

Havant Borough Council

Policy on the Discharge of Duty into Private Rented Sector Accommodation

Version 1

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1. Background

- 1.1. The Localism Act 2011 amended the Housing Act 1996 (HA96) and produced new statutory regulations. The new regulations change the way in which local authorities can discharge their homeless duties to households accepted as statutorily homeless under Section 193 of the HA96.
- 1.2. The Homelessness Reduction Act (HRA) 2017 also placed further duties on local authorities which can be discharged when a household is under threat of homelessness.
- 1.3. Local authorities have a duty to secure suitable alternative accommodation for households owed a duty under Section 193. This is usually taken to be social housing. However, the Localism Act allows suitable 'Private Sector Offers' to be used to end the main homeless duty and the HRA further allows for duties to be discharged into the private rented sector under a prevention or relief duty.
- 1.4. This policy sets out how Havant Borough Council will apply the legislation in respect of discharging its homelessness duties. The prevailing housing demand and supply pressures in the area have been taken into consideration in producing the policy.
- 1.5. This policy will apply to all applicants who Havant Borough Council accepts a homelessness duty towards. The policy will apply irrespective of whether the applicant has been placed into temporary accommodation, is likely to be placed into temporary accommodation or is able to secure their own temporary accommodation.

2. Discharge of Homelessness Duty

2.1. The Council will discharge its duties to those accepted as homeless in the following ways:

- An offer of accommodation the applicant has successfully bid for through the Hampshire Home Choice scheme.
- An offer of accommodation, where a bid has been placed on their behalf by Council staff on the Hampshire Home Choice scheme, and this bid has been successful.
- An offer of a private rented tenancy.
- An offer of supported accommodation, where this is available and is considered to be the most appropriate type of accommodation for the applicant.

2.2. The Council will also discharge its duties if the following circumstances occur:

- An applicant refuses a suitable offer of temporary accommodation made under Part 7 of the HA96.
- An applicant voluntarily ceases to occupy their temporary accommodation.
- The household is no longer eligible for homeless assistance.
- An applicant refuses a suitable offer of accommodation made under Part 6 of the HA96.
- An applicant becomes intentionally homeless from their temporary accommodation.

3. Hampshire Home Choice Offer

- 3.1. All households accepted as homeless (excluding those who don't meet the Qualifying Person criteria) will be registered on the Hampshire Home Choice (HHC) choice based lettings scheme housing register and be able to bid for properties advertised through the scheme in line with the Allocation Framework.
- 3.2. The Choice Based Lettings Code of Guidance states that allocation policies must allow choice for applicants that have been deemed to be statutory homeless. However, in order to manage the demand for temporary accommodation, providing choice for applicants owed the main homelessness duty for an unrestricted period could mean that such applicants wait an unreasonably long time before they are offered suitable HA96 Part 6 accommodation.
- 3.3. Homeless applicants who have been accepted will therefore be notified that they have a period of 6 months to freely bid for available properties. If after this period they have no justifiable reason for not bidding on properties that may have come available and that would have been suitable for their needs, bids will be placed on their behalf on advertised properties considered to be suitable for the applicant and their family's needs.
- 3.4. The homelessness duty will cease once a suitable offer of accommodation has been made, irrespective of whether the applicant accepts or refuses the offer, provided they have been informed in writing of:
 - The possible consequence of refusal or acceptance of the offer
 - Their right to request a review of the suitability of the accommodation
- 3.5. Applicants assessed as not meeting the Qualifying Person criteria in accordance with the Allocation Framework will be excluded from the housing register and unable to bid on properties advertised through HHC. Applicants will be advised of the reasons why they do not qualify so that they may take any actions they can in order for the Council to reconsider this decision. This may include for example seeking paid employment within the borough in order to reduce the time they would have to wait to qualify.
- 3.6. Housing Officers will work with such applicants to help to find them suitable accommodation in the private rented sector or in supported accommodation to either resolve their housing situation or until they qualify to join HHC.

