

**Cheltenham Borough Council  
Cabinet – 12 September 2017**

**Discretionary Power to accommodate Rough Sleepers**

<b>Accountable member</b>	<b>Councillor Peter Jeffries – Cabinet Member Housing</b>
<b>Accountable officer</b>	<b>Martin Stacy – Lead Commissioner Housing Services and Waste</b>
<b>Ward(s) affected</b>	<b>All</b>
<b>Key/Significant Decision</b>	<b>No</b>
<b>Executive summary</b>	<p>Since 2012 the council has commissioned an assertive outreach service to combat rough sleeping in Cheltenham. The purpose of this service is to engage with rough sleepers in order to get them back on the pathway to independent living. Although there have been many successful outcomes, it has been noticeable that over the past 2 years there has been a significant rise in rough sleeping in Cheltenham. This rise is not unique to Cheltenham: rough sleeping has increased nationally by an estimated 134% since 2010.</p> <p>In November 2016 an Overview and Scrutiny working group was established to look into the rise in rough sleeping and street begging and in February 2017 Cllr Jeffries lived on the streets of Cheltenham for 72 hours to experience first-hand some of the challenges and conditions people who are sleeping on the streets face.</p> <p>This led to a Cabinet report dated 11<sup>th</sup> April 2017 to approve a new way of working with the police in order to reduce anti-social behaviour in the town through the introduction of Solace. Solace is an initiative between the council and the police to tackle anti-social behaviour. It works by supporting individuals to take responsibility for their actions, encouraging them to engage with a range of support services that are available, whilst challenging those who don't.</p> <p>The purpose of the report going to Cabinet today is to seek approval to extend the support options further, by focussing on a particular group of rough sleepers for whom the current range of accommodation options are relatively restricted.</p>
<b>Recommendations</b>	<p><b>To endorse the council's use of its discretionary power under section 192 of the Housing Act 1996 to secure accommodation for rough sleepers on the terms proposed within the body of this report, initially as a pilot for six months, commencing Monday 2<sup>nd</sup> October.</b></p> <p><b>To note that the Cabinet Member – Housing will be delegated authority by the Leader to approve the continuation (or otherwise) of the council's use of this discretionary power, following the review of this pilot towards the end of the six month period.</b></p>

<b>Financial implications</b>	<p>The report estimates there are relatively few rough sleepers with little or no support needs. Where possible, they will be accommodated within the council's existing stock of temporary accommodation. If this is not available, Bed and Breakfast (B&amp;B) accommodation will be used. Temporary accommodation costs are likely to be funded by Housing Benefit, with the balance of any B&amp;B cost met from the existing Housing Options Budget - as is the case currently for homeless B&amp;B placements. It is noted that this initiative will be implemented as a 6 month pilot. This will provide officers with the opportunity to fully consider the actual impact before a decision is taken on whether or not to continue with the initiative.</p> <p><b>Contact officer: Keith Saunders, keith.saunders@cheltenham.gov.uk, 01242 264124</b></p>
<b>Legal implications</b>	<p>The primary duty under the Housing Act 1966 applies to applicants who have a priority need for accommodation as defined in the Act. There is also a discretionary power under s192 of the Act (introduced by the Homelessness Act 2002) to secure accommodation for those who are unintentionally homeless and not in priority need.</p> <p>Use of the discretionary power to assist a person who is not in priority need does not then give rise to a full housing duty towards that person; accommodation might perhaps be provided for a limited period to give them the opportunity of securing alternative housing. The applicant should be made aware that accommodation is being secured for them on that basis.</p> <p>In considering the use of the power to secure accommodation, regard must be had to the legitimate expectations of others in housing need who have applied for an allocation of housing because of priority need, as well as to the Human Rights Act.</p> <p>Alongside the power to secure accommodation, there is a duty under s 192 of the Act to ensure that the applicant is provided with advice and assistance in any attempts they themselves may make to secure that accommodation becomes available for their occupation.</p> <p><b>Contact officer: peter.lewis@teWKesbury.gov.uk, 01684 272012</b></p>
<b>HR implications (including learning and organisational development)</b>	<p>None as a direct result of this report.</p> <p><b>Contact officer: Carmel Togher, carmel.togher@cheltenham.gov.uk, 01242 775215</b></p>
<b>Key risks</b>	<p><b>Please see risk register at Appendix 1.</b></p>
<b>Corporate and community plan Implications</b>	<p>This will support our community outcome: people live in strong, safe and healthy communities</p>
<b>Environmental and climate change implications</b>	<p>None as a direct result of this report.</p>

<b>Property/Asset Implications</b>	<p>None as a direct result of this report. Accommodation will be from existing stock of temporary, furnished accommodation within council-owned stock.</p> <p><b>Contact officer: David Roberts@cheltenham.gov.uk</b></p>
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## 1. Background

- 1.1** Since 2012 the council has commissioned an assertive outreach service to combat rough sleeping in Cheltenham. The purpose of this service is to engage with rough sleepers in order to get them back on the pathway to independent living. Although there have been many successful outcomes, it has been noticeable that over the past 2 years there has been a significant rise in rough sleeping in Cheltenham. This rise is not unique to Cheltenham: rough sleeping has increased nationally by an estimated 134% since 2010.
- 1.2** In November 2016 an Overview and Scrutiny working group was established to look into the rise in rough sleeping and street begging. This led to a Cabinet report dated 11<sup>th</sup> April 2017 to approve a new way of working with the police in order to reduce anti-social behaviour in the town through the introduction of Solace. Solace is an initiative between the council and the police to tackle anti-social behaviour. It works by supporting individuals to take responsibility for their actions, encouraging them to engage with a range of support services that are available, whilst challenging those who don't.
- 1.3** The purpose of the report going to Cabinet today is to seek approval to extend the support options further by focussing on a particular group of rough sleepers for whom the current range of accommodation options are relatively restricted.

## 2. Reasons for the recommendation.

- 2.1** Most rough sleepers have support needs. Many have complex needs. The traditional pathway into independent accommodation for most rough sleepers has therefore been via Accommodation Based Support (commissioned by Gloucestershire County Council and delivered in Cheltenham by a number of providers, such as Stonham Housing Association and the YMCA). Access into Accommodation Based Support is supported by a range of services, notably the Assertive Outreach Service (currently provided by P3) whose role is to work with rough sleepers until they are ready to engage with support services and are able to access accommodation.
- 2.2** This pathway works well for many rough sleepers with support needs; however there are a small number of rough sleepers who have little or no support needs, and for whom accommodation based support is not an option. It is this group that the council is proposing to provide greater assistance towards.
- 2.3** At present, there is no duty on the council to house rough sleepers with little or no support needs. That duty will only arise if a household meets certain, defined tests. Rough sleepers with little or no support needs are unlikely to satisfy one of the key tests: the 'priority need' test, on the basis that they are unlikely to be deemed sufficiently 'vulnerable' – a relatively high-threshold test, defined by case law. Instead, the council's duty is to provide advice and assistance in any attempts the rough sleeper may make in finding alternative housing for themselves. While some rough sleepers with little or no support needs can (and do) secure alternative accommodation in this way, there is a risk that if they fail to do this quickly, then they may slip into a downward spiral of increasing support needs. It is with this in mind that the council wishes to take preventative action and to invoke our power to accommodate rough sleepers who are not in priority need and who are not intentionally homeless. We will seek to do this by utilising the council's own stock of temporary accommodation; though where this is not possible Bed and Breakfast will be used. To enable move-on from temporary accommodation, all homelessness prevention options will be explored, and opportunities will be given to enable individuals to access social housing via the council's allocations scheme.

**2.4** An analysis of the Assertive Outreach Services (both currently with P3, and previously with Cheltenham Housing Aid Centre) show that approximately 10-15% of rough sleepers have little or no support needs. The number of rough sleepers presenting to the Assertive Outreach services (CHAC) over the two year period to the end of December 2016 was 37 in year 1 and 38 in year 2. This means that the council could expect to assist approximately 4-6 rough sleepers with little or no support needs in any given year. However, given that these are only estimates of need, it is appropriate to pilot this initiative for a period of six months in order to fully consider any unanticipated impacts arising as a result of the council's decision to use its discretionary power.

**3. Entrenched Rough Sleepers**

Whilst outside the scope of this report, it should be noted that there is a further group of rough sleepers for whom the current pathway into independent accommodation is not working as well as it could. These rough sleepers are those that in the main have become entrenched (i.e. long term, repeat rough sleepers). Following a successful bid from the 6 districts within Gloucestershire (along with the Clinical Commissioning Group) for approximately £1million, a new type of service is to be funded to support these entrenched rough sleepers. This funding is held by Gloucester City Council on behalf of all the districts, and it is anticipated that the service will be jointly commissioned and rolled out across the county by the end of this year, subject to any necessary approvals being given by this council.

