



EXECUTIVE MEMBER DECISION

REPORT OF: Executive Member for Adult Services & Prevention

LEAD OFFICERS: Director of Adult Services & Prevention

DATE: 8 October 2019

PORTFOLIO/S AFFECTED: Adult Services & Prevention

WARD/S AFFECTED: ALL

SUBJECT:

Blackburn with Darwen Policy: Management of Supported Living Tenancies in Blackburn with Darwen (BwD).

1. EXECUTIVE SUMMARY

The aim of developing a policy on the Management of Supported Living Tenancies in supported living accommodation and easy read guidelines, is to set out the Council's approach to:

- reviewing supported living tenancies in which there are vacancies,
- reviewing supported living arrangements where the environment is no longer suitable for the current and future needs of tenants,
- and making decisions about available accommodation options, including reaching decisions as to when a supported living scheme is no longer deemed viable.

A Policy for managing tenancies and the vacancies this housing model unavoidably creates, will assist the decision making process to 'match' individuals to vacancies and assist in a more robust and economical approach to meeting accommodation needs. Vacant tenancies can put a financial strain on the resources of Blackburn with Darwen Borough Council, on the remaining tenants and sometimes on the housing or support provider.

Unoccupied tenancies often incur a financial cost for a rental void, payable to the landlord, as well as a care support voids for background hours, often paid to the care support provider. There are a number of individual circumstances around these void payments but for the majority of them, the Council often has to cover the financial cost for both the rental void and the care support void.

There is no current policy in place around how these voids are managed or funded. Discussions with Housing and Care Providers and with Service Users, have confirmed a willingness and understanding that such a policy is required and would benefit all partners to

ensure a consistent approach.

The policy looks to provide the framework for ensuring that:

- vacancies are 'filled' appropriately and as quickly as possible,
- best practice is followed so existing vacant tenancies and individuals' accommodation needs are frequently reviewed, and
- negotiation across partners, with respect to void and any care support payments, takes place.

Extensive consultation, reflected in the EIA, has influenced the development of this Policy and will continue with all stakeholders after 'sign off' and during implementation.

The policy will be implemented with easy read guidance and decisions will be made with Best Interest meetings or Court of Protection applications where appropriate.

Relationships with Housing and Care Providers will continue to develop through the quarterly Provider Forum meetings, led by Strategic Commissioning. This will provide a regular platform for reviewing the policy, and for continually reviewing the accommodation requirements of people with Learning Disabilities and Autism.

2. RECOMMENDATIONS

That the Executive Member for Health and Adult Social Care is asked to:

- Agree to the content of the policy on the Management of Supported Living Tenancies
- Approve the implementation of the Policy from November 2019

3. BACKGROUND

Blackburn with Darwen Borough Council (BWD) currently commissions a range of Supported Housing models. This currently includes: 10 blocks of apartments for Learning Disability and Autism, 8 blocks of apartments offering Extra Care support and 32 Supported Living houses. Some void payments are inevitable with these models of support to secure council nomination rights. Within the Supported Living houses the numbers and length of time vacancies occur is not consistent. Vacant tenancies put a financial strain on the resources of the Local Authority, on the remaining tenants and sometimes on the housing or support provider.

The number of vacancies in traditional supported living tenancies looks set to rise as some tenancies are not meeting the more complex needs of an ageing population; tenants sadly pass away, creating vacancies where identifying a new 'compatible' tenant for the existing tenants can be difficult. Sometimes tenants choose to move to alternative accommodation, leaving former co-tenants 'behind'. Relationships, dynamics and compatibility change every time a tenant leaves a property, whatever the reason is. Despite best efforts, well-supported person centred introductions to a living situation do not always guarantee an acceptable long-term living arrangement.

Whilst efforts continue to be made to find suitable people to fill these vacancies, some have been vacant for a considerable length of time, with no expectation of finding an alternative tenant to fill the vacancy.

Historically, it has been perceived that the tenant could not be asked/required to move and therefore no real focus has been made to support tenants in this position to 'move on' and/or to explore the possibility of looking at reasonable alternatives when changes occur. Local Authorities have a duty to meet the assessed needs of those eligible to receive care and support from them. In order to do this appropriately, they may need to offer suitable alternative accommodation to any tenant who is living in a supported living tenancy that is not financially viable or no longer meets their needs. In all situations an individual's human rights, preferences and needs are considered and where a person lacks capacity, Best Interests meetings and/or Court of Protection applications are undertaken.

Where the rent for the vacant tenancy cannot be reduced by negotiation, but the remaining tenants are voicing a wish to remain in the existing accommodation, there may be instances where the tenants are in a position to afford and choose to cover the additional cost of bills and rent over a longer term. Such options can be explored within this policy/process.

Ongoing review by all partners and a monthly Accommodation meeting, held in the Community Social Work team ensures all vacancies are regularly assessed. However, if after 6 months all possibilities to fill a vacancy have been explored and the remaining tenants of a household are unable or don't wish to pay the increased bills (due to the vacancy) that they are responsible for then a timescale should be established in which to identify a new tenant/s. Beyond that time, plans should be put in place to find suitable alternative accommodation. Any such plans that involve supporting existing tenants to move, will involve capacity considerations, best interests meetings and possible court proceedings.

The Local Authority has a duty to meet eligible assessed needs and is entitled to offer suitable alternative accommodation to any tenant who is living in a supported living tenancy that is not financially viable or no longer meets their needs. In developing a policy, the Council will fulfil its duties under the Care Act 2014, and will work with its statutory, voluntary and private sector partners, to ensure that care and support is relevant, coherent, timely and sufficient; therefore, ensuring value for money for the tenants, BwD and the housing and support provider.

4. KEY ISSUES & RISKS

The benefits of developing the policy are:

- Shorter periods of unoccupied tenancies are preferable for all partners
- A decrease in vacancy periods, decreases in costs to remaining tenants, whose utility/household bills may have been temporarily increased due to the vacancy.
- Reduction in social isolation for service users living on their own or sharing with people who they are no longer compatible with
- Active review of accommodation and vacancies ensures potential incompatibility situations are identified and responded to

- Financial savings for the council are possible through a reduction in rental and care void costs
- Savings to Providers where they stand the rental and care void costs
- A robust approach and consistent focus on accommodation needs with Partners will support the continued delivery of reconfigured supported living services and new models of care which continue to meet service users' needs whilst promoting independence
- Better value for money as supported living can be an expensive model of care
- Provision of more affordable models of care to ensure the Local Authority can meet its statutory demands and needs with decreasing budgets
- Provision of a transparent and fair process for meeting the accommodation needs of individuals and ensuring a robust and supportive approach to provide best value for Service Users, Providers and the Council
- Agreeing an objective process which supports situations where potential tension between tenants arises when one individual's needs might conflict with the needs of another individual or indeed, the remaining tenants in the same household. Consistent and fair application of this policy provides the framework to make and document reasonable and fair decisions.

Risks in implementing a policy:

- The implication of implementing this policy is that not all stakeholders will necessarily agree with decisions, specific to themselves or loved ones and a service user will inevitably be affected by decisions relating to his/her co-tenants. Decisions clearly consider the individual needs of a person but will also consider the wider needs of a number of tenants and the financial implications of vacancies on key partners. It will be natural for individual parties to prioritise their own need, whatever that might be.
- Individuals may be required to accept new matched co-tenants into their home, which is not always easy for some people.
- Individual schemes (houses) may close where viability or environmental needs and risks cannot be addressed in the long-term, and tenants may have to choose alternative accommodation and may initially require extra support to understand this. There is a risk that individuals and/or carers, family members/representatives might consider legal proceedings if they feel the council has acted unfairly or unlawfully. Disputed changes in relation to incapacitated service users are likely to be raised with the Court of Protection.
- Care support providers will be key in supporting tenants with learning disabilities to have accessible information and time to understand the reasons and circumstances when a decision is made that the property/scheme they are living in is non-viable. This will require time and involvement from the social worker and commissioning team. If communication is not clear and consistent, the service user is at risk of being confused. Any service user lacking capacity in relation to making decisions about accommodation who may be facing a permanent move but does not have an independent person who the Council can consult about this will be entitled to have an Independent Mental Capacity Advocate (IMCA) to support them and advocate on their behalf in relation to such a decision.

- Family members may have a view that their loved ones should not have to make changes, despite a shared tenancy becoming non-viable and they may take steps to legally challenge any proposed changes.
- A change of accommodation for any service user who is subject to a Court of protection “Deprivation of Liberty Authorisation” (DOL) will require further involvement of the Court.
- As with all decisions that involve and impact on more than one service user, perspectives and priorities on a given situation might differ across the range of individuals and professionals

To mitigate these risks for individual tenants:

- The policy and protocol will provide a clear, transparent framework, demonstrating a fair and reasonable process. Where appropriate, a Best Interests meeting(s) and/or Court of Protection application(s) will be part of the process.
- Independent Living Service assessments will be conducted when existing tenants request to remain living in a tenancy but their physical needs have increased. Aids/adaptions and or assistive technology will be explored to address any environmental factors.
- Where the relationship dynamics, environment, length of tenure etc. within a household, clearly demonstrate the unlikelihood of identifying a tenant for a vacancy and the rent cannot be reduced by negotiation, there may be instances where existing tenants are in a position to choose and afford to cover the rent and household bills over a long term period as an alternative to moving. If any tenant involved in the situation lacked capacity, the council would automatically follow a Best Interests process and/or make Court of Protection application(s) where necessary, as part of the process and decision making.
- Any tenancy/property assessed as non-viable will be agreed following this policy and guidelines, involving all parties and all assessments, which may include, health personnel, occupational therapists, assisted technologies.
- Provider Forums take place quarterly, providing regular opportunities for housing and care support organisations to communicate with the Strategic Commissioning team. This will provide the opportunity for discussion, ongoing questions or concerns on this policy, the implementation of this policy and potential future developments to meet the needs of people with Learning Disability and/or Autism.

5. POLICY IMPLICATIONS

Consultation has taken place throughout the completion of the EIA and during the development of the policy and guidelines. Feedback from this has been incorporated into the policy. A consultation workshop, made accessible for all stakeholders, including service users took place in November 2018. As a result, changes were made to the final policy. The policy and guidelines will be reviewed on a regular basis by BwD Strategic Commissioning and through the BwD learning Disability and Autism boards.

6. FINANCIAL IMPLICATIONS

The consultation in November 2018 was resourced by the Strategic Commissioning Team.

Development and implementation of the Policy may result in some financial savings to the Local Authority over a period of time through a decrease in the length of time when rental voids occur.

Over a period of time, individual costs of 24-hour support may decrease due to an increased range of additional models of care and accommodation.

7. LEGAL IMPLICATIONS

Under the Care Act 2014, BwD has a duty to meet eligible needs of service users in its area. The Local Authority must take account of service users' wishes and feelings, but it is also entitled to take other relevant matters into account when deciding what options are available to meet those needs.

Where an individual lacks capacity to make decisions about their care and accommodation, the Local Authority must fulfil the requirements of the Mental Capacity Act 2005 in relation to best interests decision making, and refer matters to the Court of Protection as appropriate.

8. RESOURCE IMPLICATIONS

Ongoing consultation will be facilitated by the Strategic Commissioning Team on a regular basis through the Provider Forum meetings and through the attendance of the Service Transformation Manager at the Learning Disability and Autism partnership boards.

9. EQUALITY AND HEALTH IMPLICATIONS

Please select one of the options below. Where appropriate please include the hyperlink to the EIA.

Option 1 Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2 In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. **EIA completed and added as an attachment**

Option 3 In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

10. CONSULTATIONS

The proposal for developing the Policy and guidelines was discussed with members of the Senior Leadership Team (SLT) in July 2018. Permission was given to progress with the consultation and development of the policy. Agreement was also given to organise a wider, consultation workshop to look at the final draft policy/guidelines (an event suggested by one of the care service providers during initial consultations). This took place in November 2018.

