

Brighton & Hove City Council

Private Rented Sector Offer Policy

Introduction

- 1.1 The Localism Act 2011 (sections 148 and 149) introduced provisions which enable the Council to bring its statutory housing duty under section 193 of the Housing Act 1996 as amended to an end, by making an offer of a private rented sector tenancy rather than a social housing tenancy.
- 1.2 Amendments under the Homelessness Reduction Act 2017 extended the powers in the Housing Act 1996, encouraging local authorities to embed an approach to use private sector accommodation to discharge its 'Prevention' and 'Relief' duties to homeless households and households threatened by homelessness.
- 1.3 This policy sets out how the Council will use its powers to end the Prevention, Relief or Full Housing Duty (including the 'lesser duty') by making a private rented sector offer (PRSO); in short how and to who we will make formal offers of private rented accommodation to, to discharge our Housing duties as outlined above.
- 1.4 Through the Localism Act 2011, this policy only applies to households that approached as homeless from 9th November 2012.

Key principles

- 1.5 The following principles will apply when making private rented sector offers:
 - Private rented sector accommodation is appropriate for most households however there are some circumstances in which this type of accommodation may not be appropriate for the household.
 - Normally one suitable offer will be made, and the duty will be discharged if a household refuses the offer of accommodation, although households will have the right to request a statutory review of the discharge and/or the suitability of the accommodation.
 - Offers of private rented sector accommodation will have regard to the provisions of the Homelessness (Suitability of Accommodation) Order 2012 and will only be made if the Council believes it is a suitable and affordable offer.
 - Households may be made a private rented sector offer outside of Brighton & Hove, where appropriate, and support may be offered to help move.

Who the private rented sector offers will be made to

- 1.6 The Council will make a PRSO to any homeless household where the law allows it, as outlined in paragraphs 1 and 2.
- 1.7 Decisions will be made on a case-by-case and after consideration of each household's individual circumstances.
- 1.8 However there are a range of circumstances that the Council will consider making a PRSO, including:
- The suitability of a household's temporary accommodation
 - Households who have specific needs that would not be met in Temporary Accommodation
 - The amount of time a household has been in temporary accommodation
 - Households living outside of the Brighton & Hove Local Authority area
 - Households who do not meet the 5-year Local Connection criteria, as set out in the Council's Housing Allocations Policy
 - Households in employment and or with a greater level of affordability
 - Households who aren't actively bidding on properties advertised on the Council's Choice Based Lettings system
 - Households in Temporary Accommodation leased from a private landlord who has asked for their property to be returned
- 1.9 The Council will also take into consideration the supply, and type, of private rented sector accommodation available to it, and the number of offers made each year will largely be supply-led.
- 1.10 The following groups will ordinarily not be prioritised for private rented sector offers:
- Households whose needs cannot be met in the private rented sector, such as households that require Supported Accommodation and or are not ready to 'move-on' from this type of accommodation.
 - Households which the Council determines would be unable to manage a private rented sector tenancy
 - Households who are benefit capped and whose income would fall significantly below the Basic Standard Allowances (BSA) to rent privately.
- 1.11 However, as stated, decisions will be made on a case-by-case and after consideration of each household's individual circumstances and this may include making an offer to those outlined above where the Council is satisfied that this is a suitable option.

Making the offer

- 1.12 The Council will assess a household's housing needs at the point a homelessness application is made and will also reconsider whether there is a change in housing needs where an applicant's circumstances have

changed at any point including when a potential property has been identified.

- 1.13 Households made a PRSO to end the Full Housing Duty will be offered an Assured Shorthold Tenancy (AST) of at least 12-months.
- 1.14 Accommodation offered to households will largely be sourced by the Council.
- 1.15 The Council works with letting agents and landlords to find private rented accommodation, to let to homeless households, who are owed a statutory duty under Part 7 of the Housing Act by the Council.
- 1.16 As part of this, the Council:
 - Verifies tenancies to be offered to homeless households
 - Checks the condition and suitability of a property (ensuring it meets 'enhanced suitability standards')
 - Ensures that landlords under the scheme are 'fit and proper'
 - Helps to sustain tenancies, especially if there is a risk of homelessness
 - Ensures that minimum standard repairs and safety requirements are met
- 1.17 Offers of private rented sector accommodation will have regard to the provisions of the Homelessness (Suitability of Accommodation) Order 2012 (1). This will include an affordability assessment to ensure that the offer is suitable for the household. The assessment will take into account the Local Housing Allowance and the household's current and likely future circumstances.

Support available to households offered accommodation outside of Brighton & Hove

- 1.18 The Council will make a decision to offer accommodation to someone outside of the Local Authority area on a case-by-case basis and households will be individually assessed prior to any offer of accommodation being made.
- 1.19 The assessment is to determine if the accommodation is suitable, specifically its location, and if any support is required to help settle the household into the area.
- 1.20 The support offered to households, who have been made an offer of accommodation outside of the area, will vary but may include, information on:
 - Claiming local council tax support
 - Registering with a Local GP
 - How to access emergency funding
 - How to apply for a school place in the area
- 1.21 The Council will take into account a number of factors when offering accommodation outside of the area, including:
 - Any active welfare or safeguarding concerns of any children in the household, including where a child which has an Education, Health and

Care Plan ('EHCP') or has special educational needs and the Council is satisfied that a move out of area would be detrimental to their continuing educational development.

- Level of education of any children in the household, specifically any children in secondary school in the year at the end of which they take their GCSEs or A level exams
- Identified risks from living in the area
- Employment status and the permanency and flexibility of employment
- Access to transport
- Level of need to be close to services (including services providing specific medical treatment) and support networks
- Impact on caring responsibilities

Rights to review

- 1.22 PRSOs will contain information on a household's right to request a review on the suitability of the accommodation offered.
- 1.23 Households can request a review within 21 days of receipt of notification of a PRSO.
- 1.24 The property will not be held open while the review is conducted. Households can accept the PRSO and move in and still exercise their right of review.
- 1.25 If the review overturns the PRSO, a new offer will be made.

Reapplications after private rented sector offer

- 1.26 Households that make a homelessness application within two years of the date of their acceptance of a PRSO will be provided suitable interim accommodation, regardless of whether the household has a 'priority need', if the Council is satisfied that there is reason to believe that the household is eligible for assistance, homeless and not intentionally homeless.
- 1.27 The Council will also have a duty to secure accommodation for the household, which can be discharged by a further PRSO, if appropriate.
- 1.28 Furthermore, for reapplications after PRSOs, the Council will treat a household who has been issued a valid notice under section 21 of the Housing Act 1988 as being homelessness from the date on which the notice expires, or threatened with homelessness from the date the notice is issued.

References

1. Homelessness (Suitability of Accommodation) (England) Order 2012: Department of Levelling Up, Housing & Communities. Available at: [Homelessness \(Suitability of Accommodation\) \(England\) Order 2012: Final Stage Impact Assessment \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612122/Homelessness_Suitability_of_Accommodation_England_Order_2012_Final_Stage_Impact_Assessment_publishing.service.gov.uk)