**4. Alternative options considered**

**4.1** To continue with the current approach, with the council not exercising its power to accommodate rough sleepers with little or no support needs. This is not our preferred option. Rough sleeping is at the sharp end of homelessness, and as such, we consider that it is appropriate to explore the use of our powers as detailed within this report.

**5. Consultation and feedback**

**5.1** A working group was set up between the council's Lead Commissioner – Housing Services, Housing Strategy and Enabling Officer, Public & Environmental Health Team Leader, Cheltenham Borough Homes' Head of Neighbourhood Services and Cheltenham Borough Homes' Housing Options Manager. This group has reviewed the existing pathways and gaps, and support this recommendation to Cabinet.

**6. Performance management –monitoring and review**

**6.1** Any outcomes and resource impacts arising from the use of this power will be monitored and reviewed regularly between the council and Cheltenham Borough Homes, and used to inform the Cabinet Member – Housing's decision over whether to continue with this initiative at the end of the pilot.

<b>Report author</b>	<b>Contact officer: Martin Stacy, Lead Commissioner – Housing Services and Waste</b>  martin.stacy@cheltenham.gov.uk,  01242 775214
<b>Appendices</b>	1. Risk Assessment  2. Community Impact Assessment
<b>Background information</b>	1. None

The risk				Original risk score (impact x likelihood)			Managing risk				
Risk ref.	Risk description	Risk Owner	Date raised	Impact 1-5	Likelihood 1-6	Score	Control	Action	Deadline	Responsible officer	Transferred to risk register
	If the council exercises its power to accommodate rough sleepers who are not in priority need, then there may not be sufficient capacity/resource within the Housing Options Service to cope with demand.	Martin Stacy	18.5.17	3	4	12	Reduce	<p>The power to accommodate will only be triggered once the Housing Options team has completed its enquiries and is satisfied that the applicant is homeless, not in priority need, and is unintentionally homeless. Only one reasonable offer of suitable accommodation will be made.</p> <p>Priority will continue to be given to families requiring the council's temporary furnished accommodation. In the absence of furnished accommodation being available for rough sleepers, emergency bed and breakfast will be used and financed through Housing Benefit.</p> <p>Rough sleepers qualifying for assistance under the</p>	July 2017	Paul Tuckey, Cheltenham Borough Homes	

								discretionary power will also qualify for the full range of homelessness prevention options available.  The initiative will be piloted for the first 6 months so that a fuller understanding is gained as to how existing resources are affected.			
	If the council exercises its power to accommodate rough sleepers who are not in priority need, then this may lead to rough sleepers from neighbouring districts seeking accommodation from the council.	Martin Stacy	18.5.17	3	4	12	Reduce	The power to accommodate will be triggered only for rough sleepers with a local connection to the council, as defined by s.198 of the Housing Act.	July 2017	Paul Tuckey, Cheltenham Borough Homes	
	If the council exercises its power to accommodate rough sleepers who are non-priority then it may raise expectations of other applicants, and potentially lead to increased levels of legal challenge on non-priority decisions	Martin Stacy	19.6.17	2	5	10	Reduce	Expectations will be managed through the Housing Options Service, with clarity provided to relevant agencies through the council's Housing & Support Forum.	Ongoing	Paul Tuckey, Cheltenham Borough Homes.	
	If rough sleepers are accommodated in the council's stock of temporary accommodation, this may prevent/reduce the ability of other homeless households to	Martin Stacy	19.6.17	2	6	12	Reduce	Housing Options Service will look to direct match rough sleepers accommodated in the council's stock of temporary	Ongoing	Paul Tuckey, Cheltenham Borough Homes	

	access this accommodation.							<p>accommodation in order to facilitate move-on. Households who unreasonably refuse an offer of suitable alternative settled accommodation will cease to be assisted under the discretionary power.</p> <p>Attempts will be made to find alternative housing solutions, other than the provision of temporary accommodation, through homeless relief/prevention initiatives.</p> <p>The provision of more temporary accommodation could be made available.</p>	Ongoing	Martin Stacy	
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**Explanatory notes**

**Impact** – an assessment of the impact if the risk occurs on a scale of 1-5 (1 being least impact and 5 being major or critical)

**Likelihood** – how likely is it that the risk will occur on a scale of 1-6

(1 being almost impossible, 2 is very low, 3 is low, 4 significant, 5 high and 6 a very high probability)

**Control** - Either: Reduce / Accept / Transfer to 3rd party / Close