

REPORT TO: HOUSING COMMITTEE – 19 APRIL 2004

**REPORT ON: RESPONSE TO HOMELESSNESS CONSULTATION PAPER
"UNSUITABLE TEMPORARY ACCOMMODATION FOR
FAMILIES WITH CHILDREN"**

REPORT BY: DIRECTOR OF HOUSING

REPORT NO: 258-2004

1. PURPOSE OF REPORT

- 1.1. To provide information and seek approval to submit the attached response to the Homelessness Consultation Paper on accommodation that is unsuitable for families with children.

2. RECOMMENDATIONS

- 2.1. That Housing Committee approve submission of the attached local response to the Unsuitable Temporary Accommodation for Families with Children consultation paper within Scottish Executive's timescale.

3. FINANCIAL IMPLICATIONS

- 3.1. None.

4. LOCAL AGENDA 21 IMPLICATIONS

- 4.1. The proposed reflects a number of key Dundee 21 Themes, including access to good food, water, shelter and fuel at a reasonable cost, health is protected, access to skills, knowledge and information needed to enable everyone to play a full part in society.

5. EQUAL OPPORTUNITIES

- 5.1. Submission of this response demonstrates the Council's continued commitment to assist homeless families with children by ensuring their needs are assessed and a range of suitable temporary accommodation is made available. This response complements the activities of the Anti-Poverty Strategy and improves housing outcomes for vulnerable people in Dundee.

6. BACKGROUND

- 6.1. Local authorities' duties to homeless people are set out in the Housing (Scotland) Act 1987. There have been a number of amendments made through both the Housing (Scotland) Act 2001 and the Homelessness etc. (Scotland) Act 2003. These duties cover the provision of permanent, interim and temporary accommodation. The temporary accommodation duty covers accommodation provided for the household before and after the homelessness assessment and if a review has been requested.

- 6.2. Since September 2002, local authorities have been under a duty to ensure a minimum package of temporary accommodation, and advice and assistance is available to all applicants found to be homeless. Before this, applicants considered not to be in priority need for housing had no right to temporary accommodation. This has placed additional pressure on local authorities, as more people have access to housing rights information, so more applicants have come forward to seek assistance under the homelessness legislation.
- 6.3. The Executive is clear that “bed & breakfast type” accommodation is generally inappropriate for housing homeless families with children. However, it acknowledges that in some circumstances, and for short-term periods, its use may be acceptable.
- 6.4. Powers were taken through the Homelessness (Scotland) Act 2003 to enable Ministers to set out in subordinate legislation, accommodation that is unsuitable for use by the local authority as temporary accommodation.
- 6.5. Scottish Executive now seek to use the subordinate powers to ensure that the type of accommodation that is unsuitable for children is clearly defined, and that the exceptional circumstances in which its use might be permitted are set out.
- 6.6. A consultation paper on this, and the local authority’s duty to have regard to the “best interests of children” was received from Scottish Executive in February 2004.
- 6.7. Local consultation has been carried out, involving inviting staff from Council departments and partner agencies to contribute to the Council’s response document, which is attached.
- 6.8. Dundee City Council has a good reputation for avoiding placing homeless families with children in “bed and breakfast type” accommodation. Homeless Services Unit will always try to where possible, use the authority’s network flats, close to family support for the homeless households. This track record has been highlighted at Page 9 of our response, where examples of good practice have been sought.

7. **CONSULTATION**

- 7.1. Comments have been sought from relevant Departments/agencies and partners. These have been incorporated into this report, following discussion at appropriate meetings.

ELAINE ZWIRLEIN
DIRECTOR OF HOUSING

March, 2004

DUNDEE CITY COUNCIL'S RESPONSE TO CONSULTATION PAPER - HOMELESSNESS

UNSUITABLE TEMPORARY ACCOMMODATION FOR FAMILIES WITH CHILDREN: ORDER UNDER SECTION 29(3) OF THE HOUSING (SCOTLAND) ACT 1987 AND ON "BEST INTERESTS OF CHILDREN"

GENERAL COMMENTS

The move to designate forms of temporary accommodation as unsuitable for families with children is welcomed. There has long been acceptance that certain B & B establishments, hostels and private sector lets are of unacceptable standard and are detrimental to the health, welfare and well-being of children.

Unfortunately this holds true for other client groups such as young persons, those with addiction problems, those who are mentally ill and those who are vulnerable and at risk of exploitation. The difficulty for service providers when attempting to place homeless persons is the immediacy of need and the lack of available supported accommodation.

The expansion of rights for homeless persons and increased duties to provide accommodation have led to a very difficult position for local authorities who are faced with increased demand for, but limited supply of, temporary accommodation. It would therefore be detrimental to apply blanket bans on using certain forms of accommodation for certain client groups. The aim should be to retain as many accommodation options as possible whilst ensuring standards are met. By introducing accredited accommodation, local authorities retain the flexibility to use the most appropriate forms of available accommodation in emergency situations and also to offer choice to service users.

Local authorities should never use B & B or hostel accommodation where children are involved – except in the face of extreme emergencies. The aim should be to expand the use of self contained furnished accommodation with support, to provide a comprehensive service suited to the needs of those with children who require temporary accommodation. Expansion of self contained, furnished, supported accommodation will require both capital and revenue resources and will take time to develop – particularly in areas of housing supply shortages. Any order introduced by the Executive should be phased to allow time to set up alternatives and be backed by the required capital and sustainable revenue to allow development of alternative provision.

CONSULTATION QUESTIONS BY THE SCOTTISH EXECUTIVE

Application of the Order

Para 33: This Order is intended only to apply to households found to be homeless which contain dependent children or which contain a woman who is pregnant.

Question a. Do you agree that this is the priority area at this stage?

Response: Yes. We agree that this is the priority area at this stage. However, we would also like to see future priorities specified and timescales attached to the review of these priorities. Ending the use of B & B accommodation for all vulnerable people should be a national target.

Types of Accommodation to be Covered

Para 34: While the Executive wishes the Order to cover unsuitable accommodation and what is commonly referred to as “bed and breakfast” accommodation, it is important that such accommodation is defined clearly. In order to do so views are sought on:

Question b. What are the common characteristics of “bed and breakfast” type accommodation?

Response: The common characteristics are as defined in English legislation, i.e. accommodation

- a. which is not separate and self-contained premises.
- b. in which any of the following amenities is shared by more than one household
 - a toilet
 - personal washing facilities
 - cooking facilities

Consistency with this definition would be useful. Scottish powers should also clarify that such accommodation should not be used for pregnant women or families with children. Accommodation managed by local authorities, registered social landlords or voluntary organisations should also be excluded.

Question c. What characteristics would any accommodation have that would make it unsuitable for families and children?

Response: Any accommodation without the required HMO Licence.
 Any accommodation where families have to share rooms, cooking and personal hygiene facilities with other people.
 Any accommodation where children may be exposed to criminal or challenging behaviour.
 Accommodation which restricts children from playing safely inside or outside the premises.
 Where the location makes it difficult for households to keep in touch with family and support networks including local schools/nurseries, which their children regularly attend.

Question d. How might the Order differentiate between accommodation of varying quality or standard so that accommodation which might be acceptable is not excluded from the range of options open to a local authority?

Response: The order should specify accommodation which has been inspected and meets HMO requirements.

If B & B establishments can offer a service which is more suited to families with children and pregnant women, with characteristics such as en-suite shower/bathroom, we should consider using them. If, on the other hand, homeless families with children feel they would be better placed in accommodation near to their local community, and establishments there are of a lower standard, we should consider their wishes.

Question e. Should the Order cover all unsuitable accommodation regardless of whether it is owned and run in the private, public or voluntary sector.

Response: No. Initially the Order should be aimed at the private sector. Many voluntary organisations, such as Dundee Women's Aid (DWA) or Salvation Army operate accommodation which is not ideal but demand and specialist nature of provision mean that it is the most appropriate placement. Standards of accommodation and management, provided by the public and voluntary sector are maintained and monitored by Communities Scotland or the Care Commission.

Exceptions

Para 35: Most commentators who have expressed views on the issue seem to agree that there should be some flexibility within any Order to allow use of Bed and Breakfast type accommodation in some circumstances. Examples might be when this could be shown to be in the best interests of the child/children; when the circumstances could be classed as an "emergency" and/or for very short periods to allow the local authority to seek a more suitable alternative. Clearly, the more prescriptive the Order the less discretion will be afforded to local authorities.

Question f. Are there any types of accommodation that should be considered unsuitable for families with children in all circumstances?

Response: Direct access hostels could be intimidating and disturbing for families with young children, they may be exposed to people who have problems with substance misuse, alcohol or chaotic behaviour residing in the units.

Any accommodation where individuals are vulnerable to exploitation.

Question g. In what circumstances might it be acceptable for the local authority to offer bed and breakfast type accommodation for use by families with children?

Response: It would be acceptable if families with children felt they needed to be placed in accommodation near to family/friends or in their local community area to avoid too much change in their children's routines. Where possible time spent in B & B should be kept to a minimum, with staff assigned responsibility to monitor rehousing circumstances.

Question h. How should we define such circumstances, for example an "emergency"?

Response: The definition of emergency is best left to the local authority's discretion. Staff will be aware of all the circumstances pertaining to individual situations. Prescribing what is an emergency would not be helpful but will generally cover presentations where immediate accommodation is required, particularly out of hours.

