

Private Rented Sector Offer (PRSO) Policy

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Portfolio: Communities and Housing

Ward(s) Affected: All Wards

Purpose of the Report:

To provide an overview of how statutory homeless duties can be discharged by the Council through offers of accommodation.

Recommendations:

1. That Cabinet recommends to Council that our policy on the fair use of Private Rented Sector Offers be adopted.

1. Summary

- 1.1. The Council owes a statutory duty to provide accommodation to residents that it accepts a homeless relief duty or main housing duty to.
- 1.2. A homeless relief duty is owed where the Council are satisfied that a customer is eligible for housing assistance and is homeless.
- 1.3. A main housing duty may be owed where the Council is unsuccessful in helping a customer relieve their homelessness and (after 56 days in a homeless relief duty) the customer is assessed as being eligible for housing assistance, homeless, vulnerable, and as having not made themselves intentionally homeless.
- 1.4. There are several ways that homeless duties may come to an end, but this report focuses on the Council's position where homeless relief duties and main housing duties will be ended by offers of accommodation.

2. Background (legislative requirements)

- 2.1. The Council may be required to make both temporary and final offers of accommodation in carrying out or ending its duties under homelessness legislation. Whenever an offer of accommodation is made it will be clear whether the offer is intended to be temporary accommodation or not.
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- 2.2. The Council has a separate statement on offers of temporary accommodation, this document will focus on final offers of accommodation to end homeless duties.
- 2.3. Where the Council have accepted a main housing duty to a customer, we are likely to have to provide temporary accommodation until long-term accommodation can be found.
- 2.4. Any offers made to comply with this ongoing duty will have to be suitable (and suitability is defined in legislation and caselaw) but if a customer refuses a suitable offer of temporary accommodation at the point a main housing duty is accepted, the duty that the Council owes may end.
- 2.5. Different homeless duties owed and differences in the personal circumstances of our customers may require different offers of accommodation to discharge our statutory duties lawfully.

2.6. Requirements:

To end a homeless relief duty through an offer of accommodation the Council may make:

- A final part 6 offer of social housing,

- A final offer of a six-month assured shorthold tenancy, or
- An offer of suitable housing for six months

To end a main housing duty through an offer of accommodation the Council may make:

- A final part 6 offer of social housing,
- A private rented sector offer (PRSO)

2.7. Definitions:

2.8. Final Part 6 Offer of Social Housing

The Council's Allocations scheme operates a limited offers policy, for customers owed homeless duties this is a single offer of suitable accommodation, either through bidding or by direct nomination.

Where an offer of accommodation through our allocation scheme is made on the basis that acceptance or refusal can end duties under homelessness legislation, it is known as a 'final offer under part 6' or a 'final part 6 offer'.

A final part 6 offer can be made to end both a homeless relief duty and a main housing duty.

A final part 6 offer will be made in writing and will make clear that it is a final offer for the purposes of ending the duty owed. The offer will be of accommodation that the Council consider to be suitable for the customer and this assessment will be made on an individual basis.

1.6 Final Accommodation Offer of a Six Month Assured Shorthold Tenancy

A final accommodation offer is an offer of an assured shorthold tenancy with a private landlord which has a fixed term of six months or more.

The Council may make a final accommodation offer to end a homeless relief duty but not a main housing duty (except where the Council have given notice that a customer has deliberately and unreasonably refused to cooperate under the homeless legislation).

A final accommodation offer can only be made where the Council are satisfied that the accommodation is suitable but, where a customer is assessed as having a priority need for accommodation, an enhanced level of suitability applies to final accommodation offers.

1.7 Enhanced Suitability Assessment

The Council will always meet the general requirements relating to housing standards when deciding if accommodation is suitable for a customer. Where the enhanced standards apply, we must also be satisfied that:

- the accommodation is in a reasonable physical condition.

- any electrical equipment provided complies with electrical safety regulations.
- reasonable precautions to ensure fire safety and avoid carbon monoxide poisoning have been taken.
- there is a current gas safety record (if applicable).
- there is a valid energy performance certificate.
- if the accommodation is a house in multiple occupation (HMO), it is duly licensed.
- the tenancy agreement to be used for the let is adequate.
- the landlord is a 'fit and proper person'.

Accommodation identified independently and where a customer has been given help to secure it, for example with a rent advance or deposit scheme (RADS) assistance, does not require the enhanced suitability assessment but the Council remains committed to ensuring good quality accommodation outcomes for all our customers and an offer of RADS will not be made where the Council does not consider the property identified to be suitable.

1.8 An offer of suitable housing for six months

The Council may end a homeless relief (or homeless prevention) duty it owes with an offer of suitable accommodation, where there is a reasonable prospect of that accommodation being available for at least six months. Where possible, and particularly where a household includes dependent children, the Council will try to ensure that the accommodation is likely to be available for at least 12 months. Any offer made must be suitable and as with final offers of accommodation in the private sector the enhanced suitability test will apply where a customer or household member has a priority need for accommodation.

