



Appendix C

Policy on the Discharge of Duty to Homeless Applicants owed a duty under Section 193 of the Housing Act 1996

Version 1

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Related documents: **Homelessness Strategy**
 SCDC Tenancy Policy
 Lettings Policy

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Section 1: Background

The Localism Action 2011 has amended the 1996 Housing Act 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 1996 Housing Act.

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.

This policy sets out how South Cambridgeshire District Council will apply the legislation in respect of discharging its homelessness duty. The prevailing housing demand and supply pressures in the area have been taken into consideration in producing the policy.

This policy will apply to all applicants who South Cambridgeshire District 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.

Section 2: Discharge of Duty

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

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

- An applicant refuses a suitable offer of temporary accommodation.
- 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.
- An applicant becomes intentionally homeless from their temporary accommodation.



Section 3: Home-Link Offers

All households accepted as homeless (excluding those assessed as being unsuitable to be a tenant) will be registered on the housing register and able to bid for properties advertised through the Home-Link scheme, in line with the lettings policy.

Offers of a social rented tenancy:

In order to manage the demand for temporary accommodation homeless applicants who have been accepted may be made an offer of accommodation they have not bid for. This may occur in two ways:-

- *Bids placed on behalf of applicants:*

Bids may be placed on behalf of applicants onto advertised properties considered suitable for the applicant and their families needs.

- *Direct lets:*

Properties may be offered directly to applicants. This may occur when applicants have specialist needs, need larger than average accommodation or a need to be in a specific area or have not been bidding for suitable properties.

Applicant's choices:

It is acknowledged that the District of South Cambridgeshire covers a wide geographical area and moving families from their existing location and networks can add extra stress and difficulties at an already difficult time. However, this has to be weighed up against the limited supply of housing that becomes available and the small number of properties in many individual villages.

The homeless legislation provides a safety net for families and vulnerable single people and our priority is to provide a suitable home for each household. As such we cannot commit to providing an applicant with their ideal choice.

When making a homeless application, applicants are therefore asked to select 25 villages, which is roughly a quarter of the district (applicants who do not select 25 villages will be considered for accommodation anywhere within the district).

Only in the most exceptional of circumstances will the Council commit to endeavouring to provide households with accommodation in a smaller geographical area. (For cases where this is agreed, this may need to be reviewed if rehousing has not proved possible within a reasonable time frame, or if the applicant's circumstances change).

The 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

Applicants unsuitable to be a tenant:

Applicants assessed as unsuitable to be a tenant (in line with South Cambridgeshire District Council's lettings policy) will be excluded from the housing register and unable to bid on properties advertised through the Home-Link scheme. Applicants will be advised of the actions they need to take in order for the Council to reconsider this decision, which may include showing they can successfully hold a tenancy for a period of time, agreeing a payment plan to clear arrears or changing their behaviour.

Officers will work with such applicants to help to find them suitable accommodation in the private rented sector, however, it is acknowledged that this will in itself prove difficult if their past history is considered by potential landlords. Applicants will therefore need to remain in temporary accommodation in order to show their behaviour as a tenant has changed (breaches of tenancy/ licence conditions whilst in temporary accommodation may result in them becoming intentionally homeless from this temporary accommodation and the Council duties towards them being discharged).

Section 4: Private Sector Offers

The Localism Act 2011 gives Local Authorities the power to discharge their duty to secure accommodation for homeless applicants by way of arrangements it has made with a Private Sector Landlord.

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 private rented sector tenancy, without the agreement of the applicant.

The 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 that 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.

South Cambridgeshire District Council recognises that the number of private rented sector properties within the District available to the Council to discharge the homelessness duty is unlikely to be of such



quantity to meet the demand from all eligible applications. Therefore the decision to offer Private Rented Sector accommodation will be made if a suitable property is available.

The suitability of private rented 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.

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

Section 5: Offer Hierarchy

Bids placed on behalf of applicants to advertised properties through the Home-Link scheme, will be prioritised through the lettings policy. In the case of Direct lets, or offers of private rented 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 private rented sector offer. 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.



1. In Bed and Breakfast
2. Awaiting temporary accommodation
3. In temporary hostel accommodation
4. Own arrangements
5. In self contained temporary accommodation

Section 6: Offers, Acceptances, Refusals and Reviews of Suitability

Where the applicant has been offered accommodation via the Home-Link scheme, if the applicant is considering refusing the property and, after discussion with their caseworker, the property is still considered to be suitable, a formal offer letter must be sent.

Notification of any offer (including a direct let or offer of privately rented 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. 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 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.

Where the applicant refuses a suitable offer of accommodation the Council will cease its duty to the applicant under s.193 Housing Act 1996. Therefore, if they are currently occupying temporary accommodation this will be terminated.

Any request for a review of suitability must be made in writing to the Housing Advice and Options Team within 21 days of the date of the notice.

Section 7: Reapplication following Loss of Accommodation (private sector offers)

Under section 195A Housing Act 1996, should the applicant approach the Authority as homeless within a period of two years following acceptance of the private rented sector offer under s.193 (7AA) Housing Act 1996, irrespective as to whether the approach is from the offer property or elsewhere, the Council will:

- Treat the applicant as being homeless from the date of expiry of the notice. The landlord therefore will not be required to apply to court to regain possession. The Council will confirm the validity of the notice.
- 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 eligible for assistance and did not become homeless intentionally from their last settled accommodation.

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 – Private rented sector 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 Environmental Health 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.

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 (this can also be applied to offers of temporary accommodation, however, the priority will be to secure accommodation for the household, and there may be limited opportunity to achieve an offer that matches an applicant's preferences).

The applicant's circumstances will be considered against available properties to ensure that best use is made of suitable properties. 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 Offer Hierarchy), 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.
- **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 well-being.
- **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.