



## **North West Leicestershire District Council**

### **Policy for Discharging the Homeless Duty Through an Offer of Private Rented Accommodation**

January 2017

## **1. Background**

Local authorities have various duties under the homelessness legislation (Part 7 of the Housing Act 1996). The main homelessness duty requires the council to secure suitable accommodation for households who are:

- Homeless
- Eligible for assistance
- In 'priority need'
- Not intentionally homeless
- Have a local connection

This traditionally has been through the offer of social housing secured via the housing register.

The Localism Act 2011 amended the Housing Act 1996 to allow local authorities to discharge the main homelessness duty with an offer of private rented accommodation, without requiring the consent of the applicant.

The changes seek to give greater freedoms to local authorities to make better use of good quality private sector accommodation that is suitable for households accepted as homeless. The government considers that allowing households owed the main homeless duty to turn down offers of suitable accommodation in the private rented sector and wait for an offer of social housing, was unfair to other households on the housing register who would have to wait longer, and to the taxpayer who is funding expensive temporary accommodation.

As part of its wider Welfare Reform objectives the Government has introduced changes to Housing Benefit legislation limiting the level of benefit payable for most social housing tenants to the appropriate Local Housing Allowance rate payable in the private rented sector. This is likely to have a disproportionate impact on single people under 35 who will only be entitled to payment at the single room rate which will lead to a shortfall on the rent for most self-contained bedsit or 1 bedroom accommodation in social housing. As there is a lack of shared housing in the social sector, shared housing in the private sector may be the most affordable option for these customers.

As with any offer made to an applicant to discharge the housing duty under the homelessness legislation, the private sector offer must be deemed to be 'suitable'.

These measures are voluntary and the council can continue to use the housing register to re-house households into social housing.

## **2. Policy Aims**

When considering the Private Rented Sector for discharging the homeless duty the local authority must always undertake an assessment of the suitability of this option. In the “Supplementary Guidance on the homelessness changes in the Localism Act 2011 and on the Homelessness (Suitability of Accommodation) (England) Order 2012” the Secretary of State recommends that a local private rented sector offer policy should take account of individual household circumstances, and be developed with regard to prevailing housing demand and supply pressures in the local area in order to support the best use of available housing stock locally.

This policy sets out the criteria by which North West Leicestershire District Council will assess the suitability of a private sector offer.

This policy will compliment the current Allocations Policy approved by Cabinet on 5<sup>th</sup> March 2013, the Preventing Homelessness Strategy 2013 – 2018, and the following legislation

Localism Act 2011	Housing Act 2004
Homelessness (Suitability of Accommodation) (England) Order 2012.	Equalities Act 2010
Housing Act 1996	Human Rights Act 1998
Homelessness Act 2002	Homelessness Code of Guidance 2006
Allocation of Accommodation Code of Guidance	

### 3. Circumstances in which a Private Sector Offer will be made

North West Leicestershire District Council will *consider* making a ‘Private Sector Offer’ to fulfil our main homeless duty in all cases, and in determining whether an offer should be made, the Council will consider the following:

- The length of time the applicant has been owed the full homelessness duty
- The likelihood of social rented accommodation becoming available
- The availability of private rented accommodation at that time
- The needs of the applicant and their household
- The suitability of the applicant and their household for the available accommodation
- The suitability of the available accommodation
- The affordability of the available accommodation

This will mean that homeless households will no longer receive a guaranteed offer of social housing. This supports the current approach to prevent homelessness, wherever possible, and to encourage applicants to apply for housing through the housing register route, rather than through homelessness.

### 4. Suitability of Accommodation

The government introduced a Suitability of Accommodation Order in 2012 for Private Rented Sector Offers. The information below describes the steps North West Leicestershire District Council will take in order to assess that accommodation meets the guidelines.

The property must:

- Be in a reasonable physical condition

The property will be inspected by a member of the Environmental Health Team to identify any significant items of disrepair e.g. Missing internal doors, Lack of restrictors on upstairs windows, Lack of handrails on the stairs, Damp, Mould, Structural Defects

- Meet current Electrical regulations

The property will have a valid electrical safety certificate.

- Meet current Fire Regulations

Working, suitably located, smoke detectors are expected to be provided (battery or mains).

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).

- Meet current Gas Safety regulations

The property should have a valid gas safety certificate.

- Meet current HMO licensing regulations ( where applicable)

Where HMO properties are used, the Private Sector Housing Team will be contacted to ensure that the property is compliant with relevant standards and legislation, including being licensed where appropriate.

- Meet current Energy Performance requirements

The property should have a valid energy performance certificate with a rating of at least E or above.

- The Landlord must be a fit and proper person

The landlord must protect their tenants' deposits using a Tenancy Deposit Scheme.

The landlord will be required to self certify, unless he/she is part of a recognised accreditation scheme, such as the Midland Landlord Accreditation Scheme (MLAS). Checks will be made that the landlord has a tenancy deposit scheme and is not / has not been subject to a banning order, and is not listed on the national database of “rogue” landlords when these measures from the Housing and Planning Act 2016 are introduced.

