

Title of meeting:	Cabinet Member for Housing	
Date of meeting:	27 th January 2020	
Subject:	Helping people secure a private rented home, to reduce homelessness and housing need in Portsmouth	
Report by:	James Hill, Director of Housing, Neighbourhood and Building Services	
Wards affected:		All
Key decision:		No
Full Council decision:		No

1. Purpose

- 1.1. To provide detailed options outlining how the council could expand the financial assistance available to local residents to access the private rented sector.

2. Recommendations

- 2.1. That the Cabinet Member for Housing notes the current difficulties that renters have in entering the private rented sector (PRS).
- 2.2. That the Cabinet Member for Housing considers the options for providing additional support to enter the PRS. This may be either extending the range of support for those that already receive it, or new support for those that the council currently does not have a legal duty to support. Officers recommend the widening of a bond scheme and the use of a community bank to provide low cost loans.
- 2.3. That the Cabinet Member for Housing notes the officer's recommendation to proceed with extending the bond scheme and enabling a community bank to provide low cost loans (options 2 and 4), and if agreed, to also agree the eligibility criteria for the scheme and determine the details of the scope.
- 2.4. Delegate to the Director of Housing, Neighbourhoods and Building Services the authority to develop and operate a 12 month pilot of the chosen scheme(s) in order to fully develop a working scheme, understand the demand from residents, and expose the financial risk for the council, and report back on the progress of the pilot scheme to the Cabinet Member for Housing.
- 2.5. That the Cabinet Member for Housing identifies a source of funding from the general fund to provide the resources required to operate the chosen scheme, and to cover the financial liabilities of the pilot.

3. Background

- 3.1. There are approximately 20,000 homes in Portsmouth which are privately owned and then rented to tenants. These are known as the private rented sector (PRS) which represents 22% of all homes in the city.
- 3.2. Nationally there are new tenancies in approximately 19% of all PRS properties each year. If Portsmouth is consistent with the national average, around 3,750 new tenancies will start in Portsmouth each year. Many of these will be student lets, coordinated by the University of Portsmouth's Studentpad service. There are approximately 24,000 students studying at the University.
- 3.3. Just under 4,000 PRS homes in Portsmouth are classified for Council Tax as 'student exempt'.
- 3.4. An estimated 5,900 PRS households in Portsmouth receive some help towards the cost of their rent, from either Housing Benefit or Universal Credit (Housing Costs Element).
- 3.5. The council has no data regarding the economic status of the approximately 10,000 PRS households that are not solely students, or in receipt of financial assistance.
- 3.6. There is no local data available on the number of landlords who operate in Portsmouth, but based on the national average of 1.8 properties per landlord, there would be approximately 11,000 landlords responsible for homes in Portsmouth. Nationally, 61% of landlords use a letting agency. If this is applied to Portsmouth it would indicate that approximately 6,700 landlords use a letting agency, and 4,300 operate independently. Please note that these figures are rough estimates and we have not yet been able to verify them.
- 3.7. 1,638 households on the council's general needs housing waiting list need to move for health reasons or due to overcrowding, and have a low or medium level of need. They are unlikely to be offered housing through the waiting list under the current level of demand and housing availability.
- 3.8. However this is just a small part of the housing need in the city, as many do not register on the waiting list due to the lack of available properties. Around a fifth of households in rented housing in Portsmouth were considered to be overcrowded under the 2011 Census.
- 3.9. The administration have asked officers to outline options for expanding financial assistance to enable more households to access PRS homes in Portsmouth.

4. Legislation

- 4.1. Under the Homelessness Reduction Act 2017 (HRA17), the council owes a duty to assist any household that is eligible for assistance (i.e. that have a 'Right to Reside' in the UK and have recourse to public funds) if they are at risk of homelessness within 8 weeks following the relevant interaction with the council.

However, there is no duty to provide any specific forms of financial assistance, such as paying for a tenancy deposit or acting as guarantor.

