

Policy and Procedure	Discharge of Homelessness Duties
Team	Housing Advice Service
Department	Customer & Community Services
Date	1 st September 2013
Reviews	Annual

1	Background
1.1	The Localism Act 2011 has made significant changes to the way in which Local Authorities can deal with applications for social housing and homelessness applications under Parts 6 and 7 of the Housing Act 1996. The Act allows local authorities to fully discharge the full housing duty by a 'private rented sector offer' (s193(7AA)-(7AC) Housing Act 1996 as amended by s.148(5)-(7) Localism Act 2011. This aspect of the Act was cemented by a Statutory Instrument, the Homelessness (Suitability of Accommodation) (England) Order 2012, which came into force on the 19 th November 2012.
1.2	Prior to this legislative change local authorities could offer Assured Shorthold Tenancies with private landlords. However the applicant can decline such offers as a full and final discharge of duty and insist that such accommodation should only be provided as temporary accommodation.
1.3	In order to qualify as a discharge of full homelessness duties the private rented sector offer must be an offer of an Assured Shorthold Tenancy with a minimum fixed term of one year. Applicants will lose the discretion to decline the offer as a final discharge, although they will retain the right to request a review of suitability whether or not they accept the offer.
1.4	A Local Authority does not have to use a private rented sector offer, it is just one of the options that will be available to it.
1.5	If an applicant is housed in this way and subsequently given a section 21 notice to leave within two years of the offer being accepted, then, where the applicant is eligible for assistance and not intentionally homeless, the homelessness duty to secure further suitable accommodation is revived. The duty revives even if the applicant no longer has a priority need, but it only applies to the first incidence of homelessness within the two-year period.
2.	Policy Overview
2.1	This document relates to the policy and procedural arrangements for discharging statutory homeless duties and applies to Cambridge City Council only
2.2	The policy will comply with: <ul style="list-style-type: none"> ○ Housing Act 1996 part 7 (as amended by the Homelessness Act 2002) ○ Localism Act 2011 ○ Equality Act 2010 (including compliance with the public sector equality duty) ○ Homelessness (Suitability of Accommodation) (England) Order 2012

	<ul style="list-style-type: none"> ○ Cambridge City Council Lettings Policy (April 2013) and any successors
2.3	The policy outlines the considerations and circumstances, which will lead to decisions on whether full homelessness duties are discharged by an offer of accommodation in the private rented sector or social rented sector.
2.4	The location of the accommodation will be an overriding consideration in determining the suitability of the property
3.	Policy aims and objectives
3.1	<p>The policy aims to ensure that:</p> <ul style="list-style-type: none"> ○ Full homelessness duties can be discharged efficiently are not unduly delayed by lack of availability of accommodation ○ Emergency accommodation costs, particularly derived from bed and breakfast placements is kept to a minimum ○ Lengths of stay in temporary accommodation are kept to a minimum and that the council will ensure that stays in bed and breakfast accommodation for family households will not exceed 6 weeks to comply with The Homelessness (Suitability of Accommodation) (England) Order 2003 ○ Applicants receive fair and consistent consideration under the policy and each case will be considered on an individual basis and that a blanket policy approach is avoided ○ The discharge of homelessness duties into the private rented sector for some households ensures that the housing register is more balanced and that family size accommodation available though the choice based lettings system is not predominantly allocated to homeless households ○ Reduce the reliance on the council to provide temporary accommodation from its own stock
4	Key policy considerations
4.1	All homeless applicants to whom the council owes a statutory homelessness duty will be able to bid for social housing for a 3 month period from the point at which the full homelessness duty is accepted.
4.2	Discharge of full homelessness duty into the private rented sector will not happen before the 3 month period outlined in 4.1 above has elapsed.
4.3	In discharging homelessness duties into the private rented sector the council will make the location, standard and cost of the accommodation the overriding consideration in assessing the suitability of the offer. However, the ability of the applicant to qualify for discretionary housing payments (DHPs) will not be a consideration in assessing affordability as