- **Tenancy Agreement**

The length of tenancy must be for a minimum of 12 months

The landlord must supply a written tenancy agreement. The tenancy agreement will set out in a clear and comprehensible way:

- The tenant’s obligations
- A clear statement of the rent and other charges, which will remain fixed for the minimum period
- The responsibilities of the landlord
- The tenancy agreement should not contain unreasonable terms, such as call out charges for repairs or professional cleaning at the end of the tenancy.

- **Suitable Location**

Within North West Leicestershire District, except where:

- Disruption would be caused by the location to employment, caring responsibilities or education of the household.
- The applicant will find it difficult to access medical facilities and other support which are used by, or essential to the well-being of, the household
- Proximity and accessibility is required to essential local services, amenities & transport.

Outside North West Leicestershire District where:

- The council considers it beneficial to move an applicant / household out of area, 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.
- The applicant consents to move away from North West Leicestershire District, or
- A person has very limited / no local connection to North West Leicestershire (for example, they may have approached the council having fled violence).

In order to confirm that a property meets these requirements and is considered suitable, it will have been inspected prior to offer by the council's Environmental Health team and will have a monthly rental in line with the Local Housing Allowance.

## **5. Suitability of the Applicant**

Each case will be assessed on its own merits.

All households where a statutory homeless duty has been accepted may be considered for a Private Rented Sector Offer but a thorough assessment will be undertaken to ensure that this type of accommodation is an appropriate solution to the household's housing need. If private rented accommodation is not found to be appropriate then the household will be considered for a social tenancy.

When deciding whether to make a private sector offer, the individual circumstances of each household will be considered, as set out below:

- Whether the applicant is vulnerable, requiring supported accommodation, or is considered unlikely to be able to adequately sustain a private rented tenancy
- Whether the applicant or a member of their household requires significant disabled adaptations to make the property suitable
- Whether the accommodation is affordable, having regard to the applicant's income, expenditure and savings, as well as Housing Benefit / Local Housing Allowance rates. To assist in the determination as to affordability an applicant may be required to receive money advice.
- Whether the applicant needs assistance with advance payments such as rent in advance or rent deposit. If the Money Advisor determines that a loan is affordable, the Council could assist with these via the Homelessness Prevention Fund. (The Rent Guarantee Scheme also offers a no cost option for rent in advance / rent deposit).
- Where a private sector property is available to discharge a full homelessness duty, all households currently owed that duty will be considered as to their suitability. Consideration will be given to their household size, the property type, location, access, the impact on the household in accessing work, schooling and other services, and their time in the priority band.

A full financial assessment will be carried out in order to ascertain a household's income and expenditure before finalising their suitability for a private rented offer.

- Where a household identifies what they believe to be an appropriate Private Rented property, the same assessment process will be carried out to ensure that the property is suitable to discharge the homelessness duty.

## **6. Offers of Accommodation**

A private rented offer is defined by section 193(7AC), Housing Act 1996, as an offer of an assured short-hold tenancy made by a private landlord to an applicant in relation to which:

- It has been made available for the applicant's occupation by arrangements made by the local authority with a private landlord
- It is a fixed term Assured Shorthold tenancy for a period of at least 12 months.

The applicant must be informed in writing of the following matter (as mentioned in section 193(7AB), Housing Act 1996), when the Private Rented Sector Offer is made:

- The possible consequence of refusal or acceptance of the offer
- The right to request a review of the suitability of the accommodation
- The effect under new section 195A of a further application to the authority within two years of acceptance of the offer (the 're-application duty'). Any decision to discharge the homeless duty in this way will still be subject to the usual homeless request for a review under section 202(1)(f).

Where an applicant accepts an offer of accommodation, if they become homeless within two years of the tenancy start date, a new 'Re-application Duty' applies. This duty is regardless of whether or not they have a priority need, although they must remain eligible and be homeless unintentionally. This provides more of a 'safety net' for applicants for this two year period.

Should the household apply at this time to a different local authority it can be referred back to the original authority unless there is risk of harm.

Where an applicant refuses an offer of accommodation, the Council shall regard its duty under the homelessness legislation as met and no further duty to provide accommodation will exist. The applicant has a right to request a review of this decision (see section 7 Right to Request a Review).

## **7. Right to Request a Review**

Applicants have the right to request a review of the council's decision that an offer of accommodation is suitable.

If the review is unsuccessful, applicants also have the right to appeal to the County Court, on a point of law.

## **8. Current Rent Deposit Scheme**

North West Leicestershire Housing Choices Team have operated a Rent Deposit Scheme to assist household who are homeless or threatened with homelessness since 2008, and in recent years it has played an important part in assisting with the prevention of homelessness.

This existing scheme will be available to assist the Discharge of the Homelessness Duty into the Private Sector.

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