

Brighton & Hove City Council

Housing & New Homes Committee

Agenda Item 36

Subject: Private Rented Sector Offer Policy

Date of meeting: 15th November 2023

Report of: Rachel Sharpe, Executive Director – Housing
Neighbourhoods & Communities

Contact Officer: Name: Harry Williams – Head of Homelessness & Housing
Options
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Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 The Localism Act 2011 (sections 148 and 149) introduced provisions which enable the Council to bring its statutory housing duty under section 193 of the Housing Act 1996 as amended to an end, by making an offer of a private rented sector tenancy rather than a social housing tenancy.
- 1.2 The Council's Allocations Policy sets out who will be offered Social Housing and how they will be prioritised. Any revised policy will contain the same provisions. However, to offer Private Rented Accommodation, to a household owed a Full Housing Duty by the Council, the Council must have a separate policy in place, the Private Rented Sector Offer policy.
- 1.3 Amendments under the Homelessness Reduction Act 2017 extended the powers in the Housing Act 1996, encouraging local authorities to embed an approach to use private sector accommodation to discharge its 'Prevention' and 'Relief' duties to homeless households and households threatened with homelessness.
- 1.4 The purpose of this report is to seek approval of Committee of the draft Private Rented Sector Offer policy, setting out how the Council will use its powers to offer private rented accommodation to homeless households to end its housing duties.
- 1.5 The policy allows the Council to offer accommodation outside of the city to someone accepted as homeless by Brighton & Hove City Council. Offers of suitable accommodation outside of the city will be made only when appropriate and to households that are already living outside of the city or cannot stay in Brighton & Hove for a particular reason (e.g., fleeing domestic violence or abuse). Prior to making an out of city offer to household under this policy, the Council will undertake a suitability assessment which will identify if the household is already engaged in local services in that area, such as schools and medical services.

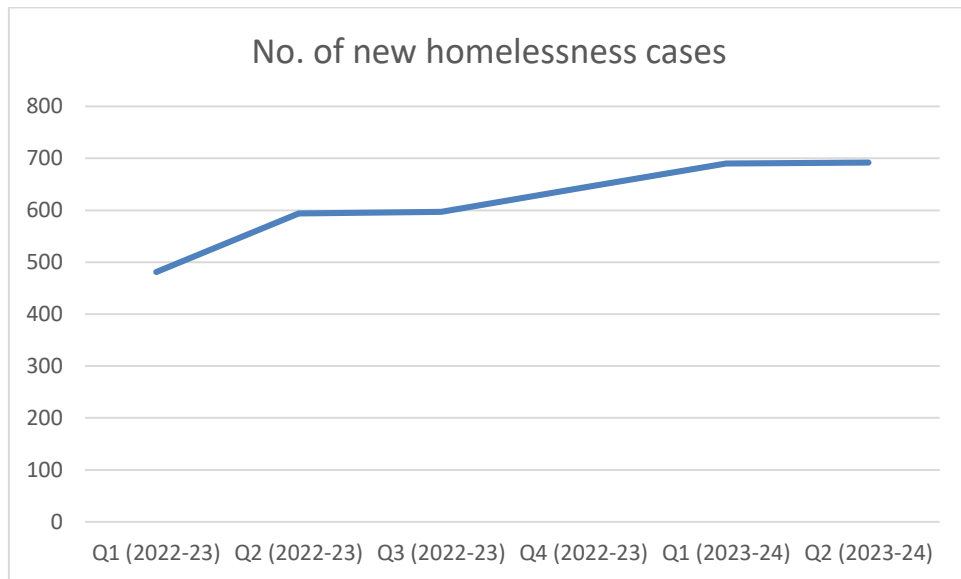
2. Recommendations

- 2.1 That Committee notes the content of the report and agrees to the adoption of the Private Rented Sector Offer (PRSO) Policy as set out in Appendix 1.