	DHP awards are only of a temporary nature and this runs contrary to 4.4 below.
4.4	The council recognises the importance of long-term stability and will seek to negotiate longer-term tenancies with prospective landlords and not use the minimum one-year tenancy as the default position.
4.5	<p><u>Location</u> – the following considerations will apply:</p> <ul style="list-style-type: none"> ○ The significance of any disruption which would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person or members of the person's household ○ The proximity and accessibility of the accommodation to support, including medical facilities, housing related support and family support and, where required by a member of the applicant's household, the extent to which these facilities are essential to their well-being ○ The proximity and accessibility of the accommodation to local services, amenities and transport
4.6	The time taken (not to exceed one hour by public transport) and affordability of travel for households with commitments detailed in 4.5 above will be key considerations over and above the distance in miles. However, as an absolute rule the council will not place households outside of the areas covered by the Cambridge and Huntingdon Broad Rental Market Areas (BRMAs) unless it is with the agreement of, or requested by, the applicant.
4.7	Equalities - Officers making decisions referred to in 4.5 and 4.6 will refer to a comprehensive guidance note highlighting considerations to be taken into account when assessing the suitability of offers for those falling under the categories above and applicants covered by the Equalities Impact Assessment.
4.8	Applicants to whom Cambridge City Council accepts a statutory homelessness duty are predominantly between the ages of 16-44. 46.24% of all lead applicants accepted as homeless by the council from 1 st April 2005 to 31 st March 2009 were between the ages of 16-24. A further 46.58% were between 25 and 44.
4.9	A high proportion of applicants accepted as homeless are family-sized households. Between 1 st March 2006 and 31 st March 2009 only 17.93% to whom the council accepted a statutory homelessness duty were single person households
4.10	In the first three quarters of 2012-13 those aged between 40-64 on the housing register accounted for 31.26% of all applicants and lettings to this age group accounted for 32.21% of all lettings.
4.11	Overall it is clear that legislation governing the council's statutory homelessness duties does not favour those above the age of 44 or those in single person households although figures on the general housing register show that overall lettings to this age group are not

	disproportionately affected. However, it does mean that the 16-24 age group will be disproportionately affected by the introduction of this policy and the guidance notes referred to in 4.7 will need to take account of this. The council will need to continue to address disadvantage to single person households through its sub-regional single homelessness service.
4.12	For applicants with a physical disability the council will need to arrange, or take into account, an occupational therapy assessment by a qualified practitioner before allocating accommodation via a direct let or into the private rented sector
4.13	<p>The council will consider the potential for an applicant to be placed at greater risk of harassment and violence if placed in a certain location. Key considerations will be established in the guidance notes but will apply to applicants who are vulnerable to harassment in a particular area because they are:</p> <ul style="list-style-type: none"> ○ Transgender or due to undergo gender reassignment ○ Gay, bisexual, lesbian ○ From ethnic minority backgrounds ○ Of a particular faith, religion or belief
4.14	For applicants who are the victims of domestic violence the council will take into account the location of accommodation in relation to a perpetrator(s) who may pose a current risk to the applicant
4.9	<p>Standard of accommodation – As a minimum the property will comply with the requirements set out in the Homelessness (Suitability of Accommodation) (England) Order 2012</p> <p>http://www.legislation.gov.uk/ukxi/2012/2601/pdfs/ukxi_20122601_en.pdf</p>
4.10	<p>If the council discharges full homelessness duties into the private rented sector the property will need to comply with the council's requirements for private dwellings as required by the Environment Department. These standards cover:</p> <ul style="list-style-type: none"> ○ Fire safety ○ Internal structural standards ○ Gas and electrical safety ○ Heating ○ Fixtures and fittings ○ Condition and safety of outside space ○ Drainage
Procedure	
1.0	This policy and procedure comes into effect from 1 st September 2013 and does not apply to those who made a homeless application before this date.
1.1	At the point of a homeless application all applicants will be advised in writing that the council will look to discharge its statutory homeless duties in the private rented sector
1.2	Applicants will be advised to provide the council with any information that it should take into account when considering the location of a private