4. Private Sector Offers

- 4.1. The Localism Act 2011 gives local authorities the power to discharge their duty to secure accommodation for homeless applicants by way of arrangements made with a Private Rented Sector (PRS) landlord.
- 4.2. The introduction of this power ends the provisions to make available a “Qualifying Offer” of private sector accommodation that required the agreement of the applicant. From 9th November 2012, local authorities can discharge their homeless duty through an offer of a PRS without the agreement of the applicant.
- 4.3. As with an offer of social housing, the homelessness duty will cease irrespective of whether the applicant accepts or refuses the offer, provided they have been informed in writing of:
 - The reason they have been offered the accommodation.
 - The possible consequence of refusal or acceptance of the offer.
 - Their right to request a review of the suitability of the accommodation, and
 - The effect of a further application to a local housing authority within two years of acceptance of the offer.
- 4.4. Havant Borough Council recognises that the number of PRS properties within the borough that are available for the Council to discharge the homelessness duty to is unlikely to be of such quantity to meet the demand from all eligible applications. Therefore, the decision to offer PRS accommodation will be made if a suitable property is available that meets the needs of the household.
- 4.5. The suitability of PRS accommodation is considered in two parts:
 - The structure and management of the property, which covers the physical condition, safety aspects and how the landlord or agent manages properties and their suitability to do so.
 - Suitability of the property for the tenant, which takes into consideration the individual needs of that applicant and their household considering such factors as location, affordability and accessibility.
- 4.6. Further information relating the structure and management of the property and the suitability of the property for the tenant is contained in Appendix 1 and 2

5. Short Listing of PRS Vacancies

- 5.1. Bids placed on behalf of applicants to advertised properties through the HHC scheme will be prioritised through the Allocations Framework. In the case of offers of PRS properties, the Council may determine that a suitable property best meets the needs of more than one applicant, in such circumstances the accommodation currently occupied will also be considered to determine which applicant is prioritised for a PRS offer.
- 5.2. Accommodation currently occupied is ranked as below, where 1 is the highest priority. In addition to this, consideration will also be given as to the length of time an applicant has been housed in temporary accommodation and the specific needs of a household if the accommodation offers specific features such as being on the ground floor, having a wet room or is otherwise disabled adapted.
- 1 In Bed and Breakfast accommodation
 - 2 Awaiting temporary accommodation
 - 3 In hostel accommodation
 - 4 Accommodated under own arrangements
 - 5 In self-contained temporary accommodation

6. Offers, Acceptances, Refusals and Reviews of Suitability

- 6.1. Where the applicant has been offered accommodation via the HHC or a PRS offer, if the applicant is considering refusing the property and, after discussion with their Housing Officer, the property is still considered to be suitable, a formal offer letter will be sent.
- 6.2. Notification of any offer (including an offer of a PRS property) will be made to the applicant by the Council in writing. The notification will clearly state the address, size, type and rent of the property. The applicant will be notified of the likely consequences of refusing the property and their right to request a review of the suitability of the accommodation.
- 6.3. Applicants will be strongly advised to accept the offer whilst a review is carried out, so that they still have accommodation available to them in the event that the Council's original decision is upheld. Should the offer of accommodation subsequently be considered to be unsuitable a further offer of accommodation will be made as soon as possible.
- 6.4. Where the applicant refuses a suitable offer of accommodation the Council will cease its duty to the applicant under HA96 and HRA. Therefore, if they are currently occupying temporary accommodation this will be terminated. The applicant will be notified of this outcome accordingly and when they will be expected to vacate the temporary accommodation and given advice and assistance as to how they may secure their own accommodation.
- 6.5. Any request for a review of suitability must be made in writing to the Housing Manager - Options and Advice (or the equivalent officer) within 21 days of the date of the notice.

7. Re-application following Loss of Accommodation (PRS offers)

7.1. Under section 195A HA96, should the applicant approach the authority as homeless within a period of two years following acceptance of the private rented sector offer under section 193 (7AA) HA96, irrespective as to whether the approach is from the offered property or elsewhere, the Council will:

- having confirmed the validity of the notice, will treat the applicant as being homeless from the date of expiry of their notice to vacate. The landlord/accommodation provider will therefore not be required to apply to court to regain possession.
- not reinvestigate the priority need of the household as the priority need of the applicant will be retained from the date of the acceptance of a duty under 193 (2) irrespective of any change in circumstances or household composition that may affect this.
- satisfy itself that the applicant is still eligible for assistance and did not become homeless intentionally from their last settled accommodation.

7.2. Where the applicant applies under this section and the Council accept a re-application duty, then the applicant shall be further reconsidered under this, or any successor policy, for discharge into the private or social rented sector.