3. Context and background information

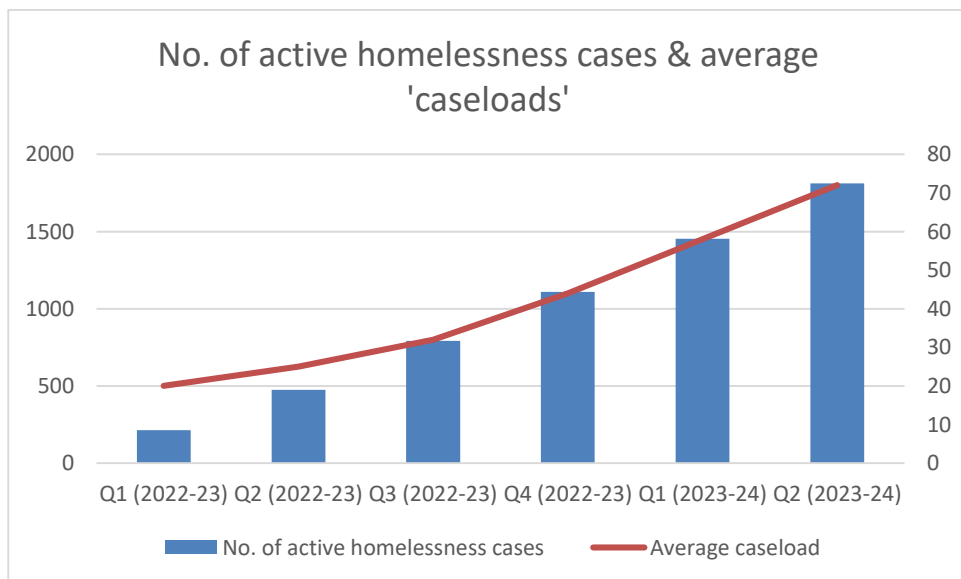
Context

- 3.1 The Council has a statutory duty to assist households experiencing homelessness where they are eligible for assistance and homeless, under the Housing Act 1996. As part of this, the Council is required to provide meaningful assistances to people experiencing homelessness. This includes setting out a Personalised Housing Plan which outlines reasonable steps that the Council and the person will take to 'prevent' or 'relieve' their homelessness. This can include steps such as viewing private rented properties or applying to a specific service.
- 3.2 If the Council is satisfied the household is eligible and homeless and has reason to believe that a household may have a Priority Need it is also required to ensure that accommodation is available to them whilst it carries out further work to determine what further duties are owed. This can include an offer of Temporary Accommodation.
- 3.3 Demand on the Council's homelessness service is increasing, in line with national trends – in Q4 of 2022/23 the government reported 104,510 households in Temporary Accommodation, the highest number ever recorded. In same performance year, 2,316 households presented to the Council's Homelessness & Housing Options service as homeless or threatened with homelessness.
- 3.4 However the number of households accessing the Council's homelessness service has increased by 20% in 2023/24, when compared to the quarterly average in 2022/23, and is forecasting a total of 2,764 households for this performance year. The below table outlines the growing demand on the service:



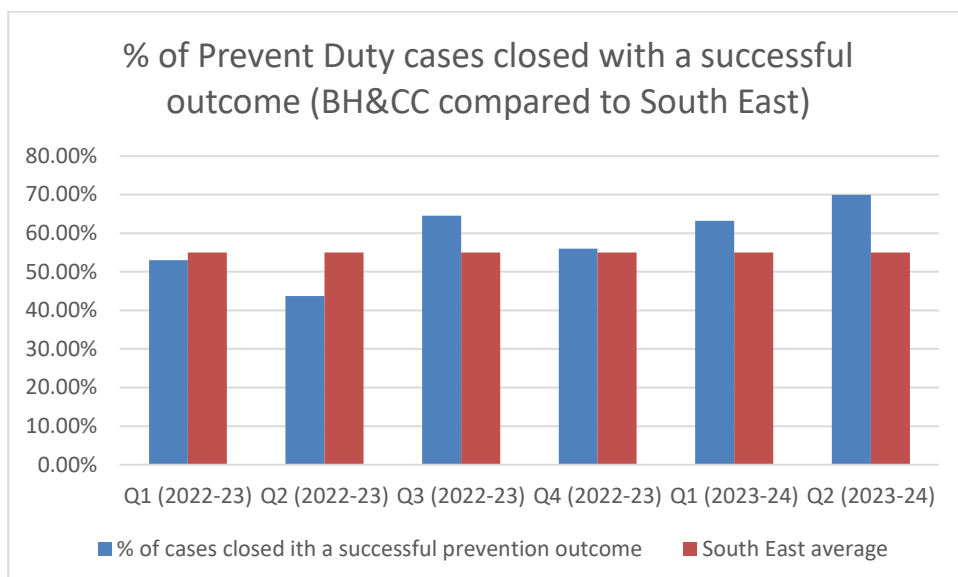
3.5 The increase in demand on the Council’s homelessness service is also increasing the number of homelessness cases being worked on during any one quarter, and therefore the size of the average ‘caseload’.

