

Policy Proposal – Making a Private Rented Sector Offer to Statutorily Homeless Households in Copeland

EXECUTIVE MEMBER: Councillor G Garrity
LEAD OFFICER: Julie Betteridge, Head of Community and Customer Services
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WHAT BENEFITS WILL THESE PROPOSALS BRING TO COPELAND RESIDENTS?

The policy proposal is a key deliverable of the Homelessness Strategy 2013-18 which seeks to support households that are homeless or threatened with homelessness in Copeland.

WHY HAS THIS REPORT COME TO THE EXECUTIVE?

The Homelessness Strategy is a key part of the Council's Policy Framework.

RECOMMENDATIONS

It is recommended that Executive:

Note the powers made available to the Council by the Localism Act 2011 and Statutory Instruments to end the main housing duty for statutorily homeless households by making a private rented sector offer;

Note the Council's current policy position for ending the main housing duty for statutorily homeless households;

Note that the Council's Homelessness Strategy 2013-2018 identifies the need to create a policy and procedure which allows officers to use the power;

Adopts the policy to end the duty for some accepted statutorily homeless households for the reasons outlined at 3.1.1. to 3.1.4;

Agrees that the policy and its implementation is reported quarterly to the appropriate Council panel/committee;

Agree that the policy is reviewed in April 2016.

1. INTRODUCTION

- 1.1 The report presents a policy proposal for making a private rented sector offer to some statutorily homeless households in Copeland (households for which the Council has accepted a main housing duty under Part 6 of the Housing Act 1996 following appropriate and relevant enquiries).
- 1.2 The Localism Act 2011 introduced powers for local authorities who accept a Housing Duty under Part 6 of the Housing Act to discharge that duty into the Private Rented Sector which provides a fixed term assured short-hold tenancy for a minimum of 12 months. In 2014, Neil Morland Housing Consultant Limited was commissioned to prepare a policy proposal and suite of procedures.
- 1.3 Executive will note that any household owed the main Housing Duty in Copeland at present can only have this duty discharged by Copeland Borough Council in the event that suitable permanent housing is secured in accordance with the Cumbria Choice Based Lettings (CBL) Allocation Policy and one of the registered social providers participating in the scheme.

2. PROPOSALS

2.1 LEGAL FRAMEWORK

- 2.1.1 On 9 November 2012, the Localism Act 2011 (Commencement No. 2 and Transitional Provisions) (England) Order 2012 Statutory Instrument 2012/2599 brought into force the provisions that allow local authorities to end the main housing duty to a homeless applicant by means of a 'private rented sector offer' (a fixed term assured short-hold tenancy for a minimum of 12 months).
- 2.1.2 Any accommodation secured by the local authority under Part 7 of the Housing Act 1996 must be suitable for the applicant. From 9 November 2012, the Homelessness (Suitability of Accommodation) (England) Order Statutory Instrument 2012/2601) requires local authorities to take into account the location of accommodation offered when determining its suitability. The order also sets out the minimum standards that a Private Rented Sector Offer and a private sector landlord must meet if it is to be treated as suitable including the property meeting a number of condition requirements.
- 2.1.3 The legislation also states that any household offered and accepting the private rented sector offer making a homeless application within 2 years will automatically be treated as having a 'priority need' if the homelessness assessment determines that the household is not 'intentionally' homeless, the housing duty will be automatically revived.

2.2 COPELAND BOROUGH COUNCIL HOMELESSNESS STRATEGY 2013-2018

- 2.2.1 The Homelessness Strategy already promotes the use of private rented accommodation to prevent homelessness. Copeland Housing Options Team has successfully helped numerous households who may be threatened with homelessness to obtain accommodation from a private landlord, sometimes with the assistance of various incentives, such as rent-in-advance or a rent deposit.
- 2.2.2 A key aim of the Homelessness Strategy is to ensure that sufficient accommodation is available for homeless people in Copeland.

The strategy's action plan identifies that the Council will establish a procedure to use the power to end the main housing duty with an offer of private rented accommodation. The aim of this is to ensure that best use is made of the new power given that the private rented sector is the fastest growing tenure and the social rented sector is shrinking.

The strategy states it will achieve this by:

- a) Creating a policy and procedure which allows officers to use the power to accommodate applicants whenever appropriate;
- b) Provide training to all service staff on the new policy and procedure;
- c) Set targets so that households in the temporary accommodation are moved into private rented accommodation under the new procedure within six months of entering temporary accommodation.

3. THE POLICY PROPOSAL

- 3.1 It is proposed that Executive on behalf of the authority adopts the power to end the duty for **some** accepted cases.

When looking at the policy options available to the Council, the following factors were considered:

- Proper and safe compliance with the Council's statutory duties
- Housing market affordability, demand and supply
- Temporary Accommodation and Bed and Breakfast

3.1.1 Proper and safe compliance with the Council's statutory duties

The Housing Options Team work within a complex legal framework when assessing homelessness applications.

The current policy position means anyone who is ineligible for social housing through the CBL can spend a considerable time – likely to be between 3 and 6 months or more – in temporary accommodation and the Council cannot legally discharge its main duty. In future, a shrinking social sector will also have implications for households in temporary accommodation.

3.1.2 Housing market affordability and wider social and policy considerations

In terms of wider housing policy, housing market pressures on affordability, demand and supply of housing across tenures makes it necessary for the Council to take advantage of powers available to it.

