

Bromsgrove District Council

Discharging the Homelessness Duty in the Private Rented Sector Policy

1. Statement of Intent

- 1.1 In Bromsgrove District the demand for social rented accommodation considerably outstrips supply.
- 1.2 Bromsgrove Council has various duties under homelessness legislation (Part 7 of the Housing Act 1996). The main homelessness duty requires the Council to secure accommodation for households who are homeless through no fault of their own; are eligible for assistance; and in 'priority need' eg families with dependent children and those who are vulnerable for some reason. In addition, the local authority may also make enquiries under s.184(2) to decide whether the applicant has a local connection to the District or whether the applicant or any person who might reasonably be expected to reside with them would be at risk of violence in the area where a local connection exists. In addition a local connection is applied to those who are currently serving in the regular forces or who were serving in the regular forces at any time in the five years preceding their application and bereaved spouses or civil partners of those serving in the regular forces where (i) the bereaved spouse or civil partner has recently ceased, or will cease to be entitled, to reside in Ministry of Defence accommodation following the death of their service spouse or civil partner, and (ii) the death was wholly or partly attributable to their service; and existing or former members of the reserve forces who are suffering from a serious injury, illness, or disability which is wholly or partly attributable to their service
- 1.3 Whilst the Housing Act 1996 as amended by the Homelessness Act 2002 allows authorities to Discharge the Homelessness Duty in a variety of ways, the Localism Act contains measures to allow local authorities to Discharge the main homelessness duty with an offer of suitable private rented accommodation, with a minimum 12 month assured shorthold tenancy, without requiring the applicant's consent.
- 1.4 The opportunity to Discharge the Homelessness Duty into the Private Rented Sector without consent is a voluntary power and the Council will continue to place households in social housing. However, the lack of social housing in Bromsgrove District means that the Private Rented Sector will enable the Council to meet the housing requirements of homeless households more easily.
- 1.5 Therefore, the Council intends to utilise the private rented sector where appropriate in order to meet the full homelessness duty where it is considered appropriate to do so and the property is 'suitable'.
- 1.6 Where a full re-housing Duty has been accepted, homeless households will be advised that they may have the Duty Discharged through one offer in the Private Rented Sector. This will not apply to homeless applicants where applications were taken prior to the 9th November 2012. Homeless applicants will still retain reasonable preference on the Council's Home Choice Plus, Choice Based Lettings scheme until the Duty is Discharged.

2. Legislative Framework

- 2.1 This policy will be applied within the constraints of current and future legislation to include:
- Localism Act 2011
 - Homelessness (Suitability of Accommodation) (England) Order 2012.
 - Part VI Housing Act 1996
 - Part VII Housing Act 1996
 - Homelessness Act 2002
 - Allocation of Accommodation: Guidance for local authorities in England
 - Homelessness Code of Guidance
 - Housing Act 2004
 - Equality Act 2010
 - Human Rights Act 1998
 - Articles 6 & 8 of the European Convention on Human Rights
 - Allocation of Housing and Homelessness (Review Procedures) Regulations 1999
 - The Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012
 - Any subsequent relevant legislation

3. Objectives

- 3.1 Greater use of the Private Rented Sector will assist the Council in its Duty to secure accommodation for households who are homeless through no fault of their own; are eligible for assistance and in 'priority need'.
- 3.2 The use of the Private Rented Sector may prevent homeless households spending lengthy periods in temporary accommodation including hostel or B&B accommodation and may minimise expensive costs associated with B&B accommodation.
- 3.3 The Council will proactively engage with Private landlords to encourage them to work in partnership with the Council and offer homeless households suitable accommodation with the required minimum 12 month tenancies.
- 3.4 Officers will inspect all Private Rented Sector properties to be used to Discharge the Homelessness Duty against the Suitability Order before making an offer and will support landlords to provide tenancy agreements and understand their responsibilities.

4.0 Selecting Households for Properties

- 4.1 Households will be prioritised for 'suitable' properties which become available in the Private Rented sector based on the date that the Homeless Duty is accepted, unless the property is adapted and the adaptations meet the needs of particular household or there are housing related debts.

- 4.2 In exceptional circumstances a household may be taken out of the priority identified in 4.1 by the Housing Options Manager in consultation with the Housing Strategy Manager/Team Leader. .

