



Private Rented Sector Offer Policy

June 2017

1. Introduction

- 1.1 The Housing Act 1996, as amended by the Homelessness Act 2002, enables local authorities to discharge their homeless duties for households who are eligible for assistance, homeless or threatened with homelessness, in priority need and not intentionally homeless into accommodation in the private rented sector by means of a qualifying offer. This qualifying offer must have been agreed by the applicant before the local authority can discharge the homeless duty.
- 1.2 The Localism Act 2011 amended the Housing Act 1996 to provide a power to local authorities that now allows suitable private rented sector offers to be used to discharge a homeless duty without the applicant's agreement. Any qualifying offer of accommodation should include an Assured Shorthold Tenancy for a minimum of a 12 month period.
- 1.3 The local authority is required to consider a number of factors when assessing the suitability of a prospective private rented sector offer. The private rented sector offer must be made in writing and the consequences of refusing or accepting this offer must be made clear to the applicant. It should also be clear that there is a right of review on the grounds of the suitability of the accommodation being offered.
- 1.4 Where the local authority seeks to end the homeless duty through a private rented sector offer and the applicant becomes unintentionally homeless within two years of accepting the offer, the local authority is obligated to accept a homeless duty to the applicant regardless of whether they are considered as having a priority need.
- 1.5 These changes to the Housing Act 1996 formed part of the Government's wider social housing reforms. They seek to give greater freedom to local authorities to make better use of the private rented sector and reduce the demand currently placed on the social housing stock. The Government concluded that allowing applicants owed a homeless duty to refuse offers of suitable accommodation in the private rented sector and wait for an offer of social housing was unfair to other applicants on local authority housing registers.
- 1.6 There was also an expectation from Government that these changes would reduce the use of expensive temporary accommodation for homeless applicants.

2. Policy Aims

- 2.1 Across Surrey Heath the demand for affordable housing is high. The demand for social housing continues to outweigh supply and consequently the use of the private rented sector provides an alternative solution for many households.
- 2.2 This Policy aims to maximise opportunities in the local housing stock, reduce the use of bed and breakfast and end the assumption that the making of a homeless application to the Council will result in an offer of social housing.
- 2.3 This Policy sets out the circumstances under which a private rented sector offer will be made and the assessment process that will be undertaken ahead of any prospective qualifying offer.
- 2.4 The Policy also sets out how the qualifying offer can be challenged if the applicant feels that it is unsuitable for their needs.

3. Qualifying Offers

- 3.1 All cases where a homeless application has resulted in a full homeless duty being owed will be considered under this Policy. A decision will be made to establish whether a private rented sector qualifying offer is appropriate.
- 3.2 Each applicant's circumstances will be given full consideration. Once the Council is satisfied that it is appropriate to make a qualifying offer the applicant will be notified of the offer in writing.
- 3.3 Only one Private Rented Sector Offer of a suitable private sector tenancy will be made.
- 3.4 It is noted that a private rented sector offer will not be appropriate for all homeless applicants and the Council will consider any particular vulnerability that could jeopardise the sustainability of a tenancy in the private rented sector during the assessment process.

4. Criteria for Private Rented Sector Discharge

- 4.1 A fixed term Assured Shorthold Tenancy for a minimum term of 12 months must be available. The tenancy must be for a minimum of 12 months even if both the applicant and the Council agree to the qualifying offer.
- 4.2 The Council must have been involved in the process of securing the tenancy or liaising with landlord / Letting Agent ahead of the tenancy going ahead for the homeless duty to be discharged under this power.

- 4.3 The qualifying private rented sector offer must be suitable in terms of location, condition, affordability and management in the view of the Council.
- 4.4 The applicant has the right to request a review on the suitability of the accommodation, and later challenge in the County Court if necessary.

