

# **CYNGOR SIR POWYS COUNTY COUNCIL**

## **Portfolio Holder Decision Report By County Councillor Graham Brown Portfolio Holder for Commissioning and Procurement**

**Date 8<sup>th</sup> June 2015**

**REPORT AUTHOR: Simon Inkson, Head of Housing**

**SUBJECT: Housing Act 2014 – Decisions of Intentional  
Homelessness**

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**REPORT FOR: Decision**

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### **1. Summary**

- 1.1. The Housing Act 2014 introduces a major change in working practices and responsibilities regarding the local authority's statutory duties to the Homeless. Responsibility for deciding upon whether to continue assessing intentionality and which groups of applicant to apply the test to will rest with the individual local authority.
- 1.2. This report requests that the Portfolio Holder agree to the continuation of the assessment of intentionality when applied to specific groups of applicant(s) and if necessary provide notification prior to the commencement of the statutory instruments which apply from 1 July 2015.

### **2. Background and Proposal**

#### **Housing Act 2014 – The Homelessness (Intentionality) (Specified Changes) (Wales) Regulations 2015**

- 2.1. Part of the Housing Act 2014 delegates responsibility for deciding upon whether to continue applying the test of Intentionality to individual local authorities.
- 2.2. Section 78 of the Housing (Wales) Act 2014 provides that when assessing an applicant for help with homelessness under Section 75, a local housing authority may not have regard to intentionality, unless it has decided to have regard to one or more of the categories of applicants specified by the Welsh Ministers. Section 78(1) of the Act places an obligation on the Welsh Ministers to make regulations to specify such categories.
- 2.3. The Regulations list the following categories of applicants for the purposes of Section 78. The list is based on Section 70 of the Act, which sets out the list of persons who have a Priority Need for accommodation. This list is at Appendix 1.

- 2.4. A local housing authority which decides to have regard to intentionality must provide a written notice to the Welsh Ministers of their decision. The written notice must specify –
- a) the list of specified categories of applicants, and
  - b) the reason(s) for having regard to the category or categories contained in the list of specified categories of applicants.
- 2.5. The written notice must be provided to the Welsh Ministers no less than 14 days prior to the implementation of the decision to have regard to intentionality.
- 2.6. A local housing authority which decides to have regard to intentionality must publish a notice of its decision –
- a) on the Authority's website, and
  - b) by posting a copy of the notice at the offices where applications for help with homelessness are received,
- no less than 14 days prior to the implementation of the decision to have regard to intentionality.
- 2.7. A local authority must take reasonable steps to notify its decision to applicants and their advisers and in particular must make a copy of the notice of its decision available, without charge, to applicants who will be affected by the decision.
- 2.8. A local housing authority that has decided to have regard to intentionality may not revise the list of specified categories of applicants more than twice a year.
- 2.9. A local housing authority that decides to have regard to intentionality in accordance with Section 78 must not have regard to intentionality in relation to an existing applicant.

### **3. One Powys Plan**

- 3.1 This is a minor change of approach that will help us to deliver Stronger Safer and Economically Viable Communities by ensuring that vulnerable young people who approach the housing service for assistance, receive a consistent service across the council.

### **4. Options Considered/Available**

- 4.1. The local authority has two options to decide upon. Either we decide to discontinue applying the intentionality test to all categories of person who approach as homeless (in which case no further action regarding notification is required), or we decide upon the categories of persons to apply the test to and ensure our decision is notified to Welsh Government and published by notice including on the Powys County Council website 14 days prior to the implementation.

## **5. Preferred Choice and Reasons**

- 5.1. It is recommended that the Council continues to apply the test of intentionality to all of the groups listed in Appendix 1, **with the exception of 16 & 17 year olds.**
- 5.2. This recommendation is made in recognition of the very low level of intentionally homeless decisions made by the Council each year which indicates the level of care that is taken in applying the intentionality test.
- 5.3. In addition, the exclusion of 16 & 17 year olds from the intentionality test recognises that young people are not always appreciative of the decisions they make regarding their housing and this exclusion will allow the Council to work more pro-actively with younger people to source appropriate housing options. In addition, the local authority, under its corporate parenting responsibility would have a duty to accommodate a homeless 16 & 17 year, even if they had been found intentionally homeless in respect of its homelessness responsibilities, so to apply the intentionality test to this group would appear to be a waste of officer time.
- 5.4. Statistics indicate only 2% of all the formal homelessness decisions made in 2012 / 2013 and 2013 / 2014 were of intentional homelessness – all involved persons over 18 years of age.

## **6. Sustainability and Environmental Issues/Equalities/Crime and Disorder/Welsh Language/Other Policies etc**

- 6.1. The retention of the power to determine that groups of applicants are intentionally homeless, will ensure that groups of applicants do not intentionally worsen their circumstances to obtain access to a diminishing supply of social housing.
- 6.2. The exclusion of 16 & 17 year olds from the intentionality test recognises that the council has a wider parenting responsibility to such young people who approach as homeless.

## **7. Children and Young People's Impact Statement – Safeguarding and Wellbeing**

- 7.1. The retention of the power to determine that groups of applicants are intentionally homeless, will ensure that groups of applicants do not intentionally worsen their circumstances to obtain access to a diminishing supply of social housing.
- 7.2. The exclusion of 16 & 17 year olds from the intentionality test recognises that the council has a wider parenting responsibility to such young people who approach as homeless.

## **8. Local Member(s)**

- 8.1. This matter has equal effect across the Council.

## **9. Other Front Line Services**

- 9.1. This matter will not have an effect on other frontline Services.

## **10. Support (Legal, Finance, HR, ICT, BPU)**

- 10.1. Finance – the Finance Business Partner can confirm that in order to comply with the Regulations contained in the Housing Act 2014 the decision upon whether to continue assessing intentionality and which groups of applicant to apply the test to will rest with the individual local authority. In Powys there is only a very small amount, 2%, of intentional decisions and the exclusion of 16 & 17 year olds from the intentionality test recognises that the council has a wider parenting responsibility to such young people. Any financial implications can be met within the current financial envelope.
- 10.2 Legal - the Professional Lead –Legal supports the recommendation made in this report.

## **11. Local Service Board/Partnerships/Stakeholders etc**

- 11.1 This is a specific housing matter

## **12. Communications**

- 12.1 The Housing Service will place a notice on the Powys County Council website to advise of the decision to continue to have regard to intentionality in respect of homelessness decisions and the priority need groups that the test will still apply to. Notices will also be placed in public facing offices where persons present in housing need and can also be communicated via the Housing Services FaceBook page.

## **14 Statutory Officers**

- 14.1 The Strategic Director Resources (Section 151 Officer) notes the comments made by finance.
- 14.2 The Solicitor to the Council (Monitoring Officer) : “ I have nothing to add to the report”.

## **15 Members' Interests**

- 15.1 The Monitoring Officer is not aware of any specific interests that may arise in relation to this report. If the Portfolio Holder has an interest he should declare it, complete the relevant notification form and refer the matter to the cabinet for decision.

<b>Recommendation:</b>	<b>Reason for Recommendation:</b>
1. That Powys County Council continues to apply the	1. Powys County Council makes a very small amount of intentional

<p>Intentionality test in respect of the all groups listed in Appendix 1 <b>with the exception of 16 &amp; 17 year olds</b></p> <p>2. That arrangements are made to place relevant notices on the public website and at public facing offices and that Welsh Government are informed of Powys County Council's position.</p>	<p>decisions and the test is applied after much consideration. Young persons will be removed from the intentionality test – it is not felt this group is always able to make best judgements regarding their housing and circumstances that may lead to them losing accommodation.</p> <p>2. In order to comply with the Regulations contained in the Act.</p>
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Relevant Policy (ies):			
Within Policy:	Y	Within Budget:	Y

<b>Relevant Local Member(s):</b>	<b>All members</b>
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<b>Person(s) To Implement Decision:</b>	<b>Rob Powell, Homelessness Prevention &amp; Housing Options Lead</b>
<b>Date By When Decision To Be Implemented:</b>	<b>30<sup>th</sup> June 2015</b>

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## PRIORITY NEED GROUPS

- a) A pregnant woman or a persons with whom she resides or might reasonably be expected to reside;
- b) A person with whom a dependent child resides or might reasonably be expected to reside;
- c) A person –
  - i) Who is vulnerable as a result of some special reason (for example: old age, physical or mental illness or physical or mental disability), or
  - ii) With whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside
- d) A person –
  - i) who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster, or
  - ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside
- e) A person –
  - i) who is homeless as a result of being subject to domestic abuse, or
  - ii) with whom a person who falls within sub-paragraph (i) resides (other than the abuser) or might reasonably be expected to reside
- f) A person –
  - i) who is aged 16 or 17 when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, or
  - ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside;
- g) A person –
  - (i) who has attained the age of 18, when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who is at particular risk of sexual or financial exploitation, or
  - (ii) with whom a person who falls within sub-paragraph (i) resides (other than an exploiter or potential exploiter) or might reasonably be expected to reside;
- h) A person –
  - ) who has attained the age of 18, when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation, but not the age of 21, who was looked after, accommodated or fostered at any time while under the age of 18, or
  - ) with whom a person who falls within sub-paragraph i) resides or might reasonably be expected to reside;
- i) A Person –
  - i) who has served in the regular armed forces of the Crown who has been homeless since leaving those forces, or
  - ii) with whom a person who falls within sub-paragraph (i) resides or might reasonably be expected to reside
- j) A person who has a local connection with the area of the local authority and who is vulnerable as a result of one of the following reasons –
  - i) having served a custodial sentence within the meaning of Section 76 of the Powers of Criminal Courts (Sentencing) Act 2000,
  - ii) having been remanded in or committed to custody by an order of a court, or

iii) having been remanded to youth detention accommodation under Section 91(4) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, or a person with whom such a person resides or might reasonably be expected to reside