Question i. What time period, if any, should apply to such circumstances?

Response: No time period should be imposed at this stage. Time limits should be reviewed however in 2007.

Question j. Should there be different exceptions based on, for example, the age of the child/children concerned?

Response: No. Regulation should cover all cases where there are children. Children should be defined by existing legislation.

Question k. Should any or all exceptions require the agreement of household concerned?

Response: This would be preferable but emergency placements must be within the power of the local authority to decide.

Alternative Accommodation

Para 36: If local authorities are prevented from using certain types of accommodation, alternative provision will need to be developed.

Question l. What actions could local authorities take to develop alternative options for temporary accommodation provision?

Response: One of Dundee City Council's top priorities in the Homelessness and Local Housing Strategies is extending temporary accommodation.

Councils should continue to assess demands and develop quality accommodation and viable support services to meet housing need. This may include new models of provision, extending provision of independent living skills training to equip households to sustain tenancies.

Question m. What good practice examples are currently in use?

Response: Dundee City Council only use bed and breakfast accommodation as a last resort. Homeless Services Unit will always try to place families in the authority's network flats, as near as possible to any family support etc. Acting according to individual families' circumstances, wishes and needs can sometimes be difficult therefore it is important that regulations support local authorities by allowing them the flexibility of using bed and breakfast establishments, only as a last resort, if authorities are going to be seen to be acting in the best interests of these vulnerable families.

Other

Para 37: We have set out in this paper some of the background to the issues under consideration.

Question n. Are there other factors that should be taken account of in drafting the Order, or which should be included in the Order? If so please provide details.

Response: Capital and revenue funding is required to develop additional quality accommodation and support services. Also clarity required on how this will fit with forthcoming order on providing section (7) "Accommodation for Intentionally Homeless Families". Access to Education, Leisure, Social Work and NHS health services for families who have children. Corporate Services should be co-ordinated to ensure the best interests of the households are being met by responsible departments.

Timing

Para 39: Section 9 of the 2003 Act, which introduces the Order making power, comes into force on 30th January 2004. The consultation period is 3 months, after which the Order will be prepared taking account of the views received. Parliamentary procedure requires a 21 day period between the laying of the Order and its coming into force (and this period should not include Parliamentary recess). It is envisaged, therefore, that the Order will be laid after the summer recess and come into force by October 2004. By that time, homelessness strategies will have been in place for 18 months.

Question o. Is October 2004 an appropriate timescale?

Response: No. The order should be phased to allow additional provision to be developed, funded and introduced. Although Dundee City Council use Bed and Breakfast establishments as the last resort to temporarily accommodate homeless families with children, we are currently having to place families in the authority's network accommodation, (if it is available) which may not meet the needs of these vulnerable families, i.e. size, type and location.

Our Homelessness Strategy plans for additional temporary supported accommodation will be completed by 2006. This will free up existing and new network flats for single people and couples requiring support, rather than families with children, who will be accommodated by the authority or partner RSL's.

Para 41: The Executive wishes to consider the need for supporting guidance to clarify some of the issues surrounding this duty. Please let us have your views on the local authority duty to have regard to the best interests of children in the discharge of its accommodation duties. In particular, views are invited on:

Question p. What is meant by "best interests"? How might the term be defined in the guidance?

Response: All factors – family, support, health, financial status etc. which make a positive contribution to the child/children's current welfare and future living arrangements.

Question q. Are there common issues that should apply to ALL children regardless of individual circumstances such as age or health? For example there may be different issues to take account of for children of pre-school age.

Response: Common issues which apply to ALL children would be to establish or maintain any support links they have i.e. education and health services, family/friends and social activities they may be involved in.

Question r. What individual circumstances should be taken into account?

Response: The reasons which led to the family becoming homeless e.g. fleeing domestic violence. Finding suitable temporary accommodation for the family also involves liaison with services to meet the households' support needs such as Women's Aid, Social Work Department, GP, Legal, local school/nursery, friends and activities, to ensure they don't become isolated and cut off from their normal routines.

Question s. What actions should the local authority take to meet the duty?

Response: The local authority should work collaboratively to take the individual circumstances which led to the household's homelessness and the children's needs into account when trying to place them in suitable accommodation. If bed and breakfast accommodation is immediately available, advice and assistance should be given to the household by the homeless officer on a regular basis to help them access the services they need until secure accommodation is available.

Question t. What examples of current good practice exist?

Response: The Scottish Executive Statistics Release as of 20 January 2004, illustrate that during June and September 2003, there was only one family in Dundee placed in bed and breakfast accommodation. This is evidence that Dundee City Council demonstrates good practice by placing homeless families with children in suitable temporary accommodation.