



Discharge of Homelessness Duty to a Suitable Private Sector Home Policy

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SECTION 1. INTRODUCTION

- 1.0 The Homelessness Reduction Act 2017 significantly reformed England's homelessness legislation by placing duties on local authorities to intervene at earlier stages to prevent homelessness in their areas. It also requires housing authorities to provide homelessness services to all those affected, not just those who have 'priority need'.
- 1.1 Local Authorities have four primary accommodation and assistance duties, these are:
- The Prevention duty (section 195)
 - The Interim accommodation (section 188)
 - The duty to help secure accommodation (section 189B)
 - The Main duty – to secure ongoing accommodation (section 193)
- 1.2 This policy outlines the process through which the Council will offer private sector accommodation to any applicant to whom it owes an accommodation duty under any of the duties listed above
- 1.3 The Council 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 which complies with the relevant suitability orders. It is the Council's policy that it will always look to find suitable private sector accommodation for any applicant in the first instance where this accommodation is suitable.
- 1.4 Statutory regulations require the Council to take several matters into account in determining the suitability of accommodation.

SECTION 2. PURPOSE

- 2.0 Private rented accommodation can be used to prevent or relieve homelessness, or to bring the Main housing duty to an end. This policy covers the use of the offer of a private rented sector tenancy to discharge any homelessness duty towards those households accepted as homeless.
- 2.1 The policy sets out the circumstances under which private rented sector tenancies may be used in discharging any accommodation duty owed to those households accepted as homeless or threatened with homelessness by the Council.
- 2.2 The Council's suitability criteria are set out in this policy.

SECTION 3. SCOPE, DEFINITIONS AND RELATED POLICIES

- 3.1 The policy covers the use of private rented accommodation to prevent or relieve homelessness, or to bring the Main housing duty to an end.

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- 3.2 It covers the utilisation of the powers granted to local authorities by the commencement of the Localism Act 2011 and requirements of the Housing Act 1996 Part VII and the Homelessness Reduction Act 2017.
- 3.3 This policy is supported by the practice guidance, which sets out the information that officers should consider when determining the suitability of a property.
- 3.4 Definitions**
- 3.4.1 Private Rented Sector Offer – is defined by the Localism Act 2011 as an offer of an assured shorthold tenancy made by a private landlord to an applicant. To end the Main Duty, the tenancy must be for a period of at least 12 months. The council must have arranged the availability of the property to discharge its homelessness duty.
- 3.4.2 Homelessness applicant – This is a person who completes an application to be assessed as homeless or threatened with homelessness. This policy refers to a homelessness applicant as ‘the applicant’.
- 3.4.3 Prevention and Relief - The duty on a local housing authority to take reasonable steps to help applicants secure suitable accommodation that remains available or becomes available to them, regardless of whether they are in priority need or not.
- 3.4.4 Suitable Final Offer of Accommodation - Referred to in this policy where an offer of accommodation is made to an applicant under the Relief duty.
- 3.4.5 The Main Duty – This is a duty on local housing authorities to secure accommodation for unintentionally homeless people in priority need. The duty is set out in the Housing Act 1996 Part VII Section 193 and this policy refers to this as ‘the Main duty’.

SECTION 4. POLICY DETAILS

4.1 Overview of the homelessness duties

- 4.1.1 **Assessments and personalised housing plans** - The Council has a duty to carry out an assessment in all cases where an eligible applicant is homeless or threatened with homelessness. Following this assessment, the Council must work with the person to develop a personalised housing plan, which will include actions (or ‘reasonable steps’) to be taken by the Council and the applicant to try and prevent or relieve homelessness. As part of this plan, the Council will outline the steps required to access the private rented sector, this will include the steps that the applicant should take and the steps that it will take. The Council will have regard to the Homeless Code of Guidance 2018 when discharging this duty.
- 4.1.2 **The Prevention duty** - The Council has a duty to take reasonable steps to help prevent any eligible person (regardless of priority need status, intentionality and whether they have a local connection) who is threatened with homelessness from becoming homeless. This means either helping them to stay in their current accommodation or helping them to find a new place to

live before they become homeless. The prevention duty continues for 56 days unless it is brought to an end in another way, for example by an event such as accommodation being secured for the person, or by their becoming homeless. The Council will have regard to the Homeless Code of Guidance 2018 when discharging this duty.

4.1.3 **The Relief duty** - If the applicant is already homeless, or becomes homeless despite activity during the prevention stage, the reasonable steps in the personalised housing plan will be focused on helping the applicant to secure accommodation. This relief duty lasts for 56 days unless ended in another way. If the Council has reason to believe a homeless applicant may be eligible for assistance and have a priority need they must be provided with interim accommodation. The Council will have regard to the Homeless Code of Guidance 2018 when discharging this duty.

4.1.4 **The Main housing duty** - If homelessness is not successfully prevented or relieved, the Council will owe the Main housing duty to applicants who are eligible, have a priority need for accommodation and are not homeless intentionally, unless they have refused a suitable final offer of accommodation or Part VI offer at the Relief stage, or have been issued with a decision that they have deliberately and unreasonably refused to cooperate. Certain categories of household, such as pregnant women, families with children, and households that are homeless due to an emergency such as a fire or flood, have priority need if homeless. Other groups may be assessed as having priority need because they are vulnerable as a result of old age, mental ill health, physical disability, having been in prison or care or as a result of becoming homeless due to domestic abuse.

4.1.5 Under the Main housing duty, housing authorities must ensure that suitable temporary accommodation is available for the applicant and their household until the duty is brought to an end, usually through the offer of a settled home. The duty can also be brought to an end for other reasons, such as the applicant turning down a suitable offer of temporary accommodation or because they are no longer eligible for assistance. A suitable offer of a settled home (whether accepted or refused by the applicant), which would discharge the Main housing duty, includes an offer of a suitable secure or introductory tenancy with a local authority, an offer of accommodation through a private registered provider (also known as a housing association) or the offer of a suitable tenancy for at least 12 months from a private landlord made by arrangement with the local authority.

4.2 Options to Discharge the Council's Homelessness Duties

4.2.1 Central Bedfordshire Council has the following options available to discharge its accommodation duties:

- a) Social housing through a direct let
- b) Social housing via Choice Based Lettings (CBL)
- c) Suitable Private Sector Accommodation

4.2.2 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).

4.3 Private Rented Sector Offers at Prevention, Relief and Main Duty Stage

- 4.3.1 Officers need to be mindful that accommodation that is suitable for a short period, for example accommodation used to discharge an interim duty pending inquiries under section 188, may not necessarily be suitable for a longer period, for example to discharge a duty under section 193(2).
- 4.3.2 Where it is appropriate to do so officers should make a suitable final offer of accommodation at the relief stages under S189B (2) rather than leaving it to the Main Duty.
- 4.3.3 A Private Rented Sector Offer (PRSO) is suitable for all duties except the Main duty if:
- a) It is an assured shorthold tenancy of at least 6 months but not exceeding 12 months,
 - b) It is made with the approval of the Council,
 - c) 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"),
 - d) The suitability criteria are met (see Appendix A),
 - c) The property is not unsuitable (see Appendix B or Appendix C for non-priority need applicants) and,
 - d) The applicant is suitable for the accommodation (see 4.3.5).
 - e) The applicant has the right to request a review on the suitability of the accommodation and of appeal to the county court unless they are not in priority need.
- 4.3.4 A Private Sector Offer (PRSO) is suitable for the Main duty if:
- a) It is an assured shorthold tenancy of at least 12 months,
 - b) It is made with the approval of the Council,
 - c) 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"),
 - d) The suitability criteria are met (see Appendix A),
 - c) The property is not unsuitable (see Appendix B) and
 - d) the applicant is suitable for the accommodation (see 4.3.5).
 - e) The applicant has the right to request a review on the suitability of the accommodation and of appeal to the county court.
- 4.3.5 Officers will consider the following when deciding if to make a PSO:
- a) A PRSO would not be made if the property does not meet the accessibility needs of the household and significant disabled adaptations would be required to make the property suitable. Advice will be sought from Occupational Therapists in terms of the applicant's needs and disabilities.

