

Housing Service Policy Document

Policy to Discharge Homelessness Duties through the Private Rented Sector

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1. Introduction

- 1.1 The Localism Act 2011 gives Local Authorities the power to discharge their duty to secure accommodation for homeless applicants by way of arrangements with the Private Rented Sector (known as “PRS”).
- 1.2 The introduction of this power ends the provisions to make available a “qualifying offer” of private sector accommodation which required the agreement of the applicant. Local authorities can discharge their homeless duty through an offer of a PRS tenancy, without the agreement of the applicant, providing it is a “suitable” offer.
- 1.3 Taking into account the prevailing housing demand and supply pressures in its area, this policy sets out how West Suffolk Council (hereafter referred to as “the Council”) will apply the legislation in respect of discharging its homelessness duty into the private rented sector, so to make best use of available housing stock.

2. Legal Framework

Under S.193(2) Housing Act 1996, where the Council is satisfied that an applicant is homeless and owed a duty they must ‘secure’ suitable accommodation and ensure it is available for occupation by the applicant. The duty to secure accommodation ceases when events set out in section 193 of the Housing Act 1996 (as amended) ‘Duty to persons with priority need who are not homeless intentionally’ are achieved. Where it is not possible to immediately cease the duty by providing an offer of Social Rented Housing (A

part VI offer) the Council can provide other accommodation, which is temporary, until the duty ceases.

2.1 Section 148 Localism Act 2011, amended Section 193 Housing Act 1996 to include the offer of private sector accommodation as an option which would bring the duty to secure accommodation to an end. The duty will cease irrespective of whether the applicant accepts or refuses the offer, provided they have been informed in writing of:

2.1.1 the possible consequence of refusal or acceptance of the offer,

2.1.2 that the applicant has the right to request a review of the suitability of the accommodation, and

2.1.3 the effect of a further application to a local housing authority within two years of acceptance of the offer.

3. Applying the Policy

3.1 This policy will apply to all applicants where, after 1st April 2014, the Council accept a homelessness duty irrespective of whether the applicant has been placed into temporary accommodation, is likely to be placed into temporary accommodation or is able to secure their own temporary accommodation.

3.2 Applicants who previously occupied a social rented tenancy and have been accepted as homeless following an application due to fleeing violence; threats of violence; or domestic abuse, will not normally be considered for a Private Rented Sector Offer, unless there is an overriding benefit to the applicant. This is to ensure that those households are not negatively impacted upon in respect of security of tenure for having to escape violence or abuse.

3.3 An Applicant who is currently under offer, or who has an offer pending from a Registered Provider will not be considered.

3.4 The Council recognise that the number of private rented sector properties within the West Suffolk area that are available for the Council to discharge their homelessness duty is unlikely to be sufficient to meet the demand from all eligible applications. Therefore the decision to offer Private Rented Sector accommodation will be made if a suitable property is available.

3.5 An offer of accommodation will be affordable for the household and will be within the Local Housing Allowance Limits.

4. Suitability of Accommodation

4.1 The suitability of accommodation will be considered in two parts:

- 4.1.1 The structure and management of the property, which covers the physical condition, safety aspects and how the landlord or agent manages properties and their suitability to do so.
- 4.1.2 Suitability of the property for the tenant, which takes into consideration the individual needs of that applicant and their household, considering such factors as location, affordability and accessibility.
- 4.2 When considering making an offer of discharge into the private rented sector the Council will first ascertain that the property is suitable and then that it is suitable for the proposed tenant. The assessment of suitability will be carried out before a formal offer is made to the applicant.

4.2.1 The Structure and Management of the Property

In order to consider a property suitable to discharge its duty, the Council will require that:

- The tenancy is an Assured Shorthold Tenancy, for a period of at least 12 months.
- The property is in a reasonable physical condition
- All portable appliances provided by the Landlord, within the property, have been Portable Appliance Tested (PAT) within the last 12 months.
- There is a valid gas safety certificate in place and any items that have been failed have been suitably isolated and their in-operation will not create hazards within the property, such as risk of extreme cold or lack of suitable cooking facilities.
- Where appropriate, carbon monoxide detectors have been provided.
- All adequate fire safety precautions have been taken, including mains wired fire alarms, fire protection measures where required, and compliance with fire regulations in respect of all furniture and furnishings.
- An Energy Performance Certificate (EPC) is provided.
- The landlord or agent has provided a statement confirming that they have the right to market the property for rental and that there is no restrictive covenant or other supervening legality preventing the letting of the property.
- The landlord or agent is a fit and proper person. The Council will work to the assumption that the landlord is a fit and

proper person, unless there is reason to believe that the landlord or agent has committed offences of:-