APPENDIX 1 PRS Offers – Structure and Management

In order to consider a property suitable to discharge its duty, the Council will require that: -

- The tenancy is an Assured Shorthold Tenancy, for a period of at least 12 months.
- The property is in a reasonable physical condition
- All portable appliances provided by the Landlord, within the property, have been Portable Appliance Tested (PAT) within the last 12 months.
- There is a valid Gas Safety Certificate in place and any items that have been failed have been suitably isolated and their in-operation will not create hazards within the property, such as risk of extreme cold or lack of suitable cooking facilities.
- Where appropriate, carbon monoxide protection has been provided.
- All adequate Fire Safety precautions have been taken, including fire alarms, fire protection measures where required, and compliance with fire regulations in respect of all furniture and furnishings.
- An Energy Performance Certificate is provided.
- The landlord or agent has provided a statement confirming that they have the right to market the property for rental and that there is no restrictive covenant or other supervening legality preventing the letting of the property.
- The landlord or agent is a fit and proper person. The Council will work to the assumption that the landlord is a fit and proper person, unless there is reason to believe that the landlord or agent has committed offences of: -
 - Fraud
 - Other dishonesty
 - Violence
 - Unlawful possession and or supply of illegal or controlled drugs
 - Offences under the Sexual Offences Act 2003
 - Unlawful discrimination
 - Illegal Eviction or Harassment
- Where the property would fall under mandatory or additional HMO licencing, the landlord has licensed the premises.
- The landlord or agent must not have hindered the principles of housing law, such as failing to maintain tenancies such that Housing Renewals have been required to take enforcement action.
- The Assured Shorthold Tenancy Agreement is a standard agreement and does not contain unfair or unreasonable terms. A copy of the tenancy agreement will be required before the tenant signs the agreement.
- The landlord lodges any deposit paid by the tenant into a tenancy deposit protection scheme and provides confirmation that this has been done.

APPENDIX 2 – Factors considered when assessing suitability of an offer

The Council will consider the following factors when considering the suitability of accommodation for homeless applicants with the applicant's circumstances being considered against available properties to ensure that best use is made of such vacancies. Where a property is suitable for more than one applicant the Council will identify the applicant whose need is best met by the property by considering their current circumstances (see Short Listing of PRS Vacancies), the length of time they have been waiting and the urgency of their situation, as well as:

- **Employment:** - The location of the property in proximity to the applicant's employment. Consideration will be given to the work patterns of the applicant, the financial impact of accessing the place of employment from the property and the availability of public transport if employment requires working unsociable hours.
- **Provision of care:** - Care received or provided by the applicant over and above immediate family support. Consideration will be given as to the level and frequency of care received or provided and the impact of using public transport to receive or give care.
- **Education:** - Educational establishments attended by the applicant and their household. In general it is deemed to be reasonable to expect a household member to change school or educational establishment. Consideration will be given to the viability of maintaining the existing educational establishment and travelling from the property. It is recognised that it may not always be appropriate to require household members in receipt of education to change educational establishments. In these circumstances careful consideration will be given to where the student is at key points in their education such as the final year before exams or where a child has a statement which requires special educational needs to be met that cannot be met elsewhere.
- **Medical treatment:** - Specialist medical treatment being received by the applicant or a member of their household. Consideration will be given to the proximity to the property of any medical facility attended on a regular basis for treatment, where treatment cannot be provided either in their home or closer to the property together with any additional costs which may be incurred through relocation further away from the treatment facility.
- **Support and the well-being of the household.** - Consideration will be given to any support received by the household which is not formalised support but which has a significant impact on the household's wellbeing and to be without it would have a detrimental effect on their health and wellbeing.
- **Access to local services required by the household:** - Consideration will be given to any increased in travel arrangements or costs through relocation to the offered property.
- **Affordability:** - The property must be considered affordable for the household, based on their income and benefit entitlement.
- **Size of property:** - The property must be suitable for the size of the household and will be assessed under the Local Housing Allowance size criteria to ensure that there is no unreasonable shortfall in rent due to under-occupation.

- The requirement for aids and adaptations: - To assist the applicant or a member of their household who may be disabled or have mobility issues. Consideration will be given to the feasibility of adapting the property. Where the applicant or member of their household does not presently require adaptations but there is a likelihood that they may do so in the next 12 months then the potential need for adaptation will be considered.
- In the interests of creating sustainable communities: - Where the Council are satisfied that, in respect of an applicant, there are overriding management reasons which will not serve the interests of the applicant or the community.