- 4.2. The Housing Act 1996, amended by the Localism Act 2011, requires all housing authorities to have an allocation scheme for determining priorities and for defining the procedures to be followed in allocating social housing. However, there are no specific duties requiring local authorities to help people in housing need to secure PRS housing, unless they are threatened with homelessness.
- 4.3. Under the Tenant Fees Act 2019, landlords and letting agencies are prohibited from charging fees for securing or renewing a tenancy. However they can still charge a refundable holding fee of up to one week's rent, a tenancy deposit of up to five weeks' rent, and to charge rent in advance up to the value of the full rent liability for the term of the tenancy.

5. **Financial difficulties in entering the PRS**

- 5.1. There are a number of financial barriers for tenants and prospective tenants in the PRS in Portsmouth:
 - 5.1.1. High demand for PRS housing (evidenced through above inflation rise in market rents which are higher than Hampshire or England averages), including student housing, which increases competition for homes;
 - 5.1.2. Over three quarters of PRS lets in the city are at rents above the cap for Housing Benefit and Universal Credit assessments (the Local Housing Allowance rate);
 - 5.1.3. Lack of security, with most PRS tenancies let on six month Assured Shorthold Tenancies (AST). Although many landlords will be seeking longer-term lets, if the landlord's circumstances change the tenancy can be ended at any point outside of the fixed term with 2 months' notice. The imbalance of information regarding the actual length of the tenancy can create uncertainty for tenants.
 - 5.1.4. Low income and indebted households are unable to qualify under the income and credit check requirements applied by many landlords.
 - 5.1.5. Prospective tenants often are required to find someone willing to accept liability for any unpaid rent and costs, known as a guarantor. Guarantors must meet the individual landlord or letting agency's specific criteria, which can include income, home ownership and credit checks (see Appendix 1 for more detail on the role of a guarantor in the PRS).
 - 5.1.6. Upfront costs are a significant barrier to lower income households seeking to secure PRS accommodation in Portsmouth. Most PRS landlords require a tenancy deposit and rent in advance to be paid before granting a tenancy.

5.2. The options outlined in this report are aimed at addressing some but not all of these issues, specifically 5.1.5 and 5.1.6.

6. **Current provision**

6.1. The council's Housing Needs, Advice and Support service currently provides information and advice, but no financial support, to people who are eligible for assistance but are not threatened with homelessness. This includes households who are in unsuitable housing or would like to move to a PRS tenancy. Unless they are already renting and receiving Housing Benefit or Universal Credit Housing Costs Element, they would not be able to access a Discretionary Housing Payment for help with the costs of securing a tenancy.

6.2. Until now the council has focussed its resources on providing financial assistance to specific groups of people. During the six months April to September 2019, the council directly provided financial assistance to 172 households to enable them to secure a private sector tenancy, under the two schemes detailed below.

6.2.1. Providing rent in advance and deposits using the Homelessness Prevention Fund

During the 6 months April to September 2019, the council paid out £60,507 from its Flexible Homelessness Support Grant to secure homes on behalf of 66 households, an average payment of £917. Of the total amount, £46,982 was paid out in the form of non-repayable grant, while £13,525 was paid out as interest-free loans to 16 tenants, to be repaid to the council over an agreed period. This provision is only available to people who are either homeless or at risk of homelessness

6.2.2. Discretionary Housing Payments

During the 6 months April to September 2019, the council paid out £101,884 in Discretionary Housing Payments (DHP) for rent in advance or tenancy deposits, to secure homes on behalf of 105 households, an average payment of £970. These are all non-repayable grants, from centrally allocated government funds. Portsmouth City Council received a maximum DHP funding entitlement of £617,464 in 2019/20, a reduction from £675,063 in 2018/19, in line with a national reduction in DHP funding for local authorities. The council has not yet been notified of its funding entitlement for 2020/21. Notification is usually received in around late January each year. This provision is only available to those in receipt of Housing Benefit or Universal Credit Housing Costs Element, with a need for more suitable housing.