- Fraud
 - Other dishonesty
 - Violence
 - Unlawful possession and or supply of illegal or controlled drugs
 - Offences under the Sexual Offences Act 2003
 - Unlawful discrimination
 - Illegal Eviction or Harassment
- Where the property would fall under mandatory or additional HMO licensing, the landlord has licensed the premises.
 - The landlord or agent must not have hindered the principles of housing law, such as failing to maintain tenancies such that Public Health and Housing have been required to take enforcement action.
 - The Assured Shorthold Tenancy Agreement is a standard agreement and does not contain unfair or unreasonable terms. A copy of the tenancy agreement will be required before the tenant signs the agreement.
 - The landlord agrees to accept local housing allowance for the tenancy, irrespective of whether the tenant will be claiming Local Housing Allowance or not. This is to ensure that the property would be affordable over the duration of the tenancy should the tenant experience a change in circumstances.
 - The landlord lodges any deposit paid by the tenant into a tenancy deposit protection scheme unless the landlord uses the Council's Deposit Scheme.

4.2.2 The Applicant

The Council will carefully consider all accepted homeless applicants who qualify for consideration for Private Rented Sector Discharge. The applicant's circumstances will be considered against available properties to ensure that best use is made of suitable properties. Where a property is suitable for more than one applicant the Council will identify the applicant whose need is best met by the property in terms of;

- The location of the property in proximity to the applicant's employment. Consideration will be given to the work patterns of the applicant, the financial impact of accessing the place of employment from the property and the availability of public transport if employment requires working unsociable hours.

- Care received or provided by the applicant over and above immediate family support. Consideration will be given as to the level and frequency of care received or provided and the impact of using public transport to receive or give care.
- Educational establishments attended by the applicant and their household. In general it is deemed to be reasonable to expect a household member to change school or educational establishment. Consideration will be given to the viability of maintaining the existing educational establishment and travelling from the property. It is recognised that it may not always be appropriate to require household members in receipt of education to change educational establishments. In these circumstances careful consideration will be given to where the student is at key points in their education such as the final year before exams or where a Child has a statement which requires special educational needs to be met.
- Specialist medical treatment being received by the applicant or a member of their household. Consideration will be given to the proximity to the property of any medical facility attended on a regular basis for treatment, where treatment cannot be provided either in their home or closer to the property together with any additional costs which may be incurred through relocation further away from the treatment facility.
- Support and the well being of the household. Consideration will be given to any support received by the household which is not formalised support but which has a significant impact on the household's well being.
- Access to local services required by the household. Consideration will be given to any increased in travel arrangements or costs through relocation to the offered property.
- Size of property. The property must be suitable for the size of the household and will be assessed under the Local Housing Allowance size criteria to ensure that there is no unreasonable shortfall in rent due to under-occupation.
- The requirement for aids and adaptations to assist the applicant or a member of their household who may be disabled or have mobility issues. Consideration will be given to the feasibility of adapting the property. Where the applicant or member of their household does not presently require adaptations but there is a likelihood that they may do so in the next 12 months then the potential need for adaptation will be considered.

4.3 In the interests of creating sustainable communities and where the Council are satisfied that, in respect of an applicant, there are overriding management reasons which will not serve the interests of the applicant or the community, the Council will not exercise its power to make available to an applicant a private rented sector offer.

5. Offer Hierarchy

5.1 In some cases the Council may determine that a suitable property best meets the needs of more than one applicant, in such circumstances the accommodation currently occupied will determine which applicant is prioritised for a private rented sector offer. Accommodation currently occupied is ranked as below, where 1 is the highest priority.



1. In Bed and Breakfast
2. Own arrangements which could be staying with friends which is not permanent or other unsettled accommodation
3. In temporary accommodation where the Council has placed the applicant
4. In all other forms of temporary accommodation, eg: Refuges, Hostels.

6. Offers, Acceptances, Refusals and Reviews of Suitability

6.1 The availability of any private rented sector offer will be notified to the applicant by the Council in writing. The notification will clearly state the address, size, type and rent of the property. The applicant will be notified of the likely consequences of refusing the property and their right to request a review of the suitability of the accommodation.

6.2 Prior to notifying an applicant of the availability of any private rented sector offer the Council will complete an assessment of the suitability of the property with the applicant. An arrangement to offer the accommodation to the applicant will proceed provided the Council is satisfied that the offer is suitable for the needs of the applicant and their household.

6.3 Where the applicant refuses the private rented sector offer and there has been no change of circumstances since the assessment of suitability was completed with the applicant, the Council will cease its duty to the applicant under s.193 Housing Act 1996.

6.4 Any request for a review of suitability must be made in writing to the Housing Options Team within 14 days of the date of the notice.