	rented sector offer
1.3	The housing advisor or landlord liaison officer will complete an assessment of location considerations for each applicant using a pro-forma covering the areas highlighted in the policy at 4.4 and 4.5 above.
1.4	The homelessness application will be assessed in line with Housing Advice procedures
1.5	Before or during the homeless application process the applicant can be offered suitable private rented accommodation to prevent or alleviate homelessness
1.6	If a full homelessness duty is accepted the applicant will be awarded band A status in line with the lettings policy and will then be given 3 months to bid for accommodation through the choice based lettings scheme
1.7	If the applicant lodges a successful bid through the choice based lettings scheme the council will regard this as a discharge of homelessness duties
1.8	If, at the end of the 3 month bidding period the applicant has been unsuccessful s/he will be offered accommodation in the private rented sector based on the assessment listed at 1.2 in this procedure and the availability of accommodation that meets the recommendations contained within that assessment.
1.9	If there are no private rented sector properties available that meet the applicant's needs the applicant will be made a direct let of accommodation into social housing
2.0	Reviews
2.1	An applicant is entitled to request a review of an offer private rented or social housing accommodation (made by direct let or via a successful bid using the choice based lettings system) on the basis of suitability
2.2	The review request can be made verbally or in writing to an officer within the Housing Advice Service but must be made within 21 days of the offer (in line with s202 of the Housing Act 1996)
2.3	The review request and reasons will be heard by the Housing Advice Service Manager and should be heard with a further 5 working days of the receipt of the review request
2.4	In the absence of the Housing Advice Service manager, the Housing Advice Operations Manager or Housing Advice Partnerships Manager can consider the review as long as there was no direct involvement with the original offer of accommodation
3.0	Selection of private rented sector accommodation
3.1	All landlords will be expected to adhere to a set of management standards (contained at appendix 1)
3.2	Landlords offering properties for use by the council must complete a declaration as a fit and proper person (see appendix 2)
3.3	The landlord must also agree to a visit from a council officer or its agent to determine the property's suitability before an applicant moves in. The visiting officer will assess the suitability of the accommodation to ensure that it is in a reasonable physical condition and that there are no category 1 hazards as defined by Part 1 of the Housing Act 2004. This visit will ensure that there are adequate fire precautions, that the electrical equipment is safe and there is adequate carbon monoxide

	precautions. The property should have a valid Energy Performance Certificate (EPC), valid gas safety certificate and electrical periodic inspection report. If the property is a licensable house in multiple occupation (HMO) it will need a current licence.
3.4	If, following the inspection, there are category 1 or 2 hazards that require removal the council will ensure that the landlord removes the hazard before it is considered for use by the local authority under this policy
3.5	Applicants offered private rented sector properties will be given a copy of the management and will be encouraged to contact the council if these are not adhered to during the tenancy.
3.6	The council will ensure that all offers of accommodation in the private rented sector to discharge homelessness duties are offered on a minimum 12 month Assured Shorthold Tenancy
3.7	If the tenant subsequently loses this tenancy within 2 years of taking up this offer and is not intentionally homeless the council will have a statutory duty to accommodate, but can discharge that duty with a further offer of accommodation in the private rented sector.

Appendix 1 - Proposed management standards

Prior to the tenancy

Landlords will ensure that the following requirements are complied with

All landlords agree to treat tenants with respect, regardless of their race, ethnic origin, gender (including maternity and pregnancy), age, sexual orientation, ability/disability, marriage and civil partnership or gender reassignment.

Any **written documents** should be in clear simple language – and if appropriate translated into the first language of the tenant.

