

# Homelessness Discharge of Duty into the Private Rented Sector

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## 1.0 Aims of Policy

- 1.1. This policy relates to the council's powers under S.148 (5)-(7) of the Localism Act 2011, and affirmed by the Homelessness Reduction Act 2017, to discharge its housing duty by way of a 'private rented sector offer' (PRSO).

It sets out the Council's policy for offering PRS accommodation in discharge of the relief duty and the main homelessness duty.

## 2.0 Who is this policy for?

- 1.1. Council officers involved in homelessness applications.
- 1.2. The policy will apply for residents that have made a homeless application to Lambeth.

## 3.0 Policy Statements

- 3.1. From 9th November 2012, the Localism Act enabled local authorities to fully discharge the full housing duty by a 'private rented sector offer' PRSO (s193(7AA)-(7AC) Part VII Housing Act 1996 as amended by s.148(5)-(7) Localism Act 2011. Lambeth intends to make use of the new power to fully discharge its housing duty.
- 3.2. This change gives local authorities the power to end the main S193 homelessness duty (duty to secure accommodation for applicants who are homeless, eligible for assistance, have priority need and are not intentionally homeless) with a PRS offer, without the applicant's consent. The duty can only be ended in the private rented sector in this way with a minimum 12 month assured shorthold tenancy in a suitable property.
- 3.3. Within Lambeth there is a high demand for accommodation but a very limited supply of social housing. Like all authorities, we are having to look increasingly at the resources offered by private sector housing.
- 3.3. The Council anticipates that a private tenancy will be appropriate for most applicants, unless there are exceptional circumstances which mean that this is not possible (as set out below). We therefore expect to use the power to discharge duty into the private rented sector in the majority of cases where a homelessness duty is accepted.
- 3.4. Decisions to offer PRS accommodation will be taken after a full consideration of each household's individual circumstances and their case. Having undertaken this consideration if the council is satisfied that it is appropriate to exercise the power given to it under the Housing Act 1996 (as amended) it will discharge its duty by arranging for a suitable PRS offer to be made to the applicant.
- 3.5. This policy applies only to applicants who approached the Council as homeless or threatened with homelessness on or after 9<sup>th</sup> November 2012.
- 3.6. Those who self source their own accommodation either private rented or living with family or friends will qualify for an increased priority through the allocations scheme as households 'working with us to prevent homelessness'.

- 3.7. The supply of accommodation, both council owned and privately rented, will determine the number of households that have their duty discharged with a suitable PRS offer.

## Application

- 3.8. Any applicant that has made a homeless application and is owed a full duty will be owed this duty under S193 until either the council arrange an offer of an assured short-hold tenancy in the private rented sector for a period of at least 12 months (“a private rented sector offer”), or one of the following actions or events occur which by law will also bring the duty to an end:
- If the applicant accepts an offer of settled accommodation from the council (in accordance with Part VI of the Housing Act 1996).
  - If the applicant refuses an offer of suitable temporary accommodation or a social housing tenancy under the council’s Allocation scheme which the council is satisfied is suitable for their needs, and the council inform the applicant that it regards itself as having discharged its duty under Section 193 Part VII of the Housing Act 1996.
  - If the applicant becomes intentionally homeless from the suitable accommodation made available for his/her occupation under Section 193 Part VII of the Housing Act 1996.
  - If the applicant ceases to be eligible for assistance due to their immigration status.
  - If the applicant otherwise voluntarily ceases to occupy as their only or principal home, the accommodation made available to them to meet the full housing duty under Section 193 Part VII of the Housing Act 1996.

## Suitable Applicants

- 3.9. The following groups would not ordinarily be considered for a PRSO:
- i. Households in need of sheltered housing as it is unlikely that this type of housing can be provided in the private rented sector.
  - ii. Households that need wheelchair adapted properties as these can be hard to procure in the private rented sector.
  - iii. Lambeth care leavers
  - iv. Any household which the council determines would be unable to manage a private rented sector tenancy.
- 3.10. The council will ensure that it only makes a PRS offer after a full consideration of each household’s individual circumstances and the facts that apply to that case.
- 3.11. Any use of PRS to discharge homelessness duty will only be carried out **following a thorough and fair suitability assessment of an individual household’s needs**. Considerations will include:
- Household composition
  - Age
  - Affordability
  - Medical needs of all household members, including the need for property adaptations
  - Safety/risk of violence
  - Care requirements/responsibilities
  - Employment

- Education
- Safeguarding considerations
- Support needs that may make PRS accommodation unsustainable.

3.12. If the council is satisfied that it is appropriate, it will discharge its duty by arranging to make a written suitable offer of an assured short-hold tenancy in the private rented sector for a period of at least 12 months (“a private rented sector offer”). Where possible, we will seek to offer a 24 month tenancy.

## **Suitable Offers**

3.13. The council will make “suitable” offers of PRS accommodation to discharge their homeless duty. In assessing the allocation of accommodation, the council will comply with the relevant legislation, associated case law and give regard to the Homelessness Code of Guidance.

## **Location**

3.14. Location of the accommodation will be a significant factor when discharging duty. The Council's policy is to make available suitable PRSO accommodation within Lambeth as far as reasonably practicable. However, due to the high demand for accommodation and the low supply of suitable, affordable private rented accommodation within Lambeth borough, it is anticipated that the majority of PRSOs will be outside of the borough. Any offer of accommodation made available outside of Lambeth will be offered in line with Lambeth's Placement Policy, having regard to the relevant statutory legislation, the 2018 Homelessness Code of Guidance and case law.

## **Property Condition**

3.15. The Homelessness (Suitability of Accommodation) (England) Order 2012 – Part 2 sets out a list of requirements relating to the property and its management that must be met in order for the property to be suitable.

3.16. Accommodation offered should be in a ‘reasonable physical condition’.

3.17. All properties will be inspected by an officer of council before being considered for use as a PRSO to ensure that the accommodation is in reasonable physical condition. The authority must also satisfy itself that the property is suitable in relation to:

- Certain electrical regulations
- Fire safety
- Carbon monoxide alarm/s
- HMO licensing
- Energy performance certificate (EPC)
- Gas safety record
- That a written tenancy agreement will be provided
- That the landlord is a fit and proper person to act in the capacity of landlord.

## **Affordability**

- 3.18. For the property to be suitable it must be affordable under the Homelessness (Suitability of Accommodation) Order 1996 (SI 1996 No. 3204) and align with the 2018 Homelessness Code of Guidance.
- 3.19. In assessing affordability, the council will consider not only if it is affordable now but whether it will be affordable in the *next 12 months*.
- 3.20. An individual affordability assessment will be undertaken for every applicant to be certain they can afford the housing without being deprived of basic essentials such as food, clothing, heating, transport and other essentials; and in so doing will take account of any additional costs resulting from the location of the accommodation.
- 3.21. Where appropriate, particularly for out of borough applicants, the council may provide assistance with reasonable relocation costs.

## **Refusal or failure to respond to an offer of suitable accommodation**

- 3.22. If a statutory homeless applicant refuses or fails to respond to a suitable offer of accommodation in the private or social sector, the local authority can end its statutory duty to provide accommodation. The local authority will explain the applicant's right to a review of the suitability of the offer of accommodation.

## **Tenancy Sustainment**

- 3.23. All households who receive a PRSO will be supported via our Tenancy Sustainment team to help them settle into their new homes and provide ongoing support for 2 years
- 3.24. Depending on the needs of the individual household, this could involve support in claiming benefits, registering with local schools/GPs, setting up utilities, resolving any rent arrears issues, etc

## **Re-applications**

- 3.25. If within 2 years of accepting the PRS offer an applicant re-applies for accommodation, or for assistance in obtaining accommodation, and the authority is satisfied that they are homeless, or threatened with homelessness, and eligible for assistance, and not satisfied that they became homeless intentionally, then a new duty to secure accommodation will fall to the authority.
- 3.26. An applicant who reapplies will be considered to be homeless, or threatened with homelessness, if they have been served with a valid notice under s.21 Housing Act 1988 by the landlord of the private rented sector property.

## **Statutory Review**

- 3.27. As with other offers made to end the main duty, applicants will be able to discuss any concerns with the council before, during, and after the viewing. Applicants will receive a written decision letter confirming the council's position on the suitability of the offer after its refusal, stating reasons for why the decision has been taken.
- 3.28. Applicants have the right to request a review from a more senior officer. The review process allows for the applicant to make representations and avail themselves of professional legal advice. If this review concludes that the property was suitable, applicants have the right to challenge the decision further by way of an appeal.

### **Notifying other Local Authorities and Support**

- 3.29. We will notify Local Authorities of incoming placements either directly or through the Pan-London systems in place.
- 3.30. Clients will be provided with practical information packs to support placements and offered assistance with any claims for benefits. Support with moving costs can also be provided on a case by case basis.

### **Reviewing the Policy**

- 3.31. This Policy may be reviewed in line with any relevant changes in legislation or Guidance issued by the relevant Government Departments.

## **4.0 Links**

- Part VI and VII Housing Act 1996
- Localism Act 2011
- Homeless Reduction Act 2017
- Placement Policy
- Allocations Policy