3.6 The below graph shows the net number of cases in the same period and the average number of homelessness cases a staff member would be responsible for during a quarter:



3.7 Work is underway to improve the way the Council’s homelessness service is provided, through its Homelessness Transformation Programme.

3.8 Whilst the pressure on the service is high, the Council’s homelessness service is still performing well in a number of key areas, principally in its work to prevent homelessness. The below graph shows the percentage of Prevention cases closed with a successful outcome (accommodation secured for at least 6 months) in previous quarters compared to the average for the South East:



- 3.9 Demand on social housing in the City is high and often out-strips supply. As of September 2023, there were 4,665 qualifying households on the Council's Housing Register – a register or list of people waiting to be allocated to Social Housing – and a further 3,009 households whose applications were either suspended or under assessment. Around 30% (or 1,358) of qualifying households are homeless.
- 3.10 The Council's Homemove service allocates around 600 properties each year. Band C (the band typically given to homeless households) average waiting times for Social Housing are high. Guidelines, based on how long households re-housed over the past 3 years, are:
- 2.2 years to be allocated a 1-bedroom property
 - 4.6 years to be allocated a 2-bedroom property
 - 8.1 years to be allocated a 3-bedroom property
- 3.11 No 4-bedroom properties have been allocated to Band C applicants over the past 3 years, which is an indication of how rare these properties become available for re-letting.
- 3.12 As outlined in paragraph 3.8, around 30% of qualifying households on the Housing Register are homeless and in almost all instances will be living in unsettled Temporary Accommodation. It costs the Council an average of £9,200 per household per year for each extra household in Temporary Accommodation and in 2022/23 the Council expenditure on this type of accommodation was £15.900m.
- 3.13 High demand, a large number of households in Temporary Accommodation and long waiting times for social housing and the inability to make offers of private rented accommodation is contributing towards significant financial pressures on the Council and the Homelessness service is forecasting an overspend of £1.170m for this financial year

- 3.14 All action is being taken to address this overspend however it will only be achieved by reducing the number of households in Temporary Accommodation and this policy will contribute to that outcome.
- 3.15 Brighton & Hove has around 48,000 private rented homes – almost a third of the city’s residential stock. Alongside social housing, the private rented sector is a key solution to preventing people’s homelessness and moving people on from Temporary Accommodation, allowing it to meet its statutory duties outlined within Part 7 of the Housing Act 1996 (as amended).
- 3.16 However, whilst this sector is a key solution to homelessness it can also be a contributing factor. In Q1 2023/24, 58% of households were experiencing homelessness due to an end of private rented tenancy.
- 3.17 Nevertheless, the Private Rented Sector is affordable for a number of people experiencing homelessness and the Council works closely with Landlords and Letting Agents to increase its supply of private rented properties.
- 3.18 The Council only offers settled accommodation which it believes to be suitable and affordable for households and provides a range of support to help people rent privately, such as a deposit and/or rent guarantee, cash incentives to landlords to cover the shortfall between LHA and market rents. It also provides a tenancy sustainment service to help people settle into private rented accommodation. This service includes support such as ‘ready to rent’ training, home visits and a dedicated point of contact for tenants and landlords

The Private Rented Sector Offer policy

- 3.19 The Private Rented Sector Offer Policy allows the Council to make an offer of accommodation to people experiencing homelessness, working alongside a series of other tools to help prevent people’s homelessness and move people on from costly and unsettled accommodation Temporary Accommodation, and bring its statutory duties to an end.
- 3.20 The policy would be applied on a case-by-case basis. However it considers a series of groups that will ordinarily be prioritized for private rented sector offers, such as households who have settled outside Brighton & Hove or those who have settled in Temporary Accommodation and can now be offered an Assured Short hold Tenancy.
- 3.21 It also includes groups that would not be prioritised, such as those whose needs cannot be met in the private rented sector, cannot afford to live in this sector and would be unable to manage a private tenancy.
- 3.22 The Policy has a series of guiding principles that will apply when making private rented sector offers, including:
- Private rented sector accommodation is appropriate for most households however there are some circumstances in which this type of accommodation may not be appropriate for the household.