Contractual terms	Prospective tenants are provided with a copy of any contractual terms under which a property is offered. Landlords use a government approved national tenancy deposit protection scheme if a deposit is required.
Utility etc. Charges (Gas, Electricity, Telephone)	The tenant is clearly informed as to who is responsible for the payment of all utility charges and Council Tax and that this responsibility is accurately stated in the terms of the letting agreement. The tenant is provided with details of the providers of all utilities.
Operating Procedures	On request, at the commencement of their tenancy, tenants are provided with information on the landlord's standard operating procedures. Landlords must have a written complaints procedure which is given to tenants at the commencement of the tenancy.
Accounts and Receipts	A statement will be provided to the tenant at least annually for all monies demanded whether for rent, deposit, utility or service charge. Where transactions are undertaken in cash or cheque a written receipt will always be provided by the landlord.
Letting Agreements	There is a proper written tenancy agreement. Prospective tenants are issued with a clear statement of the rent due to be paid during the contract, including the dates, amounts and method of payment. The name and current business address of the landlord is stated on the agreement together with the address and telephone numbers of any managing agent or person/s acting on behalf of the landlord. These should also be displayed clearly in the property

The letting agreement should state the period of tenancy, notice period and procedure for giving notice.

The letting agreement must contain a clause requiring the tenant not to cause nuisance or disturbance.

Letting agreements are written in clear legible language containing no contractual terms in conflict with any statutory or common law entitlement of the tenant or the terms of this Scheme.

Where a fee is charged for arranging a letting agreement, prospective tenants should be clearly informed of this in advance.

Inventory

An inventory, based on current good practice, is agreed with the tenant and signed by both parties as being accurate.

Anti Social Behaviour

The letting agreement should include a clause requiring the tenant not to cause a nuisance or disturbance and the landlord will use reasonable endeavours to achieve compliance.

It must be clearly stated to the tenant that this applies equally to any visitors the tenant may have and that the tenant is responsible for all visitors.

Court proceedings for possession will be a last resort.

Pre-tenancy Repairs etc.

At the commencement of the tenancy or other date mutually agreed with the tenants, all obligations on the part of the landlord in regard to the repairs and dwelling maintenance have been fully discharged.

During the Tenancy

Landlords will ensure that the following requirements will be complied with:

Communication

Landlords should be contactable by tenants and an emergency phone number be provided/ displayed. Landlords should make visits to tenants at appropriate intervals.

Access

Where access is required for routine inspection/s or viewings, the tenants receive notification of the date, time and purpose of the visit not less than 24 hours in advance, unless otherwise agreed.

Tenants' privacy and entitlement to unnecessary intrusion is to be respected at all times

Conduct

Business is pursued by the landlord in a professional, courteous and diligent manner at all times.

The landlord does not act in such a manner that brings the scheme into disrepute

Repairs and Maintenance

All dwellings are maintained in a satisfactory state of repair.

Decorative finishes for which landlords have responsibility are made good within a reasonable timescale if damaged or disturbed during repairs.

Tenants are provided with a point of contact in case of emergency. These should be clearly displayed in the property

The following standards should be achieved:

Priority One - Emergency Repairs

Priority Two - Urgent Repairs.

Priority Three - Non Urgent day to day repairs:

Planned Programmes of Repair/ Improvement and Cyclical Repairs Programmes.

Maintenance and Servicing tasks which can be carried out in a planned and cyclical manner and which are the responsibility of the landlord, are carried out with due regard to the convenience of tenants.

With the exception of emergencies, tenants will be notified at least 24 hours prior to attendance by contractors or others to undertake repairs.

Visual appearance

Within the landlord's responsibilities and reasonable endeavours the visual appearance of dwellings, outbuildings, gardens, yards and boundaries should be maintained in a reasonable state so as not to detract from the visual amenity of the area

Furniture and storage space

All furnishings and furniture provided by the landlord are in satisfactory condition at the commencement of the tenancy and comply as appropriate with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended).

Kitchen Facilities

Each kitchen contains reasonably modern and hygienic facilities for the storage, preparation and cooking of food

which are suitable for the number of occupants using the kitchen, unless provided by the tenant.

Toilet and Personal Washing Facilities An adequate number of suitably located, reasonably modern and hygienic W.C.s, baths and/or showers and washbasins are provided with constant hot and cold water supplies as appropriate, which are suitable for the number of occupants, as required by any relevant legislation.

Overcrowding Dwellings are not knowingly overcrowded.

At the End of the Tenancy

It is advised that the Landlord agrees to meet with the tenant two weeks prior to the tenancy ending to discuss all that needs to be done. This should be put in writing.