6.3. The council's Housing Needs, Advice and Support Service temporarily recorded demand, and measured, over a five week period, the number of

customers requesting help with rent in advance, tenancy deposits or needing a guarantor who the service were unable to assist.

- 6.4. In this time, 27 customers were refused financial support as they did not meet the current criteria for support. All 27 were seeking either rent in advance or a tenancy deposit or both, and three were also seeking a guarantor.
- 6.5. Of these people 22 were single people, four were families with children, and one was a couple.
- 6.6. The most common reasons for refusal were:
 - 6.6.1. 'No risk of homelessness', so not eligible for homelessness prevention assistance.
 - 6.6.2. 'Amount of money requested was not reasonable', for example seeking three months' rent in advance.
 - 6.6.3. 'Rent not affordable', so the tenancy would not have been financially sustainable on an ongoing basis.
- 6.7. This small study of demand reveals that some people are approaching the council seeking assistance to access the private rented sector who are not eligible for the current provision. This report proposes a number of options for improving this situation.
- 6.8. However, some people seeking help to secure a tenancy were assessed as wanting to move into a property where the ongoing rent would not be affordable to them. It is important that the council only enables customers to create affordable, sustainable PRS tenancies without the need for additional ongoing funding over and above any statutory benefit entitlement.

7. Options to assist access to the private rented sector

- 7.1. The purpose of any scheme is to help more people to access suitable PRS housing. This could be either to extend the range of help for those currently eligible to receive help, or to provide support to those who are not currently eligible for any financial support.
- 7.2. The council's ability to assist more residents to access PRS housing is currently limited by operational capacity and financial constraints. The resources currently available are targeted towards meeting the council's statutory duties.
- 7.3. Appendix 2 details five options which could be introduced to enable residents to access the private rented sector sooner or more easily. Each option has strengths and weaknesses, and will require different levels of financial resource and operational capacity.
- 7.4. The options are summarised as follows:

7.4.1. Option 1 - Portsmouth City Council (PCC) acting as tenancy guarantor

The council acts as the legal guarantor for a PRS tenant, with full liability for any unpaid rent, interest and costs. There would also be liability for any costs as a result of damage or theft not covered by the deposit. Industry standards mean that the size of the liability is unlikely to be restricted. The council would require landlords to make contact if any breach occurred which could lead to cost for the council.

7.4.2. Option 2 - Widen the current bond scheme

Instead of acting as a guarantor, the council can provide a bond which could be claimed against rent arrears, damage or theft. The bond agreement would enable the landlord to make a claim during the term of the tenancy, for example for unpaid rent, and at the end of the tenancy, but the bond agreement would stipulate a maximum liability on the council equivalent to four months' rent.

7.4.3. Option 3 - Managing the rent account and providing guaranteed monthly payments to the landlord

The council would sign an agreement to pay the monthly rent in full directly to the landlord. The tenant signs an agreement to pay rent to the council. However, the tenancy agreement remains between the tenant and the landlord, so the council does not assume any further responsibility for tenancy management.

To limit the council's liability, the agreement with the landlord or lettings agency would include a clause allowing the council to terminate with two months' notice.

7.4.4. Option 4 - Deposit and rent in advance loan scheme

The council would work with a community bank to provide loans for deposit and rent in advance to those needing assistance to access a PRS home. Providing a contingency fund of 25% of the total amount loaned will enable the community bank to make the loans at relatively low interest rates when compared to other high street lenders. This option restricts the liability for non-repayments and minimises the level of council resources needed to manage such a scheme. The council also has the option (Option 4b) of providing additional funding in order to enable the community bank to provide loans with zero interest charged to the customer.

7.4.5. Option 5 - Funding an external guarantor scheme

The council pays the fees charged by an external guarantor agency who would then provide the guarantor service to the tenant. The tenant must meet the specific income requirements determined by the guarantor agency, and would require a co-signer to take responsibility for any financial liability, but they would not be required to meet the criteria usually required of a guarantor.

