

Statutory Housing Duties

Introduction

The Housing Task and Finish Group's Inception Meeting was held on the 8th March 2023. A 'baseline' report, which would pull together key information about the statutory housing duties which are placed on the local authority and, contextual information about the performance of these housing function by the Council would be of assistance to the Committee in developing a work programme.

Given the expansiveness of the housing duties, it is envisaged that this will be the first in a series of reports that will be presented to the Committee. Therefore, consciously, the 'statistics' used within the report aim to provide context and not to acutely focus on any specific issue, albeit, future reports may look to zone into specific areas.

Statutory Housing Duties

Local authorities are bound by statute. Their functions are set out in numerous Acts of Parliament and many of these functions have associated legal duties. In 2011, the government agreed with the Local Government Association that it should compile a list of these duties to give clarity about what these are.

On 30 June 2011, a list of duties were published, enabling a clearer picture of the requirements on local authorities. For sake of comprehensiveness, a link to this list is attached.

For the purposes of this report, the 'housing duties' are the focus.

It should be noted, that the Borough Council is not a stock holding authority. It carried out a Large Scale Voluntary Transfer (LSVT) of its housing stock, (Council Homes) to a company called Newcastle Housing Ltd (subsequently renamed Aspire Housing) in 2000.

Therefore, statutory housing duties related to local authorities who own stock has been omitted from this report. For ease of understanding, rather than listing the housing duties, an infographic has been produced and the duties have been broadly classified as; i) Meeting and assessing housing needs, ii) Provision of Housing Advice and Homelessness Services and iii) Improving Private Sector Housing.

Meeting & Assessing Housing Needs

Periodically review the housing needs of its area in relation to housing conditions and the needs of the district (Housing Act 1985 Section 8)

To consider caravan site licence applications submitted by applicants. (Caravan Sites and Control of Development Act 1960 Section 3)

To provide facilities for disabled persons in dwellings (Housing Grants, Construction and Regeneration Act 1996)

Duty of local housing authority to formulate a homelessness strategy (Homelessness Act 2002)

Duty of local housing authority to formulate and publish a housing strategy [not actually commenced (Local Government Act 2003, Part 7)

Housing Advice & Homelessness

Secure that advice and information is available free of charge to persons in their district about the right to make an application for an allocation of accommodation.

Have an allocation scheme, publish a summary of it and allocate housing accommodation in accordance with the scheme.

Duty to make inquiries into cases of homelessness or threatened homelessness

Interim duty to accommodate in case of apparent need

Duty to persons becoming homeless

Duties in case of threatened homelessness

Duty of local housing authority to provide advisory services

Private Sector Housing

Keep the housing conditions in their area under review with a view to identifying any action that may need to be taken under various specified pieces of legislation

Inspect premises in specified circumstances with a view to establishing whether there is a "hazard".

Take appropriate enforcement action where a category 1 hazard exists.

Consult with the fire and rescue authority for the area where a fire hazard exists before taking enforcement action.

Revoke improvement notice and prohibition order, as appropriate, in specified circumstances.

Mandatory licensing of Houses in Multiple Occupation (HMOs)

Meeting and Assessing Housing Need.

The local authority has to “periodically review the housing needs of its area in relation to housing conditions and the needs of the district” (Housing Act 1985 Section). This function is to ensure that local authorities understand the housing needs of their communities. Further legislation requires that when authorities carry out a review under s. 8, that they have regard to the special needs of chronically sick or disabled persons (section 3 of Chronically Sick and Disabled Person's Act 1970, as amended) and carry out reviews of accommodation needs of gypsies and travellers residing in or resorting to their district (s. 224, Housing Act 2004).

This is complimented by the National Planning Policy Framework (NPPF), which requires local planning authorities (LPAs) to have a clear understanding of the housing needs in their area, the scale and mix of housing and range of housing tenures that the local population is likely to need over the plan period.

On 13 January 2021 the Council resolved to undertake a new local plan for the borough, which would set out a vision and a framework for the future development of the area, addressing needs and opportunities in relation to housing, the economy, community facilities and infrastructure, as well as a basis for conserving and enhancing the natural and historic environment, mitigating and adapting to climate change, and achieving well designed places. The plan is produced in a number of stage.

The local authority has “to consider caravan site licence applications submitted by applicants. (Caravan Sites and Control of Development Act 1960 Section 3), which is to license all privately owned residential caravan sites (including park home sites) and holiday sites to ensure they are fit for purpose.

The local authority has to provide facilities for disabled persons in dwellings (Housing Grants, Construction and Regeneration Act 1996). This mandates that local authorities give grants to disabled persons (subject to means testing and up to a prescribed maximum) to allow them to adapt their homes to meet their needs.

In 2017 Newcastle-under-Lyme joined a Staffordshire County Council led procurement exercise for Staffordshire Independent Living Service (SILIS), a Home Improvement Agency that would deliver DFGs throughout the county. This contract to provide the Disabled Facilities Grants, was awarded to Millbrook Healthcare Limited in 2018 and ends on 31st March 2023. The contract will not be extended nor will the service be recommissioned by Staffordshire County Council, with the service to be delivered directly by the Council.

The local authority has a duty to formulate and publish homelessness strategy (Homelessness Act 2002) at least every 5 years and take it into account in discharging its functions. Complimenting this, is the requirement to formulate a **housing strategy**, which would set out a vision for housing in its area, including objectives, targets and policies on how the authority intends to manage and deliver its strategic housing role. The Strategy provides an overarching framework against which the authority considers and formulates other policies on more specific housing issues.

The Borough Council has an up to date published Homelessness strategy and a Housing Strategy. These policies are available on <https://www.newcastle-staffs.gov.uk/directory/2/policies-and-strategies/category/12>

Housing Allocations and Homelessness

The Housing Act 1996 places a number of statutory duties on a local authority; broadly, the duties relate can be categorised into i) allocating social housing ii) providing housing information and advice and iii) preventing and resolving homelessness.

The local authority has **“to ensure that advice and information is available free of charge to persons in their district about the right to make an application for an allocation of accommodation and to have an allocation scheme, publish a summary of it and allocate housing accommodation in accordance with the scheme.”**

The Housing Allocation policy, and the housing register is the way to determine priorities for allocating social housing and ensuring that the allocation of social housing to the people who need it the most. The policy determines if they are eligible and qualify for social housing. If they do qualify for social housing they will join the council’s housing register.

The Council has developed a Housing Allocations Policy. This has been done jointly and in partnership with Aspire Housing, who are the largest housing provider within the Borough. The policy is currently being reviewed, after being applied for a period of 24 months.

The Council is not a stock holding authority and social housing is provided by Registered Social Landlords that are not-for-profit organisations that own, let, and manage rented housing. The distinction between social rented properties and those rented privately is that social homes are more affordable and provide a more secure, long-term tenancy.

There are 19 providers of social housing within the Borough. The total number of social homes are 9,909. There 8,687 general needs homes, 948 special homes (supported or older people accommodation) and 274 Low cost Homes. The majority of providers have a small number of units. Those with a significant number of properties are Aspire Housing, Honeycomb Group Ltd and Sanctuary Housing Association.

<u>Names of RSL</u>	<u>Total Social Stock</u>	<u>% Total Social Stock in area</u>
Alpha (R.S.L.) Limited	71	0.7%
Anchor Hanover Group	41	0.4%
Aspire Housing Limited	8,103	81.8%
Bespoke Supportive Tenancies Ltd	4	0.0%
Brighter Futures Housing Association Limited	6	0.1%
Choices Housing Association Limited	8	0.1%
Clarion Housing Association Limited	79	0.8%
Empowering People Inspiring Communities Limited	35	0.4%
Golden Lane Housing Limited	6	0.1%

GreenSquareAccord Limited	2	0.0%
Honeycomb Group Limited	521	5.3%
Housing 21	63	0.6%
Midland Heart Limited	23	0.2%
Plus Dane Housing Limited	4	0.0%
Sage Housing Limited	41	0.4%
Sanctuary Housing Association	772	7.8%
The Guinness Partnership Limited	5	0.1%
The Riverside Group Limited	9	0.1%
The Wrekin Housing Group Limited	116	1.2%
	9,909	100%

Under section 170 of the 1996 Housing Act, it is a requirement of registered providers to co-operate with the Local Authority as much as is reasonable in offering accommodation to people with priority from under the Local Authority's allocation scheme. The Regulator of Social Housing's Consumer Standards 2015 sets out the requirement to cooperate with the Local Authorities strategic housing function.

Private registered providers of social housing (PRPSH) usually allocate an agreed level of properties that become available within the Borough to applicants nominated by local authorities, from the Housing Register. The Council has a Nominations Agreements with its Social Housing Providers (Registered Providers), which sets out the mechanism by which the Council will make nominations to Registered Providers, it also provides the procedures that are to be used to make existing and arising void properties available for nominations by the Council.

The Council operates a choice based letting scheme and applicants accepted onto the housing register may express an interest in (bid for) a social home when a suitable one becomes available.

Year	Total households on the housing waiting list	1 bedroom	2 bedrooms	3 bedrooms	More than 3 bedrooms	Unspecified number of bedrooms or those on the register more than once
2021/ 2022	1,238	652	324	210	52	0
2020/2021	1,269	691	348	181	49	0

2019/2020	1,384	733	416	187	48	0
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Nominations taken up - Private Registered Provider dwellings let to households in response to a nomination from your LA		
2021/2022	2020/2021	2019/2020
480	372	417

The local authorities has a number of duties pertaining to providing advice and assistance to those that are **homelessness or threatened homelessness***. These duties range from the duty is to make inquiries of app to establish whether any duties arise under legislation, to securing accommodation, to ensure that advice about homelessness and the prevention of homelessness is available free to everyone in their district.