Landlords will ensure that the following requirements are complied with;

Tenancy Deposits Cleaning Tenancy deposits are returned in accordance with any agreements and the requirements of the tenancy deposit protection scheme in operation.
Tenants are issued with clear written guidelines regarding the standard of cleaning and other arrangements for bringing the tenancy to an end, so as to avoid misunderstandings regarding the standard of cleanliness and condition of the dwelling expected at the end of the tenancy.

I am prepared to agree to abide by the principles listed above

Appendix 2 – Fit and Proper Person Assessment

Fit and Proper Person Assessment			
The local authority must consider evidence as to whether the applicant on a personal, work or other basis, is a fit and proper person. 'Associated with' means in connection with the business of letting or managing the letting of private dwellings			
1	Has the applicant ever accepted a simple caution, previously known as a formal caution, from the Police or been convicted of an offence being subject to the Rehabilitation of Offenders Act 1974 involving any of the following?		
		Yes	No
	Fraud	<input type="checkbox"/>	<input type="checkbox"/>
	Dishonesty	<input type="checkbox"/>	<input type="checkbox"/>
	Violence	<input type="checkbox"/>	<input type="checkbox"/>
	Drugs	<input type="checkbox"/>	<input type="checkbox"/>
	Sexual Offences Act schedule 3	<input type="checkbox"/>	<input type="checkbox"/>
2	Has the applicant ever been subject to unlawful discrimination proceedings relating to their business, being subject to the Rehabilitation of Offenders Act 1974 involving the following?		
		Yes	No
	Sex	<input type="checkbox"/>	<input type="checkbox"/>
	Colour	<input type="checkbox"/>	<input type="checkbox"/>
	Race	<input type="checkbox"/>	<input type="checkbox"/>
	Ethnic or national origin	<input type="checkbox"/>	<input type="checkbox"/>
	Disability	<input type="checkbox"/>	<input type="checkbox"/>
3	Has the applicant ever accepted a simple caution, been convicted of an offence or been served with Statutory Notices under any of the following?:		
		Yes	No
	Landlord and Tenant Law	<input type="checkbox"/>	<input type="checkbox"/>
	Housing Acts	<input type="checkbox"/>	<input type="checkbox"/>
4	Has the applicant ever been convicted for non-compliance of a Statutory Notice under any of the following?:		
		Yes	No
	Landlord and Tenant Law	<input type="checkbox"/>	<input type="checkbox"/>
	Housing Acts	<input type="checkbox"/>	<input type="checkbox"/>
5	Has the applicant been in control of a property:		
		Yes	No
	Subject to a Control Order or Management Order	<input type="checkbox"/>	<input type="checkbox"/>
	Where works have been carried out in default	<input type="checkbox"/>	<input type="checkbox"/>
	Been refused a licence or registration certificate	<input type="checkbox"/>	<input type="checkbox"/>
	Breached conditions of a licence or registration certificate	<input type="checkbox"/>	<input type="checkbox"/>
6	An applicant must have the financial arrangements necessary to ensure that the property is properly managed and maintained. Please answer the following questions:		

		Yes	No
	Are you an undischarged bankrupt?	<input type="checkbox"/>	<input type="checkbox"/>
	Are there any outstanding County Court judgements against you or any company of which you are director or secretary?	<input type="checkbox"/>	<input type="checkbox"/>
7	Some of the above may apply under similar or equivalent legislation in a different country.		
		Yes	No
	Have you ever been subject to action or convicted of any offences that are similar to, or the equivalent of, those listed above in a different country?	<input type="checkbox"/>	<input type="checkbox"/>

If you have answered 'yes' to any of the above questions, it may be necessary for the Home-Link Manager to contact you for more information.

8	Do you (the Applicant) have the authority to repair and maintain the property and have the financial arrangements necessary to repair the property?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
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DECLARATION

I declare that the information provided in this Fit and Proper Person Assessment is true and correct to the best of my knowledge. I understand that knowingly false or misleading statements may result in the withdrawal of approval to offer accommodation to the council			
Applicant	Name – please print:		
	Signature:		Date: