

BRIDGEND COUNTY BOROUGH COUNCIL

REPORT TO CABINET

13 DECEMBER 2022

REPORT OF THE CHIEF OFFICER – FINANCE, PERFORMANCE AND CHANGE

HOUSING (WALES) ACT 2014

1. Purpose of report

- 1.1 The purpose of this report is to highlight the changes made to Welsh Government homelessness legislation in respect of the new Priority Need category and seek Cabinet approval in respect of applying the 'intentionality test' to that new category.

2. Connection to corporate well-being objectives/other corporate priorities

- 2.1 This report assists in the achievement of the following corporate well-being objective under the **Well-being of Future Generations (Wales) Act 2015**:

- **Helping people and communities to be more healthy and resilient** - taking steps to reduce or prevent people from becoming vulnerable or dependent on the Council and its services. Supporting individuals and communities to build resilience, and enable them to develop solutions to have active, healthy and independent lives.

3. Background

- 3.1 The Housing Service operates within the legal framework of the The Housing (Wales) Act 2014 (The Act) and the Social Housing Allocation Policy (SHAP). The Act and SHAP were implemented on 27th April 2015; the SHAP having been approved by Cabinet on 31st March 2015.
- 3.2 The Act introduced much stronger duties on local authorities to prevent and/or relieve homelessness.
- 3.3 The Act places a duty on the Council to assist those who are threatened with homelessness within 56 days by taking all reasonable steps to prevent/relieve homelessness. The duty to prevent homelessness under the Act is irrespective of whether the applicant has a local connection to Bridgend or whether the applicant is intentionally homeless. Those that make a homeless application, but have no local connection, receive advice and assistance only from the Council unless, for example, they are fleeing violence/domestic abuse.
- 3.4 In the event that homelessness prevention is not successful, there is a duty to relieve the applicant's homelessness and again, there is a duty to take all 'reasonable steps' to do so.
- 3.5 The Act also introduced changes in respect of how to apply the 'intentionality test'. Welsh Government removed the intentionality test for all families with children even

if they are found to be intentionally homeless. There is a caveat to this in that it will only apply if they have not been found intentionally homeless in the last 5 years.

The definition of 'intentionally homeless' is as follows:

“A person is intentionally homeless if..... the person deliberately does or fails to do anything in consequence of which the person ceases to occupy accommodation which is available for the person’s occupation and which it would have been reasonable for the person to continue to occupy”.

If an 'intentional homeless' decision is taken, the Authority's housing duties to that household are significantly reduced.

3.6 Currently, the Council applies the test of intentionality to all categories of homeless households under the Act which was approved by Cabinet on 31st March 2015:

- a pregnant woman or a person with whom she resides or might reasonably be expected to reside;
- a person who is vulnerable as a result of some special reason (for example: old age, physical or mental illness or physical or mental disability);
- a person who is homeless or threatened with homelessness as a result of an emergency such as flood, fire or other disaster;
- a person who is homeless as a result of being subject to domestic abuse;
- a person aged 16 or 17 when the person applies to a local housing authority for accommodation or help in obtaining or retaining accommodation;
- 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 is at particular risk of sexual or financial exploitation;
- 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;
- a person who has served in the regular armed forces of the Crown who has been homeless since leaving those forces; or
- a person who has a local connection with the area of the local housing authority and who is vulnerable as a result having served a custodial sentence.

It is worth noting that intentionality decisions are relatively rare. Between April 2021 and March 2022 'intentionally homeless' decisions represented approximately 1.3% of all homeless outcomes in Bridgend County Borough Council.

3.7 The Act also specified 10 categories of households who were to be considered priority need. Priority Need is considered for the provision of temporary accommodation and the final homeless duty to secure permanent accommodation.

3.8 At the start of the Covid-19 Pandemic, Welsh Government (WG) introduced an 'All In' approach to homelessness and directed local authorities that no-one was to be without accommodation due to the public health imperative making everyone Priority

Need. Therefore the intentionality test was suspended to respond to the emergency situation at the time leading to greater numbers being provided with temporary accommodation in hotels, Air B+B's etc.

- 3.9 WG's intention is not to revert back to pre Covid legislation when considering vulnerability and priority need for accommodation. Earlier this year, WG consulted with local authorities to permanently change regulation so that rough sleepers were considered a priority need for accommodation. However, WG's proposals are wider than this; as of 24 October 2022, anyone that is street homeless is priority need for accommodation. Street homeless does not mean rough sleeping, street homeless is when a person has no accommodation they can occupy in the UK or elsewhere which they are entitled to occupy, which they have a license to occupy or which there is a rule of law enabling occupation.

4. Current situation/proposal

- 4.1 Cabinet are recommended to approve applying the 'intentionality test' to the additional Priority Need category of 'Street Homeless'.
- 4.2 Priority Need should not be mistaken for Priority banding under the SHAP. A household may be Priority Need but they would not be Priority banded. For those that are a Priority Need and unintentionally homeless, they would be banded as having an urgent housing need (Band A). Those that are a Priority Need but intentionally homeless would have a lower priority registration on the Common Housing Register (Band B). The SHAP will be reviewed further to the Homeless Strategy which will be presented to Cabinet for approval in the very near future.
- 4.3 Whilst some households will not be considered to fall within a priority need group, they will still receive the same level of support albeit they will not be eligible for temporary accommodation.
- 4.4 WG requires the Council to notify them, and the public, of the priority need groups to which it is going to apply the intentionality test. Once the decision is made, the Council will need to inform WG and publicise their decision 14 days before the legislation in relation to intentionality is implemented.
- 4.5 The current changes implemented by WG have been made with a view to them reviewing the entire Act in the future and therefore it is proposed that the Council apply the intentionality definition to the new category of households 'Street Homeless' until such time as this takes place.

5. Effect upon policy framework and procedure rules

- 5.1 There is no effect upon policy framework and procedure rules.

6. Equality Act 2010 implications

- 6.1 The protected characteristics identified within the Equality Act, Socio-economic Duty and the impact on the use of the Welsh language have been considered in the preparation of this report. As a public body in Wales, the Council must consider the impact of strategic decisions, such as the development or the review of policies,

strategies, services and functions. It is considered that there will be no significant or unacceptable equality impacts as a result of this report.

6.2 As no change is proposed to the application of the intentionality test, there will be no impact on the Council's equality duties.

7. Well-being of Future Generations (Wales) Act 2015 implications

7.1 The report contributes to the following goals within the Well-being of Future Generations (Wales) Act 2015:

- A prosperous Wales
- A resilient Wales
- A Wales of cohesive communities
- A globally responsive Wales

7.2 It is considered that there will be no significant or unacceptable impacts upon the achievement of well-being goals/objectives as a result of this report.

8. Financial implications

8.1 There will be no significant or unacceptable financial implications as a result of this report. The current level of service will be maintained.

9. Recommendation

9.1 It is recommended that Cabinet approve that the Council applies the 'intentionality test' to the new category of households 'Street Homeless' and publishes its intent to do so in accordance with Welsh Government direction.

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Background documents:

None