5. The Offer Process

- 5.1 Once a suitable property has been identified the full Private Rented Sector Offer will be issued to the applicant in writing. The offer will consist of an Assured Shorthold Tenancy for the appropriate term with a private landlord. The notification in writing will also explain the consequences of accepting or refusing the offer and will include the process for requesting a review of the decision.
- 5.2 The offer letter will include: the address of the property, the size and type of property, the monthly rent and any other service charges, details of any upfront costs, details of any financial assistance to be offered by the Council and any distinguishing features (e.g. disabled adaptations).
- 5.3 Applicants will be offered the opportunity to view the property and where practicable will be accompanied by the Council's Lettings Negotiator or other member of the Housing Options Team.
- 5.4 The qualifying offer may also include financial assistance from the Council's Rent Choice Scheme and this will be clearly detailed in the offer.
- 5.5 Once a private rented sector offer has been accepted the local authority will liaise with both the landlord / Letting Agent and applicant to agree a tenancy start date.
- 5.6 If the offer is refused and it is deemed suitable the Council will discharge the homeless duty and end the temporary accommodation.
- 5.7 The private rented sector offer is considered to have been refused in any of the following ways:
- i. The applicant notifies the Council they are refusing the offer:
 - ii. The applicant fails to accept, refuse or respond to the offer within 3 working days of the date of the qualifying offer being made;
 - iii. The applicant fails to sign the Assured Shorthold Tenancy agreement; or,
 - iv. The applicant fails to move into the property on the date agreed by all parties.

6. Suitability

6.1 The Government introduced a new Homelessness (Suitability of Accommodation) (England) Order in 2012 for private rented sector offers. Any private rented sector offer will be assessed in line with this order and matched to an individual household.

6.2 This order requires that a property must be in a reasonable physical condition and fulfil the following:

- Electrical and fire safety regulations. This will include operational smoke alarms and carbon monoxide detectors.
- Gas safety regulations (a current gas safety certificate must be available where there is a gas supply).
- Energy Performance requirements (an up-to-date Energy Performance Certificate must be available).
- HMO licensing regulations (where applicable).

6.3 The above checks will be carried out by the Council before a qualifying offer is made and relevant certificates obtained prior to the tenancy start date.

6.4 The property will also be free of any Category 1 hazards as defined in the Health and Safety Rating System.

6.5 Applicants will be encouraged to view the property ahead of the tenancy start date to identify any concerns they may have with the condition of the property. This will enable the Council and the landlord / Letting Agent to establish how these can be resolved.

6.6 The Council will consider the size of the property when making an offer of accommodation in the private rented sector. The local authority will ensure that the property is not considered as statutory overcrowded in line with Part X of the Housing Act 2004.

6.7 An assessment of the applicant's circumstances and those of any other household members will also be considered as part of the assessment to determine suitability of a prospective offer.

6.8 An offer will only be made if the accommodation is considered as affordable for the applicant. The full cost of the rent will be taken into consideration along with any other expenditure reasonably related to the property. An applicant's income will be assessed in the same way regardless of whether they are in receipt of Welfare Benefits or in employment.

- 6.9 Individual household outgoings will be considered and essential items such as food, clothing and the facility to heat the property will be factored into any affordability assessment. The Council will also consider any other outgoings reasonably considered as a priority household expense, plus other reasonable living expenses (e.g. transportation costs).
- 6.10 The applicant may be required to make adjustments to their household budget in respect of non-essential or unreasonable expenditure in order to make the accommodation affordable. Budgeting advice will be made available.
- 6.11 The Council will seek to offer private rented sector accommodation within the Borough wherever possible.
- 6.12 There may be occasions when it is considered as beneficial to move an applicant outside of the Borough (for example to reduce the risk of domestic abuse). These cases will be dealt with on an individual basis and the applicant's safety will be considered as a priority.
- 6.13 When a suitable offer of accommodation cannot be identified in the Borough but can be identified in a nearby location, this will be considered in line with the Homelessness Suitability of Accommodation Order 2012. Properties identified outside of the Borough may be used to further relieve the pressure on the local housing market.
- 6.14 The significance of any disruption caused by location to employment, education and caring responsibilities will be considered before any qualifying offer is made. This will include reasonable travel periods and the transportation links.
- 6.15 Access to medical care will also be considered in the suitability assessment. Consideration will be given to whether the applicant or any household member requires specialist medical treatment and the proximity of the identified property to these facilities. The same assessment will also be carried out for other support services.
- 6.16 The proximity to local services and amenities (shops, GP surgery, etc.) will also be considered and the Council will seek to only make a qualifying offer that is reasonably accessible to local services and amenities considering the applicant's circumstances.
- 6.17 Medical factors will also be considered when determining whether the type of property available is suitable for an applicant. If necessary information will be

obtained from medical professionals to establish the needs of the applicant and how these can be met.

6.18 In order to ensure sound management practice a template Assured Shorthold Tenancy agreement will also be available for landlord / Letting Agents to use. This will set out both the tenant and landlord obligations, rent charge and will be free from any unfair or unreasonable terms.