5. Homelessness (Suitability of Accommodation) (England) Order 2012

- 5.1 The Suitability Order sets out the specific circumstances in which a private rented sector offer, used to Discharge the main homelessness duty, is not regarded as suitable. The Order requires local authorities in determining suitability to take a view that:

- The accommodation is in reasonable physical condition
- The accommodation, appliances and furnishings comply with relevant fire and electrical safety legislation.
- If subject to House in Multiple Occupancy licensing, that the property is licensed;
- There is a valid Energy Performance Certificate
- There is a current Gas Safety record
- That carbon monoxide safety has been considered:
- A written tenancy agreement between the landlord and tenant which the local authority considers to be adequate will be used; and
- That the landlord is a 'fit and proper' person to act in the capacity of landlord (already a requirement in a House of Multiple Occupancy).

6. Affordability Assessment

Officers have carried out affordability modelling for private rented accommodation which will be used in the assessment of the Suitability of a Private Rented Sector property. Any private rented properties used to Discharge the Council's homelessness duty will be required to meet the Suitability of Accommodation Order 2012 in order to protect vulnerable households being placed in unaffordable housing.

7. Location of Accommodation

- 7.1 Wherever possible, placements into the private rented sector will be made within Bromsgrove District. It may be considered to be suitable for some applicants to be offered accommodation outside of the District. In particular some of the outlying areas of the District are more strongly connected to adjacent local authorities areas such as Redditch, Birmingham, Stourbridge, Halesowen and Dudley.
- 7.2 When considering the suitability of accommodation, the authority will take into account:
- distance of accommodation from the applicant's previous home
 - disruption to the employment, caring responsibilities, or education of members of the household
 - access to amenities such as transport, shops and other necessary facilities; and
 - established links with schools, doctors, social workers and other key services and support essential to the well being of the household.

- If the household's previous address or connection is in an area where there is limited affordable accommodation the Council may make an offer in another part of the District or an adjacent Local Authority.
- 7.3 Placements in isolated accommodation, away from public transport, shops and other facilities will be avoided.
- 7.4 In exceptional circumstances where there is no available accommodation within the District a placement may be made outside the District. When using accommodation outside the District, wherever possible, the accommodation will be in the nearest practicable Local Authority Area.
- 7.5 Where a placement is made outside of the District, notice shall be given to the receiving local housing authority in whose district the accommodation is situated.

8.0 The Re-application Duty

- 8.1 Where the homelessness duty has been Discharged in the private rented sector and the household becomes homeless within a two year period of being offered the property, a Re-application Duty will apply unless they have become homeless intentionally. The household will be eligible for the full statutory Homelessness Duty regardless of the household's Priority Need status, subject to them being eligible, homeless and not intentionally homeless.
- 8.2 The Re-application Duty can only be applied once. If the household becomes homeless a second time within the two years, a new homeless application will be taken.
- 8.3 If the household was placed outside the District but re-applies within the two years to the new local authority, the local authority will have to consider the Re-application Duty. If the Re-application Duty applies, the household can be referred back to the original Local Authority unless there is a risk of Domestic Abuse or a Hate Crime.

9. Private Rented Sector Offer Reviews

- 9.1 If the household offered private rented sector accommodation disputes that it is suitable for their needs, they can request a review of the Council's decision.
- 9.2 Where the household is disputing the suitability of accommodation due to the landlord not allowing pets the Council will expect that the pet will be found an alternative home unless there are exceptional circumstances such as the animal being an assistance dog for a disabled person or a support/companion for a household with a long and enduring mental illness. Where a landlord has requested no smoking in the property, an applicant will be expected to comply with this tenancy condition and only smoke outside the property.
- 9.3 Where the review relates to the suitability of the accommodation under homelessness legislation the individual can first accept the offer of accommodation and then request a review regarding its suitability. The review must be requested within 21 days of the offer being made. If the decision is overturned then the local authority will need to secure alternative accommodation. The Council will need to work with the

landlord to end the tenancy early and provide a replacement tenant so that the landlords support is not lost.

- 9.4 If the original decision is upheld the local authority will provide written confirmation of the reasons for reaching that decision. No further offer of accommodation will be made and should the client leave the accommodation without good reason, or the consent of the local authority, the Council will consider that the Duty has been Discharged.

10. Monitoring and Reviewing the Policy

- 10.1 The Council will establish a monitoring system to collect information relating to the number of households being placed in the Private Rented Sector as a discharge of the Homelessness Duty the number of repeat homelessness from this sector, the number households placed into the Private Rented Sector under homelessness prevention and the number and reason for any failed tenancies.

The policy will be reviewed after 12 months of implementation.

11. Consultation Arrangements

- 11.1 Partners and stakeholders were consulted in the development of this policy.