



# Discharge Homelessness Duty to a Suitable Home Policy

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<b>Service</b>	Housing Solutions, Housing Services		
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<b>Approved by</b>		<b>Version</b>	0.7
<b>Approval date</b>		<b>Review date</b>	

## **SECTION 1. INTRODUCTION**

- 1.1 Local authorities can discharge their homelessness duties through securing suitable, available accommodation for the household. The property can be either social housing or a property in the private rented sector. A local authority can end its main homelessness duty through an offer of a suitable home, without requiring the applicant's agreement.
- 1.2 The power to discharge the homelessness duty to the private rented sector without consent applies to new homeless applicants applying as homeless from 9 November 2012. However, the Council will only apply this policy to applicants where the homelessness duty is accepted after formal approval of the policy. Applicants that were accepted as homeless under the duty before the policy approval date will not have a private sector offer.
- 1.3 Statutory regulations require local authorities to take a number of matters into account in determining the suitability of accommodation. The Council's suitability criteria are set out in this policy.

## **SECTION 2. PURPOSE**

- 2.1 This policy sets out the Council's approach to discharging its homelessness duty and the definition of a suitable home.
- 2.2 This policy introduces more flexibility in preventing homelessness. Suitable private accommodation will be offered to the client, who initially appears to be homeless with priority need, before an application is made. This should resolve homelessness more quickly; as if a homelessness application is successful, the same property will be offered to the client thereby ending the homelessness duty.

## **SECTION 3. SCOPE, DEFINITIONS AND RELATED POLICIES**

- 3.1 This policy is supported by the practice guidance, which sets out the information that officers should consider when determining the suitability of a property.
- 3.2 The Homelessness Strategy sets out the Council's approach to preventing homelessness and discharging our duty. The strategy, which is due for review in 2014, will set out the Council's approach to ensuring the appropriate supply of private sector properties to enable the timely discharge of our duty.
- 3.3 Definitions**
  - 3.3.1 Private Sector Offer – is defined by section 193 of the Localism Act 2011 as an offer of an assured short hold tenancy made by a private landlord to an applicant. The tenancy must be for a period of at least 12 months, but the Council will try to secure two-year agreements with

landlords, where possible). The local authority must have arranged the availability of the property to discharge its homelessness duty.

- 3.3.2 Homelessness applicant – This is a person who completes an application to be assessed as homeless. The definition of legally homeless is set out in the 1996 Housing Act. This policy refers to a homelessness applicant as ‘the applicant’.
- 3.3.3 Homelessness Duty – This is a duty on local housing authorities to secure permanent accommodation of unintentionally homeless people in priority need. The duty is set out in *Housing (Homeless Persons) Act 1977* and this policy refers to this as ‘the duty’.

## **SECTION 4. POLICY DETAILS**

### **4.1 Options to Discharge the Council’s Homelessness Duty**

- 4.1.1 Central Bedfordshire Council has the following options available to discharge its duty:
- a) Social housing through a direct let
  - b) Social housing via Choice Based Lettings (CBL)
  - c) Private Sector Offer (available only for applicants that applied after the introduction of this policy)
- 4.1.2 A social housing property is suitable if:
- a) The Council considers the property to be affordable following an assessment of the household’s circumstances,
  - b) It meets the social housing provider’s lettable standard and
  - c) It meets the suitability criteria (see appendix A).
- 4.1.3 A Private Sector Offer (PSO) is suitable if:
- a) The Council considers the property to be affordable following an assessment of the household’s circumstances, (practice guidance will help define how to assess “affordable”).
  - b) The suitability criteria is met (see Appendix A),
  - c) The property is not unsuitable (see Appendix B) and
  - d) The applicant is suitable (see 4.1.4).
- 4.1.4 Officers will consider the following when deciding if to make a PSO:
- a) We would not usually make a PSO if the applicant is considered vulnerable, requires supported accommodation or unlikely to be able to sustain a private rented tenancy. Single vulnerable applicants under 35 years of age that are reliant upon housing benefit will be given particular consideration as they would be restricted to shared accommodation in the private sector.
  - b) We would not make a PSO if the property does not meet the accessibility needs of the household and significant disabled adaptations would be required to make the property suitable.

- c) We would not usually make a PSO if the applicant was previously a social housing tenant and who has fled domestic violence; other violence; or harassment.

## **4.2 Making the offer to discharge the homelessness duty**

- 4.2.1 An offer will be made to the applicant that made the most recent application if a property is equally suitable for two or more applicants. The same PSO property will be offered where possible as a prevention option before an application is made.
- 4.2.2 Applicants that identify a private sector property they wish to move to can only do this once the Council has checked that the property meets the suitability criteria. The application will close and the two-year re-application period (see 4.4) will not apply if the applicant moves to a property not arranged by the Council.
- 4.2.3 The Council will notify the receiving local authority where a suitable PSO is in another area. The receiving authority should receive notification within 14 days (s208 of the Housing Act 1996) of the PSO.
- 4.2.4 Officers will send a letter to the applicant when making an offer, setting out the following:
  - a) that the Council is satisfied that the accommodation is suitable
  - b) the possible consequences of refusal or acceptance
  - c) the right to request a review of the suitability of accommodation
  - d) that the Council has discharged its duty.
- 4.2.5 The application will close if the applicant refuses the property and a review is not requested. The applicant must leave any temporary accommodation where provided.