7. Property Size Exceptions

7.1 Where an additional bedroom may be required for exceptional circumstances, the Council will make an assessment to determine whether this can be accommodated. These exceptional circumstances will be limited to:

- Medical conditions or disabilities caused or made worse by sharing a bedroom or not having an additional bedroom (evidence will be required).
- The need for a live in carer which has been evidenced by appropriate professional agencies.

7.2 When considering an additional bedroom for one of the above factors the Council will also consider any supporting evidence from appropriate agencies, the financial impact of a larger property on the household and what other solutions can be identified for the applicant. Where Local Housing Allowance will be claimed the Housing Benefit Team will also be consulted.

8. Reviews

8.1 Applicants will be advised of their right to request a review on the suitability of the private rented sector offer. Applicants will also be advised of external advice services that can approach for assistance.

8.2 The review request must be submitted within 21 days of the Council notifying the applicant that a qualifying offer has been made that is considered as suitable and that the homeless duty has been discharged.

8.3 The applicant can move into the property and still request a review of it's suitability.

8.4 Review requests must be made in writing to the Council and should clearly detail why the applicant believes the offer is not suitable.

- 8.5 Once a review has been received the Council will acknowledge the review and will agree to complete the review within 56 days of receiving the applicant's original review request (unless a longer period is agreed by all parties).
- 8.6 The review will be carried out by an officer more senior to the original decision maker and someone who has not been involved in the decision to that point.
- 8.7 The review will have two possible outcomes: the review officer concludes the original decision was right and upholds the suitability of the offer, or decides the offer was not of suitable accommodation.
- 8.8 Once the review has been completed the Council will notify the applicant of the outcome in writing. This will include details on how the decision was reached and, should the review be upheld, the further appeal process in the County Court.
- 8.9 If the decision is upheld there will be no further duty to provide temporary accommodation and notice will be served. The applicant will be advised on how to challenge the decision through the County Court and where to seek advice on doing this as well as being given ongoing advice to help them in their endeavours to secure their own accommodation.
- 8.10 If the decision is upheld and the applicant has moved into the accommodation the tenancy will continue in discharge of the Council's duty.
- 8.11 If the reviewing officer agrees that the offer was not of suitable housing then temporary accommodation will continue until such time as suitable accommodation is offered or the duty otherwise comes to an end.
- 8.12 If the applicant has moved into the property and is successful on review then either (1) the accommodation will be classed as temporary accommodation with the applicant's consent or (2) another offer of temporary accommodation will be made.

9. Accommodation Pending Review

- 9.1 The Council does not have a duty to provide temporary accommodation during the review process and will only do so in exceptional circumstances.
- 9.2 Applicants will be encouraged to accept the tenancy whilst the review is being considered. This ensures that the applicant will have somewhere to stay during the review process and they will also be able to remain in the property if they are unsuccessful with their review.

10. Ongoing Action

- 10.1 If a qualifying offer is made outside of Surrey Heath and it is accepted by the applicant, the Council will notify the relevant local authority of the placement in their area. This will be particularly important when identifying who holds any future responsibility to the applicant should they become homeless within two years of the tenancy commencing.
- 10.2 The Council will ensure that all tenancies accepted as qualifying offers are kept under review for the duration of the tenancy.
- 10.3 Where financial assistance has been provided by the Rent Choice Scheme as part of the qualifying offer, follow up work will be completed by the Lettings Negotiator to ensure that the tenancy is sustainable and both landlord and tenant fulfil their obligations.
- 10.4 Where the Council considers the applicant would benefit from some help in setting up their home and maintaining the tenancy a referral will be made to floating support. Other relevant referrals will also be made, for example to money advice or furniture stores.

11. Dealing with Repeat Applications

- 11.1 If within two years of accepting a qualifying offer an applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the Council is satisfied that they are eligible for assistance, homeless or threatened with homelessness and are not intentionally homeless, then a new duty to secure further accommodation will arise.
- 11.2 Applicants deemed to be intentionally homeless from the qualifying offer do not qualify for further assistance and will be issued with the appropriate decision informing them of this outcome.

12. Reviewing the Policy

- 12.1 The Policy will be monitored and reviewed to ensure effectiveness. If any changes are required these will be made as and when necessary. The Policy will also be reviewed in line with any relevant legislative changes or guidance issued.