

FAREHAM

BOROUGH COUNCIL

Policy to discharge homelessness duty into the Private Rented Sector

July 2013

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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. Local authorities owe applicants who are homeless, eligible for assistance, in priority need and not intentionally homeless the main housing duty to secure suitable accommodation (unless a referral to another local authority can be made under the local connection provisions).
- 1.2 The Localism 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 must be an offer of an assured shorthold tenancy and be for a minimum fixed term period of one year.

2 Suitability of accommodation

- 2.1 The Government introduced the Homelessness (Suitability of Accommodation) (England) Order on 9 November 2012 for such private rented sector offers. This legislation was brought in to ensure that the suitability and location of accommodation are properly considered by Local Authorities when ending the main homelessness duty. The current guidance on suitability contained in the Homelessness Code of Guidance will also continue to apply.

The Suitability of Accommodation Order requires a property that will be offered in discharge of the local authorities' homelessness duty to meet the following conditions:

- **Location** – be located to minimise disruption to education employment and caring responsibilities, take account of the proximity and accessibility of existing medical facilities and other support, access to local services, amenities and transport. Where the property is outside the district, the Local Authority (LA) must notify the LA within whose district it is situated within 14 days. The property must also be affordable.
- **Physical condition of the property** – have been inspected and assessed by qualified staff, within Fareham Borough Council prior to offer, to ensure that it is in reasonable physical condition. (Suitability Checklist to be completed for each property)
- **Health and Safety Matters** – meet the requirements of regulations 5 & 7 of the Electrical Equipment (Safety) Regulations 1994. Have appropriate fire safety equipment installed such as smoke alarms.

Have reasonable precautions to prevent the possibility of carbon monoxide poisoning to include a valid Gas Safety Certificate and the installation of a carbon monoxide alarm. Have a valid Energy Performance Certificate

- **Landlord behaviour** – for the LAs to have satisfied itself that the landlord is a fit and proper person to act in the capacity of a landlord.
- **Evidence of good management & tenancy deposit scheme** – The landlord must provide a written tenancy agreement and also protect the deposit in one of the national tenancy deposit protection schemes.

2.2 Where possible, households will be encouraged to take part in accompanied viewings of any property identified for their needs prior to taking up the tenancy in order that the Council can be made aware at an early stage of any issues that the applicant may have with regard to the property.

3. Policy aims and objectives

3.1 This policy works alongside the Council's Housing Allocations Policy, Tenancy Strategy, Housing Options and Homelessness Strategy and complies with:

- The Housing Act 1996, as amended by the Homelessness Act 2002
- The Localism Act 2011
- Equality Act 2010
- Homelessness (Suitability of Accommodation) (England) Order 2012
- Homelessness Code of Guidance 2006

3.2 This policy will ensure a comprehensive and consistent needs and risk assessment is carried out for each statutory homeless household, this approach will ensure applicants' needs are appropriately met at all times.

3.3 This policy will also ensure that there is no discrimination on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

4 Assessment Procedure

4.1 Fareham Borough Council will wherever possible try to secure accommodation within its own boundary area. However, if accommodation is not available, neighboring boroughs & districts will be considered. There is no restriction on how far outside the borough of Fareham a property will be secured, however applicants' wishes will be considered where possible.

4.2 Each case will be assessed on its own merit. Enquiries will be made by the local authority into the following areas of need and risk:

- The financial circumstances of applicants, the affordability of available accommodation and eligibility under Local Housing Allowance
- The physical, mental and emotional health needs of applicants and practical support required to maintain independent living
- Neighbourhood preferences where these are linked to social support networks and personal safety
- Recent housing history and the status of the homelessness application

4.3 The outcome of these enquiries will be recorded by the Housing Options Team and will determine whether the household is considered eligible for a private rented sector offer. The policy for selecting households for properties is detailed in section five

4.4 To enable the Council to discharge its duty in the most appropriate manner and where appropriate, the Council will work with partner agencies that provide tenancy support to particular groups of vulnerable persons.

5 Assessed as suitable for discharge into private sector

5.1 A private sector tenancy will be considered for statutorily accepted households initially but each case will be assessed on its own merits and a thorough assessment process will be undertaken to ensure that this kind of accommodation is appropriate. If this proves not to be the case then alternative options will be considered.

- 5.2 It is acknowledged that a private rented sector tenancy may not be the most appropriate housing option for some client groups.
- 5.3 Single person households aged *under* 35 will normally be considered for shared housing only, unless they are in an exempt category of persons. Single person households aged *35 and over* will be considered for bedsits, studio or one bedroom units. All other households will be considered for accommodation suitable for their family size and composition.
- 5.4 All households referred to in 5.3 above must:
- have an accepted homeless application
 - have been assessed by Fareham Borough Council as able to afford a private rented sector offer

6 Offers of accommodation

- 6.1 The allocation of available properties will be at the local authority's discretion. Each case will be assessed on individual circumstances and in line with the terms and procedures set out in this policy. At all times, the landlord of the property will have the final decision on who will be accepted into the property.
- 6.1 If an applicant is deemed to be suitable for a private sector offer and a suitable property is available, they will be made an offer immediately. The private sector offer must be an offer of an assured short hold tenancy, with a minimum fixed term of 12 months.
- 6.2 Under the terms and procedures set out in this policy, Fareham Borough Council will consider its statutory homeless duty discharged if a suitable offer is made. Once the offer has been formally made, the applicant's homeless application will be closed.
- 6.3 If a statutory homeless applicant refuses or fails to respond to a suitable offer of accommodation in the private or social sector, then Fareham Borough Council 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. The applicant will also be informed that they may lose their right to temporary accommodation.
- 6.4 An applicant, whose statutory homeless duty has ended as a result of their refusal or failure to respond, will have their housing register application dealt with in line with Fareham Borough Councils Housing Allocations Policy.