Additional consultation opportunities have taken place which included, Housing Providers and Care Providers, Service Users, Carers and Social Workers. See below for full details:

- **Creative Support** – The Service Director and Area manager met with the Service

Transformation Manager from BwD on 11/07/18. Discussion included the EIA & reasons for the policy, how to consult and how to involve service users. Creative Support suggested holding an accessible workshop using the draft policy.

- **Thera North** |The Community Support Leader and Regional Manager met Service Transformation Manager (BwD). Discussion included the reasons for the EIA & policy development and how to consult and involve service users.
- **Alternative Future Group**, Regional Manager met the BwD Service Transformation Manger and Housing and Care Project Manager 21/08/18 – Discussion included the reasons for the policy, how to consult and involve service users and how to improve the decision making around vacancies. AFG gave examples of other processes used across the region
- **Progress Housing** Services Manager met BwD Service Transformation Manager 2/08/18. Discussion included the reasons for the policy and how to consult and involve service users. Progress Housing manager gave a proactive response to looking at improvements and potential developments in the future.
- **Places for People** - Specialist Landlord Operational Manager met BwD Service Transformation Manager 30/08/18. Examples were shared by Places for People of other accommodation processes used across region. They also offered to present at a wider consultation on the policy.
- **Select Support** Regional Manager& their Registered Manager met BwD Service Transformation Manager 4/09/18 Discussion included the EIA and reasons for the policy and how to consult and involve service users. Select Support shared their discussions and information on how they were following a similar policy with Lancashire County Council.
- **Care Network Hub**, Disability Officer met BwD Transformation manager. Discussion included the intention to develop a policy and suggestions of how to discuss this item on the Learning Disability Partnership board.
- **The BwD Learning Disability (LD) Partnership Board and the Autism Board** were attended on the 08/08/2018 by BwD Service Transformation Manager who presented an accessible introduction on Supported Living, how it was funded and the need to try and improve the way decisions are made about peoples' accommodation needs. An easy read of the policy was shared. Discussion included the need to have a policy and the need to try and keep the cost of vacancies down. Time was given for people (which included people with LD) to ask questions and give suggestions. Feedback included views and opinions from Service users, Service Providers, Parent/carer representatives.
- **The BwD Learning Disability Partnership Board sub group for Housing and Benefits** was attended by BwD Service Transformation Manager 31/07/2018. 3 partners and a person with Autism attended. Discussion, feedback and suggests were received on housing issues, the policy and how to consult with people.
- **RESOLVE** Service User community group for people with disabilities was attended by BwD Service Transformation Manager 15/08/2018 at Care Network Hub. An accessible presentation on Supported Tenancies and the policy was shared and discussed. Everyone in the group gave feedback and suggests of how accommodation needs could improve for them. The group offered advice and suggestions on the process of decision-making and how to involve service users. These points were later added to the policy and guidelines.
- **Monthly Accommodation and Complex Case meeting** was attended by BwD Service Transformation Manager. The team of Social workers talked through the accommodation they

were looking for on behalf of service users. The introduction of the policy was discussed and how to improve the current accommodation decision-making process.

- **BwD Legal department** have been liaising with the BwD Service Transformation Manager and Head of Strategic Commissioning throughout this process and have provided advice re content of draft policy.
- An accessible, facilitated consultation which included people with learning disabilities and Autism took place in November 2018 with the support of Care network and BwD Strategic Commissioning team. This provided the opportunity for a range of stakeholders that the draft policy and guidelines might have an impact on, to have their say on the final draft, before requesting 'sign off' and implementation. This consultation was made as accessible as possible, so as to include people with learning disabilities. This provided an opportunity for people to hear how their previous feedback had been incorporated into the draft policy/protocol, to identify new additional points that needed to be included and how the policy/guidelines will be reviewed in the future.

11. STATEMENT OF COMPLIANCE

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

12. DECLARATION OF INTEREST

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded in the Summary of Decisions published on the day following the meeting.

VERSION:	4.0
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CONTACT OFFICER:	Rosemary Molyneux
DATE:	08/10/2019
BACKGROUND PAPER:	<ol style="list-style-type: none"> 1) Blackburn with Darwen Policy: Management of Supported Living Tenancies in BwD. 2) Easy Read Policy 3) Easy Read – making decisions