- b) The Council would not usually make a PRSO if the applicant was previously a social housing tenant and who has fled domestic violence; other violence; or harassment.
- c) The Council would not usually make a PRSO to the following groups of people:
 - If the applicant is unable to meet the affordability criteria.
 - If the applicant requires supported accommodation or unlikely to be able to sustain a private rented tenancy.

4.3.6 The Council is required to assess whether accommodation is suitable for each household individually, and case records should demonstrate that they have taken the statutory requirements into account in securing the accommodation, including general duties such as the Public-Sector Equality Duty.

4.3.7 The Council has a continuing obligation to keep the suitability of accommodation under review, and to respond to any relevant change in circumstances which may affect suitability, until such time as the accommodation duty is brought to an end.

4.4 Making the offer to discharge the homelessness duty

4.4.1 Where possible, the Council will seek to make a suitable PSO during the prevention or relief stage of an application.

4.4.2 Any offer of accommodation made by the Council during the prevention or the relief stage to an any applicant who is in priority need will be for a minimum of 6 months (although 12 months would be aimed for), and will conform to the suitability standards outlined in Article 3 of the Homelessness (Suitability of Accommodation) (England) Order 2012.

4.4.3 Any offer of accommodation made by the Council during the prevention or the relief stage to an any applicant who is not in priority need will be for a minimum of six months, and will have regard to the suitability standards outlined in Article 3 of the Homelessness (Suitability of Accommodation) (England) Order 2012.

4.4.4 Applicants that self-identify a private sector property they wish to move to must seek the approval of the Council that it is a suitable property before entering into a contract. Whilst a property identified by an applicant does not have to conform to the suitability standards, the Council will offer guidance to enable the applicant to consider the standards and will have regard to Article 3 of the Homelessness (Suitability of Accommodation) (England) Order 2012 in determining its suitability. Where an applicant identifies the property, and is helped to secure it, this will not constitute a PSO. Therefore, once the property is secured the application will close and the two-year re-application period (see 4.5) will not apply if the applicant moves to a property not arranged by the Council regardless of whether they would have been owed the Main Duty.

4.4.5 Officers will send a letter to the applicant when making an offer, setting out the following:

- a) the duty under which the offer is being made
- b) possible consequences of refusal or acceptance
- c) the right to request a review of the suitability of accommodation
- d) that the Council is satisfied that the accommodation is suitable
- e) that the Council regards itself as ceasing to be subject to the duty.

4.4.6 During the first year of a PRSO tenancy, the Council will endeavour to provide some level of support to the applicant to help sustain the tenancy, subject to resources available and competing demand for services.

4.4.7 Where an offer of accommodation is made under a prevention duty and the offer is refused, this will not affect any further duties that may be owed to the applicant. However, it may be the case that the same accommodation may then be offered to an applicant as a relief duty where this is appropriate and suitable.

4.4.8 Where a final accommodation offer of a private sector tenancy is made (S189B) to discharge the Relief Duty, the application will close and the main duty will no longer be owed if the applicant refuses the property and a review is not requested. The Council will provide the applicant with reasonable notice to vacate any temporary accommodation.

4.4.9 Where a PRSO is made to discharge the Main Duty, the application will close if the applicant refuses the property and a review is not requested. The Council will provide the applicant with reasonable notice to vacate any temporary accommodation.

4.4.10 What is considered 'reasonable notice' would depend on the facts of the case, taking into account the circumstances of the applicant and allowing time for them to consider whether to request a review of the decision. Usually 28 days' notice will be given but in some cases the length of notice may be shorter or longer than 28 days depending on the circumstances of the case and the need for the accommodation for other homeless applicants.