## **4.3 Right of applicant to request a Review of Property Suitability**

- 4.3.1 The applicant can request a review under s202 of the Housing Act 1996. The review request should be made within 21 days of the offer of accommodation being made. A senior officer or an appointed independent agent not involved in the original decision will conduct the review.
- 4.3.2 The application will continue if it is found that the property was not suitable. A further offer of accommodation will be made when possible.
- 4.3.3 The duty will be discharged and the case closed if it is found that the accommodation was considered to be suitable.

#### **4.4 Right to re-application (PSO only)**

- 4.4.1 If the applicant, who was housed following a PSO, becomes unintentionally homeless again within a two-year period of the initial application, the applicant will not need to complete a new application and the original duty will continue through a re-application application.
- 4.4.2 During the first year of a PSO tenancy, the Council will endeavor to provide some level of support to the applicant to help sustain the tenancy, subject to resources available and competing demand for services. Where appropriate, support services, such as Bromford Support, will be sought to help sustain the tenancy.

### **SECTION 5. LEGAL AND REGULATORY FRAMEWORK**

- 5.1 *Housing (Homeless Persons) Act 1977* – Duty on local housing authorities to secure permanent accommodation of unintentionally homeless people in priority need.
- 5.2 *The Housing Act 1996* - Set out the priority need definition. *The Homelessness (Priority Need for Accommodation) Order 2002* updated this legislation.
- 5.3 *Localism Act 2011* (Part 7, s148 and s149)) – Enabled local authorities to discharge their duty towards homeless households in priority need by using privately rented housing irrespective of whether the household is in agreement with this.
- 5.4 *Supplementary Guidance on the homelessness changes in the Localism Act 2011 and on the Homelessness (Suitability of Accommodation) (England) Order 2012* – explains the changes section 148 and 149 of the Localism Act make to the homelessness legislation
- 5.5 *Homelessness Code of Guidance for Local Authorities (2006)* - the local authority must have regard to the guidance when discharging the duty to the private rented sector. Under this code, local authorities also have a duty to ensure that advice and information about the prevention of homelessness is available free of charge to any person in their local authority area.

### **SECTION 6. EQUALITY AND DIVERSITY**

- 6.1 The potential impact of this policy on the various protected characteristics has been identified and addressed through an Equality Impact Assessment.

### **SECTION 7. MONITORING AND REPORTING ARRANGEMENTS**

- 7.1 Monitoring will be included within the performance framework of the Social Care Health and Housing Directorate. In particular, officers will

monitor the outcomes of PSOs to help assess the success of the policy.

## **SECTION 8. INFORMATION AND TRAINING**

- 8.1 Appropriate staff will receive training on the policy principles and the practice guidance prior to implementation of the policy.

## **SECTION 9. RESPONSIBILITIES**

- 9.1 The Head of Housing Solutions is responsible for overseeing the delivery and monitoring the impact of the policy.

## **SECTION 10. EVALUATION AND REVIEW**

- 10.1 This policy will be reviewed every three years unless a review is required prior to the end of the three-year period.

## Appendix A

### **Suitability of property location for a Private Sector Offer (PSO)**

In determining whether the property location is suitable, Central Bedfordshire Council will consider:

- 1. The significance of any disruption caused by the location from employment, caring responsibilities, or education of the household**
  - 1.1 The PSO location must be within a reasonable travel to work area for employed members of the household. Transport links must be frequent enough to enable this. Employment is usually taken to be at least 16 hours per week. A PSO could still be suitable if it is further away from the place of work than the applicant's current location.
  - 1.2 The location of a PSO will need to be of sufficient proximity to enable an applicant to continue with their caring responsibilities. Officers must verify that the applicant is a carer for another person, who cannot readily withdraw this care without serious detriment to the well-being of the other party.
  - 1.3 If any members of the household attend a special needs school or are undertaking GCSEs or A levels at school (Years 10 to 13), or other proven vital examination, then they should not be required to change schools.
  
- 2. The proximity to and accessibility of medical facilities and other support, which are used by, or essential to the well-being, of the household**
  - 2.1 If the applicant or any member of the household requires specialist medical treatment or support then the location will need to be of sufficient proximity to enable this. The Council will also have regard to other medical treatment or support required by the applicant or any member of the household where health professionals consider that it will be disruptive or detrimental to change provider or location.
  