3. Current positions/findings

- 3.1. In the past 12 months the Council has accepted 321 homeless relief duty.
- 3.2. In the past 12 months the Council has accepted 136 Main housing duties.
- 3.3. The Council needs, but does not currently have, a published statement on the use of Private Rented Sector Offers for when it discharges homeless duties to homeless customers by making an offer of accommodation in the private rented sector.
- 3.4. This is important in ensuring that our offers are fair, the decision making behind the offers is transparent, that we meet (or exceed) all legislative requirements. It is also important in ensuring that customers (and those supporting them) understand the service they should receive from the Council.

4. Proposed action

- 4.1. We propose that the Private Rented Sector Offer policy in Appendix 1 be adopted by the Council.

5. Other options

- 5.1. The Council should have an appropriate toolkit of options available to make suitable offers of accommodation to homeless customers that it owes rehousing duties to. Reliance exclusively on social housing to meet accommodation duties will mean that time spent by customers in temporary accommodation may be longer than it need be and does not allow the Council to provide a holistic and flexible range of options to customers.
- 5.2. The Council must have a published statement on Private Rented Sector Offers to make such offers. It is essential that customers know how the decisions behind these offers are made and what they can expect in terms of service quality from the Council.
- 5.3. The Council has the option to not use Private Rented Sector Offers to end homeless duties but doing so does limit the range of assistance we can offer to our customers and the efficiency with which we can meet our legal duties.

6. Issues and risks

- 6.1. **Resource Implications** – One potential impact for resources is that temporary accommodation use, and therefore costs, will be reduced as the Council is able to better utilise the private rented sector (in addition to the social rented sector) to meet the duties it owes customers.
- 6.2. There could be a greater number of suitability review requests, but this is by no means certain as customers currently have the right to request a review of suitability in all final offers of accommodation. The Housing and Benefits team have the knowledge and expertise to expertly undertake any suitability reviews and are resourced to do this.
- 6.3. **Legal Implications** – Private Rented Sector Offers have been common across the sector since their inception in the Localism Act 2011. The policy proposed meets (or exceeds) all legal requirements.
- 6.4. **Equality Implications** – Every offer of accommodation the Council makes to discharge a statutory homeless decision is dependent on Public Sector Equality Act considerations. These must be applied with rigour and specifically to each individual customer.
- 6.5. **Environmental Impact** – No impact.
- 6.6. **Crime and Disorder** – the proposals could potentially impact on crime and disorder where it enables a move out of district, where it may be beneficial to

move a customer out of the area. This could include reducing the risk of domestic abuse, other violence or harassment, or to assist a customer to break away from a detrimental situation, such as drug or alcohol abuse or County Lines issues.

6.7. **Risks** – There are no other risks associated with these proposals.

7. Conclusion

7.1. Adopting the policy on the fair use of Private Rented Sector Offers is an important step in strengthening and broadening the options our officers have to discharge our homeless duties efficiently and fairly. It provides additional means of identifying suitable properties for homeless customers, but in no way diminishes or curtails our current offer.

8. Recommendations

8.1 That Cabinet recommends to Council that our policy on the fair use of Private Rented Sector Offers be adopted.

Background papers

None

Appendix 1.

Private Rented Sector Offer (PRSO) Policy

There is considerably higher demand for housing in the district than there are available social homes. The level of demand on our limited social housing stock means that not all homeless applicants will be able to access housing within the social housing sector. In addition to this, not all homeless customers will qualify to join our housing register. The private rented sector has an important role to play in providing good quality accommodation to those who are homeless and does provide choice and flexibility to meet customer's needs.

The Council will make the best use of both the social and private rented sectors to meet the needs of customers approaching us for assistance with housing, to prevent or relieve homelessness, to end homeless duties and to reduce the need to use temporary accommodation.

Effective use of the private rented sector is important in widening the choice of housing solutions available to homeless customers, enabling customers to find appropriate housing quickly, reducing reliance and pressure on temporary accommodation (including reducing Bed and Breakfast use) and ensuring outcomes which relieve pressure on the housing register.

Private Rented Sector Offers may be used by the Council to end main housing duties.

A private rented sector offer (PRSO) is an offer of a fixed term assured shorthold tenancy of at least 12 months, offered by a private landlord and arranged by a local authority to end its main housing duty.

Any offer we make will be in writing, informing the customer of the consequences of refusal or acceptance of the offer and their right to request a review of the suitability of the accommodation being offered. There are also special rules which come into effect if a customer reappplies as homeless within two years of accepting a PRSO.

Where an applicant accepts a Private Rented Sector Offer and applies as homeless again within two years from acceptance, special rules apply with respect to priority need.

Under section 195A(1) (re-application after private rented sector offer), the section 193(2) duty will apply regardless of whether the applicant has a priority need where:

- a person makes a re-application for assistance within 2 years of accepting a private rented sector offer under section 193(7AA) and,
- the applicant is eligible for assistance and has become homeless unintentionally.

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 customer moved in. If, following the expiry of the initial 12 month assured shorthold tenancy, a customer 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. The reapplication must be made by the original homeless applicant and not another member of their household and will not be owed where a Private Rented Sector Offer is made in a 'restricted case' (please see below).

