

Report To: Cabinet
Date of Meeting: 17th February 2015
Lead Member / Officer: Cllr Hugh Irving / Phil Gilroy
Report Author: John Sweeney / Stephen Convill
Title: Implementation of Housing Act Wales 2014

1. What is the report about?

This report is about a requirement placed upon the Council by Welsh Government to determine to which groups of homeless persons it will apply the test of “intentionally homeless”, following implementation of the Housing (Wales) Act 2014 in April 2015.

The definition of intentional homelessness under the Housing (Wales) Act 2014 is effectively the same as that contained within current legislation (Homelessness Act 2002); which states

“a person becomes homeless intentionally or threatened with homelessness intentionally if:

- *the person does or fails to do anything in consequence of which the person ceases to occupy accommodation (or the likely result of which is that the person will be forced to leave accommodation)*
- *the accommodation is available for the person’s occupation; and it would have been reasonable for the person to continue to occupy the accommodation”*

However, an act or omission made in good faith made by someone who was unaware of any relevant fact must not be treated as deliberate.

2. What is the reason for making this report?

To request that Cabinet makes a decision within the prescribed timeframe (Appendix 1) on whom Denbighshire County Council will apply the test of “intentionality”.

The households to whom the “intentionality test” can be applied are where the household;

- Includes dependent children or a pregnant woman
- Is vulnerable due to old age
- Is vulnerable to physical disabilities or mental illness / learning disability
- Is vulnerable due to being a care leaver / or a young person at particular risk of sexual or financial exploitation (18-20 year olds)
- Is vulnerable due to being a 16 or 17 year old
- Is vulnerable due to fleeing domestic violence / abuse or threatened violence
- Is vulnerable due to leaving the armed forces

3. What are the Recommendations?

That Members agree that Denbighshire County Council does not exclude any of the groups named under section 2 of this report, but rather continues to apply the “intentionality test” to all of them and publishes its intent to do so in accordance with Welsh Government direction (Appendix 1).

Note: failure to make a decision and to publicise this within the prescribed time frame (Appendix 1) will mean that the Council will cease to have any discretion over the application of the “intentionality test” under the Housing (Wales) Act 2014 i.e. it will not be able to apply the “test” and this could be a significant risk factor, as will be outlined in this report.

4. Report details.

4.1 The Welsh Government had considered excluding from the Housing (Wales) Act 2014 the test of “intentionality”. The reasoning behind this thinking being that many households who are determined to be intentionally homeless often have significant unmet support needs and not providing them with settled accommodation and effectively addressing these needs can significantly impact on the household and the public purse in areas such as social services, the criminal justice system (including police and probation), health services and voluntary organisations.

4.2 In the longer term the Welsh Government has pledged to remove the intentionality test for all families. It is envisaged this will be happen from April 2019. As Officers of the Council with responsibility for this area of work, we are supportive of the longer term commitment to remove the “test”. However, our considered opinion is that for practical reasons it would not be timely or appropriate to remove it from any individual grouping presenting as homeless to DCC, post April 2015, at this point in time.

4.3 By not removing the “intentionality test” at this point in time we are not advocating taking a legalistic and punitive approach to homeless households who have been deemed to be “intentionally homeless”; turning them away with nothing more than basic advice. Rather we are advocating an interim position between now and the future removal of the “intentionality test” by Welsh Government, whereby the “intentionally test” is used in a positive way to lever, where appropriate, cooperation from “intentionally homeless” households to work in collaboration with the Council to recognise and address underpinning causal issues to their homelessness or threatened with homelessness state. By declaring a household “intentionally homeless” we are stating that we do not have any statutory duty to provide an offer of a tenancy; but this can be the start of an honest discussion about causal factors and entering into a formal Personal Housing Plan to address them in return for the Council using its powers to enable them to secure accommodation in the private rented sector.

(Note; under our proposals to replace the current Housing Options and Homelessness Service with a Housing Solutions Service, we will be working much more closely with private landlords to help mitigate the business risk to them in accommodating homeless households).

- 4.4 The interim period between the Housing (Wales) Act 2014 being implemented in April 2015 and April 2019, the date the Welsh Government has committed to work towards to remove the “intentionality test” from the legislation, will be used by DCC to build on the positive work it will be doing with “intentionally homeless” households, as outlined above, by working with partner agencies – in particular Supporting People service commissioners, Supporting People provider services, Adult and Children’s social services including “Team Around The Family”, to develop a truly joined up multi agency framework for homeless households with unmet support needs.
- 4.5 The Housing Solutions Team will have considerable extra new responsibilities from the implementation date of the new “Act”, which will take a considerable time to bed down. Removing either in full or part the “intentionality test” before an appropriate framework is in place would leave the Council duty bound to secure accommodation for homeless households with high unmet support needs, but without any mechanism to secure commitment from the households to address causal factors to their homeless or threatened with homelessness state. This would increase business risk for landlords, increase the likelihood of tenancy breakdown and repetition of the cycle of homelessness with further cost to the public purse.

5. How does the decision contribute to the Corporate Priorities

The decision contributes to the following priorities in the Corporate Plan:

- Vulnerable People are protected and are able to live as independently as possible;
- Ensuring access to good quality housing.

6. What will it cost and how will it affect other services?

There will be no additional costs; but the proposed way of working with “intentionally homeless” households should take pressure off other Council services – in particular Adult and Children’s Services.

The recommended decision is about retaining the status quo regarding “intentional homelessness” and any costs involved in enabling an “intentionally homeless” household to access a private tenancy will be contained within the budget for the Housing Solutions Team.

7. What are the main conclusions of the Equality Impact Assessment (EqIA) undertaken on the decision?

The recommendation is to make no change to the existing policy, therefore no Equality Impact Assessment is required.

8. What consultations have been carried out with Scrutiny and others?

Advice from Democratic Services is that consultation with Scrutiny is not required.

9. Chief Finance Officer Statement

There are no obvious significant financial implications arising from the report

10. What risks are there and is there anything we can do to reduce them?

Accepting the recommended decision does not present any risk.

11. Power to make the Decision

Housing (Wales) Act 2014: Part 2 Homelessness: s 78. Deciding to have regard to Intentionality.

Local Government Act 1972: s 111