- 3. The proximity and accessibility to local services, amenities and transport;**
  - 3.1 Regardless of location, the Council will seek to offer a home that is reasonably accessible to local services and amenities, especially for people on low incomes, and those reliant on public transport.
  - 3.2 Due regard will be given to issues related to the Equality Act protected characteristics.

#### **4. PSO outside the Central Bedfordshire area**

- 4.1 The Council, where reasonably practicable, will seek to offer private sector accommodation within the Central Bedfordshire area, except:
- a) When it considers it beneficial to move the household out of Central Bedfordshire, for example, to reduce the risk of domestic violence, other violence, or harassment; or to assist persons in breaking away from detrimental situations, such as drug or alcohol abuse, or
  - b) When the household requests to move away from Central Bedfordshire, or
  - c) When the applicant consents to move away from Central Bedfordshire, or
  - d) When a person has a very limited / no local connection to Central Bedfordshire (for example, they may have approached having fled violence from another area).
  - e) When moving to a property in a neighbouring local authority will satisfy the suitability criteria set out above.
- 4.2 If a suitable home is not available within Central Bedfordshire, a suitable private sector offer can be made in a neighbouring authority. This location must have reasonable facilities and transport links.



## Appendix B

### Accommodation unsuitable for a PSO

Suitability of a property according to the family make up is set out in the Allocations Policy. Supplementary to this, Central Bedfordshire Council will use the following criteria to consider whether a property is unsuitable:

No.	Unsuitability criteria	Evidence
1	The accommodation is not in a <b>reasonable physical condition</b> .	<p>Central Bedfordshire Council officers will either:</p> <ul style="list-style-type: none"> <li>• physically inspect all PSO accommodation before it is offered; or</li> <li>• require a letting agent to physically inspect a property (usually requiring that agent to be a member of a suitable trade body); or</li> <li>• request another local authority or agent to undertake an inspection on its behalf (usually for out-of-area property).</li> </ul> <p>Inspectors will record the condition of the property using broadly similar categories to those used by the Housing Health and Safety Rating System (HHSRS) to ensure consistent quality. Housing staff will usually undertake the inspections, but a qualified HHSRS assessor will carry out a further inspection if possible HHSRS category 1 or more serious category 2 hazards are found.</p>
2	<b>Electrical equipment</b> does not meet the requirements of the Electrical Equipment (Safety) Regs 1994.	<p>All landlords/ agents will be asked to supply a satisfactory Electrical Safety Certificate from within the last five years.</p> <p>Any moveable electrical items in the property will require evidence of a Portable Appliance Test (PAT) within the last year.</p> <p>The inspection of the property will seek to identify any broken fittings or obvious electrical defects, such as loose wiring, or electrical faults.</p>

3	The landlord has not taken reasonable <b>fire safety precautions</b>	<p>The inspection of the property will check that it is fire safe. Landlords should provide working smoke detectors (battery or mains) in all properties. The landlord should provide a copy of a Fire Risk Assessment if there are additional fire safety provisions, e.g. where a building has common parts.</p> <p>All furniture and furnishings supplied by the landlord must also be shown to comply with the Furniture and Furnishings (Fire Safety) Regulations 1988 (as amended).</p>
4	The landlord has not taken reasonable precautions to prevent <b>carbon monoxide poisoning</b>	<p>The Council will provide a carbon monoxide detector if the property has an active gas supply (for heating or cooking) and a recent detector is not supplied by the landlord. The Council will provide appropriate advice and assistance to ensure the detector is fitted properly.</p> <p>Landlords should provide a Gas Safe certificate for gas fires.</p>
5	That there is not a current <b>gas safety record</b> for the property	All landlords/ agents of properties with a gas supply must supply a current Gas Safety Certificate before a letting starts.
6	That the accommodation does not have a valid <b>Energy Performance Certificate (EPC)</b> .	All landlords/ agents should supply a valid EPC Certificate for the property.
7	Where the local housing authority are of the view that <b>the landlord is not a fit and proper person</b> to be a landlord	Private Sector Housing colleagues will check their records for evidence that could indicate whether a landlord or agent is not a 'fit and proper' person.
8	That the accommodation is a <b>House in Multiple Occupation or HMO</b> (inc subject to additional licensing) and is not licensed.	HMO properties are not expected to be used for PSO's. Where they are, Private Sector Housing will check that the property is properly licensed and compliant, particularly in respect of fire safety and management.
9	That the landlord has not provided a <b>written tenancy agreement</b> that the local authority considers adequate.	The Council offers a model Assured Short-hold Tenancy (AST) for landlords to use. Where this is not used, officers will ensure that an acceptable, written AST is used, clearly setting out the tenant's and landlord's obligations, rent and charges, and is free from any unfair or

		<p>unreasonable terms.</p> <p>Officers will also inform landlords of the requirements to use Tenancy Deposit Schemes prior to sign-ups.</p>
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