4.4.11 The Council will notify the receiving local authority where a suitable PSO is in another area. The receiving authority should receive written notification within 14 days (s208 of the Housing Act 1996) of the accommodation becoming available.

4.5 Re-application to a housing authority within two years of acceptance of a private rented sector offer under the Main Duty

4.5.1 The section 193(2) duty will apply regardless of whether the applicant has a priority need where:

- a) a person makes a re-application for assistance within 2 years of accepting a private rented sector offer
- b) the applicant is eligible for assistance and has become homeless unintentionally.

- 4.5.2 The date from which the 2 years begins is the date of acceptance of the private rented sector offer, not the date when the tenancy was granted or when the applicant moved in.
- 4.5.3 If, following the expiry of the initial 12 month assured shorthold tenancy, an applicant secures their own accommodation and then subsequently becomes homeless within 2 years of the original private rented sector offer then the re-application duty will still apply.
- 4.5.4 Given the 2-year re-application duty, the Council will aim to keep the household circumstances under review as they approach the expiry of the 12 month tenancy so they can help actively prevent homelessness wherever possible.
- 4.5.5 If the applicant is found to have become homeless intentionally but does have a priority need, the housing authority must secure short-term accommodation for the applicant under section 190(2)(a) for such period as they consider will give them a reasonable opportunity of securing accommodation.

4.6 Right to review of suitability

- 4.6.1 With an offer of accommodation in the private sector under this policy, applicants will be required to confirm their decision whether or not they will accept the offer within a reasonable period of time, usually at the viewing. Where an applicant is in priority need, they will also be advised of their right to request a review of the suitability of the offer of accommodation. There is no right of review on suitability grounds for an applicant that is not in priority need.
- 4.6.2 An applicant in priority need can request a review of the decision that a property is suitable and that the duty owed to them under the homeless legislation is discharged within 21 days of being notified of the decision. An applicant can accept the accommodation offer and still request a review. Review requests received later than this will only be accepted in exceptional circumstances.
- 4.6.3 Once a review request is received, the Council will write to the applicant to acknowledge receipt of the request. Regulation 9 of The Homelessness (Review Procedure etc) Regulations 2018 provides information on the period within which the applicant (or the applicant's authorised agent) must be notified of the decision on a review.
- 4.6.4 The review will be carried out by a senior officer who was not involved in the original decision or by an independent reviews service commissioned by the Council for this purpose.
- 4.6.5 The review may be unsuccessful (that is, the original decision is upheld) or successful in which case the original decision is amended. The Council will write to the applicant to advise of the decision. The letter will be sent to their address and where this is not known, a copy will be available for collection at the Council's offices. The decision letter will give reasons for any findings. It will also set out the limited right of appeal to the County Court.

SECTION 5. LEGAL AND REGULATORY FRAMEWORK

Legislation

- [Housing Act 1996 Part VII](#) - Duties on local authorities to assist people who are homeless.
- [Homelessness Act 2002](#) – An Act outlining the functions of local housing authorities relating to homelessness and the allocation of housing.
- [The Homelessness \(Priority Need for Accommodation\) Order 2002](#) provided updated information on priority need groups.
- [Housing Act 2004](#) – Provided details on housing conditions and the regulation of Houses in Multiple Occupation, among other housing issues.
- [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.
- [The Homelessness Reduction Act 2017](#) - Updates the Housing Act 1996 Part VII and places additional duties on local authorities to prevent and relieve homelessness.
- The Homelessness (Review Procedure etc) Regulations 2018
- [The Equality Act 2010](#) - Places a general duty on all public bodies to have due regard to eliminate discrimination, advance equality of opportunity and foster good relations between different people.

Regulations

- The Homelessness (Suitability of Accommodation) Order 1996 (SI 1996/3204).
- The Homelessness (Suitability of Accommodation) (England) Order 2012 (SI 2012/2601).
- *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.
- [Article 3 of the Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#) concerns the suitability of privately rented accommodation offered to certain applicants who are homeless or threatened with homelessness.
- [The Homelessness Code of Guidance for Local Authorities \(2018\)](#) Local housing and social services authorities must have regard to this guidance when exercising their functions relating to people who are homeless or at risk of homelessness.