As part of the notification of the special rules, the Council will also inform the customer that they will be treated as homeless from the date a valid section 21 notice expires if they reapply within two years.

Suitability

Any offer made will be of suitable accommodation and will be subject to an enhanced level of suitability assessment. It will also be offered with a start date that allows the customer to end any liabilities with respect to current accommodation. To meet the enhanced level of suitability requirements, the Council must meet the same suitability test as it must in the final offer of a six-month assured shorthold tenancy for those customers with a priority need.

The Council will always meet the general requirements relating to housing standards when deciding if accommodation is suitable for a customer but in making a Private Rented Sector Offer, we must also be satisfied that:

- the accommodation is in a reasonable physical condition.
- any electrical equipment provided complies with electrical safety regulations.
- reasonable precautions to ensure fire safety and avoid carbon monoxide poisoning have been taken.
- there is a current gas safety record (if applicable).
- there is a valid energy performance certificate.
- if the accommodation is a house in multiple occupation (HMO), it is duly licensed.
- the tenancy agreement to be used for the let is adequate.
- the landlord is a 'fit and proper person'.

In considering the individual circumstances of each household, we may not consider a PRSO to be appropriate if a customer requires supported accommodation or is unlikely to be able to sustain a private rented tenancy, or if a member of the household requires significant adaptations to make the property suitable.

Location

Where possible and where it is reasonably practical to do so the Council will seek to offer private rented sector accommodation within our district. There may be exceptions to this, for instance in cases where the Council considers it beneficial to move a customer out of the area. Reasons for this might include reducing the risk of domestic abuse, other violence or harassment, or to assist a customer to break away from a detrimental situation, such as drug or alcohol abuse. It may also include where support and specialist

services are available outside of our district or where a customer wishes to move away from our area, including where they have found the accommodation themselves.

The Council may make an offer of accommodation outside of our district where there is no suitable accommodation within our area or where it is not reasonably practicable to accommodate within our district within a reasonable timeframe.

The Council has a buoyant private sector accommodation market, but the private sector produces limited properties with rents at or around the Local Housing Allowance rate. There can be other significant barriers to securing private rented accommodation, including a relatively high demand for most property types which come available and considerable competition for available properties. These factors may also mean that there will be occasions where it is appropriate to make an out of district accommodation offer.

If an offer of accommodation is made outside of our district, a thorough assessment of suitability will be undertaken before any offer is made. The Council will consider the significance of any disruption caused by the location to employment, caring responsibilities, and education. The distance the property is from our district will also be a relevant consideration.

If a customer is in employment, then the location will be within a reasonable distance for them to travel to the area of that employment and have transport links frequent enough to enable this if the customer does not have their own transport.

If the customer is verified as a carer for another person, who cannot readily withdraw this care without serious detriment to the wellbeing of the other party, then the location will need to be of sufficient proximity to enable this, though this may require reliance on public transport.

If any members of the household are undertaking GCSEs at school (Years 10 & 11), or other proven vital examination, then they should not be required to change schools. If any members of the household have special educational needs that are currently being met and could not be met in a mainstream school, then they should also not be required to move school.

The proximity to and accessibility of medical facilities and other support which are used by or essential to the wellbeing of the household will also be considered. If the applicant or any member of the household requires specialist medical treatment or support, which can only be provided in our district, then the location will need to be of sufficient proximity to enable this, although this may require public transport use. The Council will also have regard to other medical treatment or support required by a customer or any member of the household, and where health professionals' evidence that it will be significantly detrimental to change provider or location.

Affordability will be considered in all cases and the Council will consider whether a customer can afford their housing costs without being deprived of basic essentials such as food, clothing, heating, transport and other essentials specific to their circumstances. Housing costs will not be regarded as affordable if a customer would be left with a residual income that is insufficient to meet these essential needs.

The Council will consider any other relevant factors when considering the suitability of any Private Rented Sector Offer.

Reviews

A customer will be able to request a review where a Private Rented Sector Offer is made, and they disagree with the Council's assessment of suitability. This review should be made within 21 days of being notified of our decision. Where a review request is made and the Council concludes that the Private Rented Sector Offer is suitable, we will consider our homeless duty to be discharged and no further offer of accommodation will be made. Where a customer has accepted and moved into the property, this will remain available to them, but where a property has been refused and a review finds that the offer was suitable, no further offer of housing will be made, and the applicant will be responsible for securing their own housing.

'Restricted cases'

If the Council owes a customer the main housing duty, there are specific rules about discharging that duty where they are homeless or in priority need because of an ineligible person. A person may be ineligible for housing assistance if for instance, they do not have leave to enter or remain in the UK or if their leave to enter or remain in the UK is subject to a no recourse to public funds condition. Where an eligible applicant is homeless or in priority need because of an ineligible person and the main housing duty is owed, this is called a 'restricted case' and the ineligible person is known a 'restricted person'.

In a restricted case the Council must end the duty with a private rented sector offer so far as is reasonably practicable. The two-year reapplication after a private rented sector offer duty will not apply in restricted cases.