- 7.5. The recommended options are Option 2 (widen the bond scheme) and Option 4 (support low cost/no cost loans for deposits and rent in advance). However all options would need funding, which is not currently identified within the housing general fund budget.
- 7.6. The proposal is to provide funding to deliver a 12 month pilot scheme in order to better understand residents' needs, landlord requirements, financial costs and risks, and delivery options.

8. Eligibility

- 8.1. Whilst the aim of any of the proposed schemes is for the council to assist more residents, there will be a requirement for eligibility criteria to ensure that the council's financial and reputational liability is limited, and to constrain the level of resources needed to deliver the scheme.
- 8.2. Anyone seeking assistance would be required to meet the following basic eligibility criteria:
 - 8.2.1. Local connection to Portsmouth, or resident in a PCC tenancy in the Havant area;
 - 8.2.2. Eligible to hold a tenancy under the Right to Rent legislation and eligible to claim Housing Benefit or Universal Credit towards their rental costs, subject to an assessment of income;
 - 8.2.3. Not currently living in suitable self-contained accommodation, or they are seeking to move from a social rented tenancy into the PRS;
 - 8.2.4. Total household earned income less than 2.5x the median monthly rent for their required property size;
 - 8.2.5. Seeking a property at a rent level they can afford, based on an assessment of the household income and potential benefit entitlement.
- 8.3. Social sector tenants with no housing need have been included in the scheme due to the impact of releasing social sector homes to assist homeless households owed a rehousing duty by the council.
- 8.4. In addition to the basic eligibility criteria outlined above, there are two options for the scope of the scheme:
 - 8.4.1. **Scope 1** - Make additional resources available to assist those the council owes a duty under the Homelessness Reduction Act 2017 (HRA17) (i.e. make more financial support available for those already entitled to assistance from the council):
 - Providing additional schemes and resources to assist anyone threatened with homelessness, to access PRS housing.
 - This includes households owed a duty under HRA17 that also have a priority need. Enabling them to access the PRS sooner, or access

PRS homes that would otherwise be unavailable to them, can help to reduce the demand for emergency housing, and reduce the use of bed and breakfast accommodation.

8.4.2. **Scope 2** - Make assistance available to anyone who is either threatened with homelessness; not currently living in suitable self-contained accommodation; or seeking to move from a social rented tenancy into the PRS (i.e. extend financial assistance beyond those who are threatened with homelessness):

- Extending the council's help to secure PRS housing to more households in the city.
- Supporting households who are not threatened with homelessness, but are in unsuitable housing or would like to move, to secure a PRS tenancy, to enable them to meet their housing need.
- This will create some additional demand in the private rented sector, which could have a knock-on effect for households at risk of homelessness, by creating more competition for available homes. However, a pilot scheme would enable a better understanding of who is seeking assistance and the impact on the PRS market.

9. **Delivery of the selected schemes**

- 9.1. The Housing, Needs, Advice and Support (HNAS) Service has a duty to anyone at risk of homelessness, and could use any of the proposed schemes alongside current approaches to preventing homelessness.
- 9.2. The Private Sector Housing Service work with private sector landlords on accreditation, licencing of Houses of Multiple Occupation and bringing empty homes back into use. They advertise accredited homes but do not currently have any role in helping prospective tenants to secure homes.
- 9.3. Extending support beyond the current offer would require additional resource to respond to customer enquiries, assess eligibility and suitability, deliver assistance, and provide ongoing support to tenant and landlord. The level of resource required is outlined in Appendix 2, and depends on the scheme selected, and the number of residents assisted.
- 9.4. Initial enquiries could create significant demand, but the biggest impact on capacity is likely to be caused by unpaid rent under Options 1, 2 or 3, when support will be required to address the rent arrears and arrangement payment of any financial liabilities.
- 9.5. Ensuring sufficient capacity is key to managing the financial risk under Options 1, 2 or 3.

