary accommodation are issued with a temporary tenancy agreement. However, recent case law has set a precedent that accommodation can be offered under licence pursuant to the Housing Act 1996 S188 (pending a homeless decision) and S190(2) (intentionally homeless).
12. By granting a Licence Agreement in these circumstances, households are treated equally and fairly, having the same rights as households placed in bed & breakfast or hostel accommodation. This means that it is not necessary to apply to the courts for a possession order if the applicant refuses to leave when the Council no longer has a duty to house them.
13. In taking this approach, the accommodation is made available only for as long as is required, without the need for lengthy delays whilst possession is obtained through the court.
14. It is also considered timely, due to the recent case law and changes to succession, that the temporary tenancy agreement is reviewed to ensure it is fit for purpose.

Options

15. An alternative to the use of a Licence Agreement would be the option to grant only a Non Secure Temporary Tenancy Agreement. This would give the applicant greater rights than those placed in bed & breakfast or hostel accommodation and would mean that regardless of their circumstances, court proceedings would need to be instigated for possession where the applicant refused to move out. This option is not considered preferable as it reduces the available supply of temporary accommodation and goes against the principles of interim accommodation, that the occupier should be entitled to four weeks' notice and then to the benefit of the further inevitable delay while possession is obtained through the courts.

Implications

16. In the writing of this report, taking into account financial, legal, staffing, risk management, equality and diversity, climate change, community safety and any other key issues, the following implications have been considered: -

Financial

17. Financial savings may be achieved through reduced court costs.

Legal

18. The recent case law sets a precedent for the use of Licence Agreements pursuant to S188 and 190(2) of the Housing Act 1996.

Risk Management

19. It is proposed to review the Policy in 6 months time.

Equality and Diversity

20. This Policy ensures that there is equality and fairness to homeless households placed in temporary council accommodation.

Consultation responses (including from the Youth Council)

21. This Policy has been developed in consultation with Legal taking into account recent case law.

Effect on Strategic Aims

Aim 6 – Increase the supply of temporary accommodation, prioritising council-owned properties whilst not restricting options in other sectors

22. This Policy will support the readily available supply of temporary accommodation and ensure that there is a clear and transparent policy on how we use council housing as temporary accommodation.

Background Papers

[R\(CN\) v Lewisham LBC and R\(ZH\) v Newham LBC case law](#)

Report Author: Julie Fletcher – Housing Performance Improvement Team Leader
Telephone: (01954) 713352