Until recently, the housing register, housing advice and homelessness services had been contracted out as a commissioned service and was branded as Newcastle Housing Advice. The service was brought back and integrated with the Council on the 1st April 2021. For consistently and the fact that the NHA brand had been used for a number of years – the NHA website has been retained.

A report was taken to the Health Wellbeing and Partnerships Scrutiny Committee on the 07 March 2022, outlining the delivery of Newcastle Housing Advice Service.

Private Sector Housing

The Local Authority is required to **“to know about the condition of all housing stock in its area and to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken under various specified pieces of legislation”**.

A Housing Stock Condition Survey was undertaken in 2016. This report was completed by the Building Research Establishment. The life of such surveys are from five to ten years. In the near future, consideration will need to be given to updating the Housing Stock Condition survey, with the availability of financial budgets.

The Local Authority has duties and powers to take action to deal with properties that have certain hazards. The Housing Health and Safety Rating System (HHSRS) is a system that local authorities use to assess housing conditions.

The Housing Health and Safety Rating System (HHSRS) assesses 29 housing hazards and the effect that each may have on the health and safety of current or future occupants of the property. The HHSRS provides a way that hazards can be assessed. If a hazard is a serious and immediate risk to a person's health and safety, this is known as a Category 1 hazard. If a hazard is less serious or less urgent, this is known as a Category 2 hazard.

If an inspection reveals the presence of one or more Category 1 hazards the local authority must take the most appropriate courses of action, set out in the Housing Act 2004. Category 2 hazards are judged to be less serious and authorities can still take action to tackle these hazards where it is believed necessary.

The Housing Health and Safety Rating System applies to all tenures. Primarily, the local authority assesses private sector properties, as private landlords are not regulated, the propensity for hazards to be present are more likely. Notwithstanding this, the system can be used to assess social housing properties. However, registered social landlords are regulated by the Regulator of Social Housing. The advice to tenants experiencing issues which make the homes unsuitable is to contact their landlord. The landlord should address underlying issues effectively, where this is not done tenants can invoke the internal complaints process and if they remain unhappy with their landlord's response to contact the Housing Ombudsman, who can help resolve complaints.

The approach of the Borough Council, if contacted by social housing tenants who complain of potential hazards existing with their homes, in the first instance is to advise them to use the internal complaint process of the Registered Social Landlord. If issues remain unresolved, the Council will look to intervene and meet with both the RSL and the tenant.

Officers are aware of an acute focus on 'damp and mould in England's social housing, following a tragic death in Rochdale in November 2022. Following this, a series of action were initiated;

- i) the Social Housing Regulator asked all larger social landlords to submit evidence about the extent of damp and mould in tenants' homes and their approach to tackling it.
- ii) On the 19th November 2022, the Department for Levelling Up, Housing and Communities wrote to all the Local Authority Chief Executive and council leaders, directing them under section 3(3) of the Act, that all local housing authorities in carrying out their duty to review housing conditions. The Borough Council responded to this directive and made a submission of this on the 29th November 2022.

The Local Authority is responsible for mandatory licensing of Houses in Multiple Occupation (HMOs). Mandatory licensing is required where the HMO is occupied by five or more persons living in two or more separate households. Children of any age contribute to the number of occupants.

Landlords who intend to rent out HMO need to apply for a licence. A licence will be granted following consideration of whether the proposed licence holder is a fit and proper person and the most appropriate person to hold the licence and whether proper management standards are being applied at the property and the HMO is reasonably suitable, or can be made suitable, for occupation by the number of tenants allowed under the licence with at least the minimum prescribed standards of amenities and facilities. These include the number, type and quality of shared bathrooms, toilets and cooking facilities.

	Total number of dwellings in Private Rents Sector, following an inspection, have found to have one or more category 1 hazards	Provide an estimate of the total number of HMOs within your authority.	Provide an estimate of the total number of mandatory licensable HMOs within your Local Authority Area	State the actual number of properties with mandatory HMO licences (issued within your authority).	How many properties identified as being mandatory licensable HMOs have been found upon inspection to have Category 1 hazards (according to the HHSRS)?
2021/ 2022	37	753	201	196	0

2020/2021	28	778	217	198	9
2019/2020	50	695	181	182	3

It is hoped that the above information has provided the Committee with a broad understanding of the housing duties placed on the Council and some context as how the Council is meeting these duties.

It is recommended, that the report and the information be used to develop a work programme, whereby the Committee sets out which specific area, its wishes to focus on;

- Assessing and Meeting Housing Needs
- Providing Housing and Homelessness Advice and Assistance
- Improving the Private Rented Sector