9.6. The additional staff resource should be located in the HNAS team, working closely with the council's Landlord Support Officer to share knowledge of the PRS market.

10. Reasons for recommendations

10.1. The issues surrounding access to the private rented sector are varied and complex.

10.2. There is no statutory duty for the council to provide the assistance outlined in this report, and therefore it is for the Cabinet Member for Housing to decide whether and in what ways the council should go beyond its statutory requirements to assist residents to access PRS homes.

10.3. The basic eligibility criteria outlined will ensure that the council's assistance is only provided to local people who are eligible for public funds, have a level of housing need, are on a below average income, and can afford the rental liability.

10.4. Adopting Scope 1 (8.4.1) would limit the number of people who can benefit, to solely those at risk of homelessness or already homeless. Adopting Scope 2 (8.4.2) would ensure that more people could potentially benefit, but this is likely to increase demand, and therefore the resources required to meet demand. There is potential for negative impact on homeless households seeking PRS homes, by increasing competition for the limited number of homes becoming available.

10.5. Many of the options have risk profiles which are unknown, as the demand, uptake and number of PRS tenancies which default on rent are unknown. Therefore a pilot is recommended, in order to understand the risk profile of the chosen options and the subsequent financial liabilities.

10.6. Reporting back to the Cabinet Member for Housing on the delivery of the pilot scheme and the learning from it will assist future decisions on the help the council provides to people at risk of homelessness or in housing need.

10.7. In order to deliver the chosen option(s), funding will be required to provide the staffing resource and meet the associated costs of the option(s) selected. The source of this funding needs to be identified.

11. Impact assessment

11.1. An integrated impact assessment has been completed and is attached at Appendix 4.

11.2. The assessment identifies no negative impacts associated with any of the options outlined.

11.3. The data available indicates that some people in Portsmouth with protected characteristics are more likely to be in housing need, and therefore

providing further assistance to help people meet their housing need will help the council to fulfil its public sector equality duty.

12. City Solicitor's comments

- 12.1. The Homelessness Reduction Act 2017 encourages local authorities to improve the provision of support to anyone who is eligible and homeless or threatened with homelessness and introduced new duties on local authorities to take reasonable steps to prevent homelessness for eligible applicants at risk of homelessness and to take reasonable steps to help applicants to secure suitable accommodation.
- 12.2. The duty to 'help to secure' accommodation for those eligible for assistance and threatened with homelessness or homeless does not necessarily mean a duty to directly find and secure the accommodation but involves working with applicants to agree reasonable steps to identify and secure accommodation. The type of reasonable steps a housing authority might take to prevent or relieve homelessness can include providing support to applicants, whether financial or otherwise, to access private rented accommodation.
- 12.3. The Housing Act 1996 and key housing legislation also requires housing authorities to undertake reviews of homelessness within their areas and to have strategies in place to tackle identified issues. The recommendations set out in this report will assist with this.
- 12.4. The Cabinet member is being asked to consider enabling a wider scope of applicants eligible for assistance than currently provided for in the housing legislation, in particular to include those adequately housed but wishing to move from social sector housing to the private rented sector.
- 12.5. Under s.24 of the Local Government Act 1988, there is a power to provide any person with financial assistance for the purposes of, or in connection with, the acquisition, construction, conversion, maintenance or management of any property which is or is intended to be privately let as housing accommodation. Financial assistance includes giving a guarantee or joining in guaranteeing the performance of any obligation owed to or by that person or indemnifying a person in respect of any liabilities, loss or damage. S.25 requires Secretary of State consent unless there is an obligation to provide that assistance or benefit.
- 12.6. Under s.1 of the Localism Act 2011, the council is empowered by way of having a general power of "competency" to do anything that individuals may generally do provided that there is no existing prohibition, restriction or limitation on our powers imposed by other legislation. It should be noted that the power of competency neither supplants nor modifies existing duties that exist in other statutory powers. This means that there is no power or duty to

provide accommodation for someone specifically disqualified by legislation from receipt of housing assistance, for example.