7 New approaches from applicants previously housed into the private sector under this policy

- 7.1 If an applicant becomes unintentionally homeless from their private rented tenancy within two years, the statutory homeless duty automatically revives (regardless of priority need). This reinstatement of the homelessness duty can only happen once.
- 7.2 In cases where the duty revives and the applicant applies to a different local authority, the applicant can be referred back to the original local authority, unless there is an identified risk of harm to the household. The revived duty may again be discharged through a further offer of private rented accommodation, in accordance with this policy.

8 Reviews on the suitability of accommodation offered

- 8.1 As part of the offer process, applicants will be advised of their right to request a review on the suitability of the accommodation offered. Applicants may also be advised of advice services that can help.

Review process

- 8.2 Applicants can request a review within 21 days of the local authority telling them that they consider an offer to be suitable and that it has discharged its duty under homeless legislation.
- 8.3 Review requests can be made in writing or verbally to the Housing Options Manager. The Housing Options Officer will advise the applicant of the full procedure and process for completing a review of the suitability of the accommodation offered.
- 8.4 Once a review request has been received, the Housing Options Manager or delegated senior officer will write to the applicant to acknowledge the request and provide details of the review procedure.
- 8.5 The review will be completed within 56 days of receiving the applicant's original review request (unless a longer period is agreed).
- 8.6 The review will be carried out by a senior officer who will not have been involved in the original decision.

Review outcome

- 8.7 Once the review has been completed the Housing Options Manager (or delegated senior officer) will write to the applicant informing them of the review decision. The letter will explain the review decision, how the local authority reached this decision, and the right to appeal on a point of law to the County Court. An appeal must be made within 21 days of being

notified of the review decision. (For further information on the appeals processes see below).

Accommodation options during and after a review decision

- 8.8 During the review process the Council is not legally obliged to provide the applicant with temporary accommodation. Applicants will be advised to accept the final offer of accommodation whilst the review is being considered. This is because the applicant will have somewhere to stay during the review process and there is no guarantee of a further offer of accommodation following the outcome of the review.
- 8.9 During the review process the property originally offered, may at the landlord's discretion, be held open whilst the review is considered. If the review is unsuccessful and the property is still available, the applicant may be offered the property again. In this instance the homeless duty will be considered to have been discharged.

9 County Court Appeals

An applicant can appeal to the County Court if they feel the review decision is legally incorrect or if the local authority has not met the time limit to complete the review process. All appeals must be made to the County Court within 21 days of the review decision. Applicants considering an appeal to the County Court are advised to obtain independent legal advice. The local authority is not legally obliged to provide the applicant with accommodation during an appeal process.

10 Complaints to Local Government Ombudsman

- 10.1 If an applicant is not satisfied with a review decision, they can complain to the Local Government Ombudsman. The Ombudsman will not consider certain matters, for example if 12 months has passed since the cause for complaint occurred or when matters are, or could be, subject to court proceedings.
- 10.2 The Ombudsman will consider a complaint if an applicant believes they have been treated unfairly as a result of maladministration
- 10.3 Contact details for the Local Government Ombudsman are:

The Local Government Ombudsman
PO Box 4771
Coventry, CV4 0EH
Telephone: 0762 480 3014 Website: www.lgo.uk

TEMPORARY ACCOMMODATION – SUITABILITY CHECKLIST

ISSUES FOR CONSIDERATION				
LOCATION	YES	NO	N/A	COMMENTS
Outside FBC district – how far?				
Disruption to employment, caring responsibilities/needs or education of household?				
Reasonable proximity to/accessibility of medical facilities and support which are essential to wellbeing				
Reasonable proximity to/accessibility of local services, amenities and transport				
ACCOMMODATION ITSELF	YES	NO	N/A	COMMENTS i.e. Details or work needed
In reasonable condition generally				
Has fixed form of heating, e.g. gas central heating, storage heaters				
Is free from damp and/or mould				
Suitable kitchen & bathroom facilities				
Handrails & balustrading to stairs				
Electrics certificated (PAT) and appear to be undamaged				
Mains wired smoke detectors in hall and landing spaces				
Furniture complies with Fire Regs				
Valid gas safety certificate				
Carbon monoxide detector supplied				
Energy Performance Certificate available				
If HMO, is it licensed?				
Landlord is a fit & proper person				
Landlord tenancy agreement suitable				