- Normally one suitable offer will be made, and the duty will be discharged if a household refuses the offer of accommodation, although households will have the right to request a statutory review of the discharge.
- Offers of private rented sector accommodation will have regard to the provisions of the Homelessness (Suitability of Accommodation) Order 2012 (DLUHC, 2012) and will only be made if the Council believes it is a suitable and affordable offer.
- Households may be made a private rented sector offer outside of Brighton & Hove, where appropriate, and support may be offered help to move.

3.23 Households will mainly be offered Assured Shorthold Tenancy of at least 12-months. A detailed suitability assessment, which will include an assessment of a household's income and expenditure to determine what would be affordable, would be made prior to any offer of accommodation. The suitability assessment will have regard to:

- The household size and bedroom need
- Maintenance and security of the property
- Location to services, amenities, support and place of work
- Public Sector Equality Duty
- Affordability
- Child welfare considerations (including educational needs).

3.24 Households have the statutory right to request a review of the suitability of the accommodation offer. The Council will determine that a property is not suitable if it is 'of the view' that in addition to the above any of the following apply:

- The property is not in reasonable physical condition
- any electrical equipment supplied with the accommodation does not meet legal requirements
- The landlord has not taken reasonable fire safety precautions with the accommodation and any furnishings supplied with it
- The landlord has not taken reasonable precautions to prevent the possibility of carbon monoxide poisoning
- The landlord is not a fit and proper person to act in the capacity of landlord
- The accommodation is a house in multiple occupation subject to licensing and or additional licencing and is not licensed
- The accommodation is or forms part of residential property which does not have a valid energy performance certificate
- The accommodation is or forms part of relevant premises which do not have a current gas safety record
- The landlord has not provided to the local housing authority a written tenancy agreement

3.25 The Council will source accommodation to offer households under this policy. As part of its checks prior to making an offer of accommodation, the Council will:

- Verify the tenancy that is being offered by the landlord to the household
 - Check the condition and standard of the property
 - Ensure that the landlord is a 'fit and proper person'
 - Help to sustain a tenancy if things start to go wrong
 - Ensure that minimum standard repairs and safety requirements are met
- 3.26 The policy allows the Council to also offer accommodation outside of the city to someone accepted as homeless by Brighton & Hove City Council. Offers of suitable accommodation outside of the city will be made only when appropriate and to households that are already living outside of the city or cannot stay in Brighton & Hove for a particular reason (e.g., fleeing domestic violence or abuse). Prior to making an out of city offer to household under this policy, the Council will undertake a suitability assessment which will identify if the household is already engaged in local services in that area, such as schools and medical services.
- 3.27 Another example where this policy could apply would be circumstances where the household is already settled in their home, as temporary accommodation, and the landlord has agreed to provide the same accommodation as an Assured Shorthold Tenancy. The Council will engage with the household to help determine if the household has long-term need to live in the city. As part of this the Council will review the household's bidding history to see if they are regularly bidding on accommodation within Brighton & Hove and if not to understand why.
- 3.28 Households will be individually assessed prior to any offer of accommodation being made, taking into account a range of factors, such as any active welfare or safeguarding concerns of any children in the household, access to transport and the level of need to be close to services in the city.
- 3.29 The assessment will also determine if the household requires any support to settled into a new area. The support will vary but may include information on how to claim local council tax support, registering with a local GP and applying for a school place in the area.
- 3.30 The Council would also still retain a responsibility to households offered accommodation under this policy, including those who have accommodation offered outside of Brighton & Hove. This responsibility means that households that make a homelessness application within two years of the date of their acceptance of a PRSO will be provided suitable interim accommodation, regardless of whether the household has a 'priority need', if the Council is satisfied that there is reason to believe that the household is eligible for assistance, homeless and not intentionally homeless.
- 3.31 The Council will also have a responsibility to secure accommodation for the household, which can be discharged by a further offer of private rented accommodation, if appropriate.

3.32 This policy will help the Council to meet its statutory duties outlined Housing Act 1996 (as amended) and Homelessness Reduction Act 2017, enable its Homelessness & Housing Options service to better help people experience homelessness access settled accommodation and support the Council in its delivery of critical financial savings.