12.7. The terms of the guarantee offered by the council will need to be considered carefully and be clearly worded given the obvious and high financial risk along with associated budgetary implication. The council has a fiduciary duty to council tax payers so the legislation conferring a power on the council to act as guarantor should be read subject to our general fiduciary duty owed to all our tax payers and a balancing exercise undertaken. There will also need to be careful consideration as to the conditions of eligibility etc. As with any guarantee/loan/financial accommodation situation there would need to be a clear understanding of such arrangement in terms of scope (amount/risk exposure), timing and such things as indemnity (will the tenant ever repay or indeed be asked to).

13. Director of Finance's comments

13.1. Each of the options within the report carries a certain degree of risk in them, and would lead to the council having to identify funding to support these initiatives.

13.2. There is no statutory obligation for the council to provide any of the specific forms of assistance outlined in the report, however if residents are unable to access the private rented sector they could in the future become a responsibility of the council.

13.3. Option 1 that looks to stand Guarantor means that the Council could be open to unlimited risk from rental arrears, damage, or other costs, so if the council were to consider this it must first launch it on a limited basis and consider the individual's ability to sustain a tenancy on a risk based approach. There is however no upfront cost beyond this staff resource.

13.4. Option 2, the Bond scheme is similar to the above but limits the council's financial exposure, but again may result in an unfunded expense to the council.

13.5. Option 3, where the council pays the rent on the client's behalf, enables the council to limit its total liability by retaining the option to terminate the agreement with 2 months' notice, in contrast to option 1. It has additional overhead costs compared to option 2.

13.6. Option 4 considers the opportunity to work with a local community bank. This would see the council referring the tenant to the community bank and underwriting 25% of the loan. Whilst this would be a less expensive option than the others, there is a question as to whether the tenants could afford the PRS rents and loan repayments, which may affect uptake of the scheme.

13.7. Option 5 funding an external guarantor scheme would require the council to pay fees to a guarantor scheme which will entail a known amount of spend, without additional risks or liabilities. The eligibility criteria for guarantor schemes mean that its use may be limited.

13.8. With each option there is an additional overhead of staffing costs, to help people to access the scheme, but this also serves to mitigate the associated risks, to ensure that people are only offered help that is suitable to their needs, and support is in place in case of any difficulties or change of circumstances.

Signed by:

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James Hill, Director of Housing, Neighbourhood and Building Services

Appendices:

Appendix 1 - The role of a guarantor in the private rented sector in Portsmouth

Appendix 2 - Outline of options

Appendix 3 - Example Guarantor agreement

Appendix 4 - Integrated impact assessment

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
Homelessness Reduction Act 2017	http://www.legislation.gov.uk/ukpga/2017/13/contents/enacted
Housing Act 1996, amended by the Localism Act 2011	http://www.legislation.gov.uk/ukpga/1996/52/part/VII
Tenant Fees Act 2019	http://www.legislation.gov.uk/ukpga/2019/4/contents/enacted
Local Government Act 1988 - Part III Privately Let Housing Accommodation Section 24 Power to provide financial assistance for privately let housing accommodation	http://www.legislation.gov.uk/ukpga/1988/9/section/24/enacted

<p>Local Government Act 1988 Part III Privately Let Housing Accommodation</p> <p>Section 25 Consent required for provision of financial assistance etc</p>	<p>http://www.legislation.gov.uk/ukpga/1988/9/part/III/enacted</p>
<p>Localism Act 2011</p> <p>Chapter 20</p>	<p>http://www.legislation.gov.uk/ukpga/2011/20/contents/enacted</p>

The recommendation(s) set out above were approved/ approved as amended/
deferred/ rejected by on

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Signed by:
Councillor Sanders
Cabinet Member for Housing