7. Re-Application Following Loss of Accommodation

7.1 Under section 195A Housing Act 1996, should the applicant approach the Council as homeless within a period of two years following

acceptance of the private rented sector offer under s.193(7AA)
Housing Act 1996, the Council will, in accordance with the Legislation :

- Treat the applicant as being homeless from the date of expiry of the Notice Requiring Possession. The landlord therefore will not be required to apply to court to regain possession. The Council will confirm the validity of the notice.
- Consider the household to have priority need as it will be retained from the date of the acceptance of a duty under 193 (2) irrespective of any change in circumstances or household composition that may affect this.
- Satisfy itself that the Applicant is still eligible for assistance (eg: has correct immigration status) and,
- Did not become homeless intentionally from their last settled accommodation (eg: was not evicted for rent arrears)

7.2 Where the applicant applies under this section and the Council accept a re-application duty, then the applicant shall be further reconsidered under this, or any successor policy, for discharge into the private rented sector.

Appendix A – Arrangements for Offer Letter

Please ask for:

Direct line:

E-mail:

Fax no:

Your ref:

Our ref:

Date: *Date*

Dear *Applicant Name*

Address of property

S193 (7AA) Housing Act 1996 – Notification of Offer of Private Rented Sector Accommodation

I am pleased to advise you that the West Suffolk Lettings Partnership delivered in partnership with West Suffolk Council has made arrangements with a Private Sector Landlord to offer you the tenancy of the above property.

This offer is made because West Suffolk Council has accepted a duty under Part 7 of the Housing Act 1996 (as amended) to secure accommodation for you. This offer discharges the Council's duty which means that we no longer have responsibility for finding you alternative accommodation.

The tenancy is offered with a fixed term of 12 months. The rent you will be charged is £*weekly rent* per week (£*monthly rent* per month). The private sector landlord is *Landlords Name*.

The Council is required to make only one offer of suitable accommodation. We are satisfied that this property is suitable based on an assessment of your housing needs and so this is a final offer which meets the requirements under S193 (7AA) Housing Act 1996.

The Council's assessment of the suitability of this property takes into account the circumstances and needs of you and your household as well as certain matters relating to the condition of the property. A copy of our checklist of suitability is attached for your information.

By accepting this offer, the Council's duty under S.193(2) Housing Act 1996 will be met. Should you re-apply for accommodation or for assistance in obtaining accommodation within two years (beginning with the date on which you accept this offer) our duty to provide you with accommodation will apply again. In such a case the Council must be satisfied that you are eligible for assistance, homeless or threatened with homelessness (and be satisfied that you have not become homeless intentionally).

This offer means that the Council will have met its requirement to secure accommodation for you. If you refuse this offer we will not

make any further offers of accommodation and you have to vacate any temporary accommodation provided.

You have a right to request a review of the suitability of the accommodation offered. Your request must be made within 21 days of the date of this letter and must state clearly the reasons why this property is not suitable. You could accept this property and still seek a review. If the review is successful, a further offer of private sector accommodation will be made. Please address your review to Housing Options Manager, Housing Service, West Suffolk House, Western Way, Bury St Edmunds, Suffolk IP33 3YU.

To arrange a viewing and sign up of this tenancy please call 01286 472222. If we do not hear from you within 2 working days of the date of this letter a member of the Housing Team will contact you to make the arrangements to start the tenancy. If we have no contact with you within 5 days of the date of this letter, we will consider that you have refused the offer, which will discharge any duty to provide you with accommodation.

Yours sincerely

Homelessness Officer

Appendix B - Accommodation Suitability Check
Accommodation Suitability Check
(The Homelessness (Suitability of Accommodation) (England) Order 2012)

Address of property being offered			
Applicants name			
Landlords name		Rent	£ PW
			£ PCM
Matters taken into account in determining accommodation is suitable			
Affordability			
Affordable based on the households current income and any housing benefit entitlement			
Location			
Distance from West Suffolk Council if outside the district			
Employment			
Caring responsibilities			
Education			
Medical facilities			
Support & well-being			
Local services			
Amenities			
Transport			
Health & Safety			
Reasonable physical condition			
Portable Appliance Testing			
Fire safety (including any furnishings)			
Carbon Monoxide Detector			
Energy Performance Certificate			
Gas Safety Certificate			
Fit & Proper Landlord			
There is no reason to believe the landlord has committed any of the following offences;			
<ul style="list-style-type: none"> ➤ Fraud ➤ Other dishonesty ➤ Violence ➤ Illegal drugs ➤ Offences listed in sexual offences act 			
There is no reason to believe the landlord has;			
<ul style="list-style-type: none"> ➤ Practiced unlawful discrimination ➤ Contravened law relating to housing ➤ Acted otherwise than in accordance with any applicable code of practice in relation to management of houses in multiple occupation 			
Houses in Multiple Occupation (HMO) Licensing (where applicable)			
Appropriately licensed			
Tenancy Agreement is;			
for no less than 12 months			
an adequate written agreement			