4. Analysis and consideration of alternative options

4.1 The option not to adopt a Private Rented Sector Offer policy and continue to only make offers of settled accommodation to homeless households owed a Full Housing Duty by the Council via the Council's Housing Register is **not recommended** because it reduces the Council's ability to make offers of suitable settled accommodation. And it is forecast that not adopting this policy would cost the Council £0.55m per annum (see financial implications).

5. Community engagement and consultation

5.1 There is no statutory requirement to consult on the PRSO policy.

6. Conclusion

6.1 Adopting the Private Rented Sector Offer policy will increase the Council's abilities to best meet its statutory duties outlined Housing Act 1996 (as amended) and Homelessness Reduction Act 2017, through providing an additional option to help people access settled accommodation and support the Council to reduce costs.

6.2 It will also bring the Council in line with many other Local Authorities who actively make Private Rented Sector Offers to homeless households.

6.3 The Policy takes into account the need to make offers on a case-by-case basis and ensure that all offers of accommodation are suitable and affordable for households.

6.4 It helps improve people's life chances and move more quickly into settled accommodation, ending their homelessness.

6.5 The policy provides a safety net for people who are made an offer of accommodation, including a statutory right to review, a reapplication duty and support if moving out of area.

7. Financial implications

7.1 If adopted, this policy will enable households presenting as homeless to be given access to private rented sector properties, rather than having to use expensive temporary accommodation (TA). Each additional household in TA costs the council on average £9,200 per year. A prudent estimate is that this policy will mean 24 fewer households in temporary accommodation during 2023/24.

- 7.2 It is estimated that half of this reduction will relate to reducing increased demand on the service and will therefore reduce the risk of even higher costs and further budget pressures of an estimated £0.110m per year. The other half of this reduction will reduce budgeted costs. As this will happen gradually through the year, the budget saving in 2024/25 is estimated to be £0.055m with a further saving of £0.55m in 2025/26.
- 7.3 The homelessness service is currently forecast to overspend by £1.170m in 2023/24. Adopting this policy is one of the many financial recovery measures that the service is developing in order to try to balance its budget both during 2023/24 and in future years. If this policy is not adopted, this is likely to mean that further recovery measures will be needed which may affect other services within the Housing, Neighbourhoods & Communities (HNC) directorate and will add to the risk of the council not being able to balance its budget in 2024/25.

Name of finance officer consulted: Monica Brooks
Date consulted (20/10/23):

8. Legal implications

- 8.1 There is no requirement under the Act to consult on this policy. The Policy is compatible with primary legislation. Like all good policies, it affords the council the power to review cases on a case-by-case basis and to take account of exceptional circumstances. The policy acknowledges a tenant's statutory right to seek a review of the suitability of the accommodation.
- 8.2 There will be a particular need to take account of the council's duties under the Equality Act 2010. The EIA will be important to ensure that the potential impact of the Policy on those with protected characteristics is considered.
- 8.3 Offers of accommodation outside the City are lawful even where undesirable. In addition to making the decision to offer PRS (even within the City) this has to be explained in a clear, transparent and measurable way. Financial impact on a council should not be the sole determinant of policy but is a matter which can be properly considered.

Name of lawyers consulted: Simon Court/Liz Woodley Date consulted (19/10/23):

9. Equalities implications

- 9.1 The Private Rented Sector Offer policy aims to enable the Council to move applicants to whom it owes a homelessness duty from temporary accommodation to suitable, more stable private rented sector accommodation and to make the offer process consistent and transparent for officers and service users. Using this policy will enable the Council to increase the supply of suitable accommodation available to the Council to meet the needs of applicants for homelessness assistance. The use of this policy is intended to improve the outcomes for homeless applicants who

may otherwise have to stay in temporary accommodation for an unsustainable length of time. This policy will promote stability and minimum standards in the private rented sector accommodation occupied by our service users because it will ensure that landlords under the scheme are fit and proper and that properties meet minimum safety standards. These factors, taken together with the mitigation actions set out in the Equality Impact Assessment and the policy itself, outweigh the potential adverse impacts identified in this document, and ensure that any negative impacts created by this policy are the proportionate means of meeting the legitimate aims of the policy.

10. Sustainability implications

10.1

References

Department for Levelling Up, Housing & Communities (DLUHC) (2012) *Homelessness (Suitability of Accommodation) (England) Order 2012*. UK Government.

Supporting Documentation

1. Appendices

1. Draft Private Rented Sector Offer Policy
2. Equalities Impact Assessment – Private Rented Sector Offer Policy