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, 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/Section 193 Offer

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 have special educational needs, i.e. as identified in an Education, Health and Care Plan or attend a special school, or are undertaking GCSEs or A levels at school (Years 10 to 13), 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 it will be 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. PRSO 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, normally an area in close proximity to Central Bedfordshire. This location must have reasonable facilities and transport links.
- 4.3 A record will be made of how a decision to place an applicant out of district has been reached, taking into account the household's collective and individual needs.

Appendix B

Accommodation unsuitable for a Private Rental Sector Offer – Priority Need

The Council will give due regard to Homelessness Code of Guidance 2018 Chapter 17 - Suitability of Accommodation when considering whether a property is unsuitable for a PRSO. Suitable size of a property according to the family make up is set out in the Allocations Policy. Supplementary to this, Central Bedfordshire Council will also use the following criteria to consider whether a property is unsuitable:

No.	Unsuitability criteria	Evidence
1	The accommodation is not in a reasonable physical condition .	<p>Central Bedfordshire Council officers will either:</p> <ul style="list-style-type: none">• physically inspect all PSO accommodation before it is offered; or• require a letting agent to physically inspect a property (usually requiring that agent to be a member of a suitable trade body); or• request another local authority or agent to undertake an inspection on its behalf (usually for out-of-area property). <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	Electrical equipment does not meet the requirements of Schedule 1 of the Electrical Equipment (Safety) Regs 2016.	<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 fire safety precautions with the accommodation and any furnishings supplied with it	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. 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).
4	The landlord has not taken reasonable precautions to prevent carbon monoxide poisoning	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. Landlords should provide a Gas Safe certificate for gas fires.
5	That there is not a current gas safety record 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 Energy Performance Certificate (EPC) . That the EPC states the rating is below an E (i.e. it is an EPC rating of F or G).	All landlords/ agents should supply a valid EPC Certificate for the property, which shows that the energy efficiency rating for the property is E or above.
7	Where the local housing authority are of the view that the landlord is not a fit and proper person 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. When placing applicants outside of CBC area officers will liaise with the receiving district to check whether that authority has taken any enforcement activity against the landlord.
8	That the accommodation is a House in Multiple Occupation or HMO (inc subject to additional licensing) and is not licensed.	HMO properties will not usually be used for PSO's. Where they are, Private Sector Housing Officers 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 written tenancy agreement that the local	The Council offers a model Assured Shorthold Tenancy (AST) agreement for landlords to use. Where this is not used, officers will ensure that an acceptable, written AST is used, clearly setting out

	authority considers adequate.	the tenant's and landlord's obligations, rent and charges, and is free from any unfair or unreasonable terms. Officers will also inform landlords of the requirements to use Tenancy Deposit Schemes prior to sign-ups.
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Appendix C - Accommodation unsuitable for a PRSO – Where there is no priority need or where the accommodation was identified by the applicant

- 1.0 The requirements above (Appendix B) do not apply to accommodation secured for households that do not have priority need, or to accommodation that the authority helped the applicant to secure (for example through a bond guarantee or financial assistance) but which the applicant identified themselves. However, the Council will have regard to the requirements when considering accommodation for these groups.
- 1.1 The Council will make reasonable efforts to ensure private rented accommodation secured for applicants who do not have priority need is safe, and in reasonable condition; and that all applicants looking for their own accommodation have sufficient guidance to enable them to consider standards by having regard to the standards in Appendix B when considering whether the accommodation is unsuitable. Where a property may have been considered unsuitable under one of the criteria in Appendix B but it is considered suitable by the applicant for their needs, it will be clearly recorded in the case file along with the reason why the property was deemed to be suitable by the applicant.
- All applicants will be given a copy of How to rent: The checklist for renting in England.
 - Applicants will also be provided with a locally produced information leaflet providing advice that aligns with Appendix B.