The Council's Housing Options Team are dealing with increasing complex and vulnerable households presenting with a wide range of needs. This is due to a number of factors including wider welfare reform. In some circumstances, these households have exhausted housing options in the social sector and are no longer eligible. Reasons for this may include:

- High level rent arrears accrued from lack of affordability, including unemployment and benefit changes outside the households control
- Historical high level rent arrears
- Historical recharges
- Anti-Social behaviour (including from family members, partners and children of the household)

In addition, for some households, suitability of accommodation cannot be met by the social rented sector. For example, due to size, location, or accessibility for school/employment purposes.

3.1.3 Temporary Accommodation

A key aim of the introduction of the power was to reduce the number of statutorily homeless households living in temporary accommodation in areas where there is a chronic shortage of social housing. Adopting the power enabled Councils in these areas to secure alternative permanent housing options for households to which they owe a main housing duty.

Temporary Accommodation is expensive – for both the Council and the statutory homeless household. Adopting a policy to make a private rented sector offer

helps the Council to reduce the length of stay in temporary accommodation for homeless households and also helps the Council avoid placing households in Bed and Breakfast. Currently the Council manages several temporary accommodation units which are suitable for a range of households. Bed and breakfast accommodation costs on average £60 per night. Costs in this area will continue to increase.

At the same time, while the Council's emergency temporary accommodation is of a good standard, it only meets a short term need and does not provide households with the security of tenure that they need. This can hugely impact on other areas of the household's life.

3.1.4 Safeguards

Executive are asked to note that the policy proposal contains appropriate safeguards for vulnerable statutorily homeless households. These are embedded in the Localism Act, as well as within further secondary legislation that accompany the main changes. These ensure that Private Rented Sector Offers provide suitable and settled accommodation.

4. CONSULTATION ON THE POLICY OPTIONS

- 4.1 The policy options have been considered by the Council's Housing Options Team and Corporate Leadership Team. The Portfolio Holder for Housing has also been consulted.

The policy option was considered and discussed in detail by the Council's Strategic Housing Panel on 10 March 2015. The panel concluded that it would recommend to Executive that the policy proposal to adopt the power to end the duty for **some** statutorily homeless households is adopted, subject to quarterly monitoring by the appropriate Council panel and a review after 12 months (April 2016). SHP also recommended that the new policy, if agreed, should be applied on a case by case basis and should not be a 'blanket' policy.

5. ALTERNATIVE OPTIONS TO BE CONSIDERED

5.1 Not to adopt the power to end the main housing duty for any accepted cases

This would mean no change. The Council would continue to be able to discharge its statutory duty in accordance with the CBL Allocations Policy and the social rented sector only.

5.2 To adopt the power to end the duty for all accepted cases

At this time, it is proposed that the proposed policy should be applied on a case by case basis for those statutorily homeless households who cannot access the social rented sector or a suitable offer cannot be made in the social rented sector for suitability reasons (size, type, location). Members may review this as a result of ongoing monitoring/review or in the event of future legislative/policy changes as appropriate.

6. CONCLUSIONS

6.1 Members are asked to note that the policy proposal to end the main housing duty for some accepted statutorily homeless households:

- Supports the delivery of the Council's Homelessness Strategy 2013-18
- Assists the Council in meeting its statutory duties and adhering to the legislative framework
- Increases the Council's options for supporting statutorily homeless households
- Supports households owed the main housing duty who are ineligible under the CBL Allocations Policy (this can be due to a number of reasons)
- Assists the Council to deliver within current housing policy constraints and make best use of housing stock in the area. There is a high demand for registered social housing locally, especially for smaller one and two bedroom units. It can take considerable time for households to be accommodated in this way;
- Ensures that it's accompany procedures provide robust safeguards for vulnerable households.

It is therefore recommended that Executive adopts the power to end the duty by making a private rented sector offer for **some** accepted cases.

7. STATUTORY OFFICER COMMENTS

7.1 The Monitoring Officer's comments are: Approval of the Homelessness Strategy is an Executive function and the appropriate governance processes have been followed.

7.2 The Section 151 Officer's comments are: The proposals do not have any implications for current budget levels supporting this area. The intention to

alleviate cost pressures on temporary accommodation provision (Para 3.1.3) is noted.

7.3 EIA Comments: Protected characteristics of households who have the main housing duty discharged through a private rented sector offer will be monitored on a quarterly basis and through the P1E Government return.

7.4 Policy Framework:

The Homelessness Strategy 2013-18 and its accompanying action plan is a key council strategy. The policy proposal makes use of powers made available to the council as part of the Localism Act 2011.

7.5 Other Consultee Comments, if any:

8. HOW WILL THE PROPOSALS BE PROJECT MANAGED AND HOW ARE THE RISKS GOING TO BE MANAGED?

8.1 The proposal will be managed as part of the wider Homelessness Strategy and the Council's Performance Management Framework through Covalent.

8.2 Quarterly reporting of the policy implementation – if approved – will be made to the appropriate Council panel/committee.

9. WHAT MEASURABLE OUTCOMES OR OUTPUTS WILL ARISE FROM THIS REPORT?

9.1 Measurable outcomes/outputs will be determined by the number of statutorily homeless households who have the main housing duty discharged through a private rented sector offer.

9.2 Measurable outcomes/outputs will also be determined by the number of statutorily homeless households and the period of time they spend in temporary accommodation.

List of Appendices

Appendix A – Draft Policy – Making a Private Rented Sector
Appendix B – Procedure for Making a Private Rented Sector Offer

List of Background Documents:

Homelessness Strategy 2013-2018

*Please note that the Draft Policy's accompanying Toolkit can be viewed in the
Members Room

Policy on Private Rented Sector Offer to Statutory Homeless Households

Introduction

This policy explains how Copeland Borough Council (hereafter known as the Council) intends to use powers arising from the Localism Act 2011 to bring the main housing duty to an end by making a suitable offer of private rented sector accommodation (PRSO Policy).

The policy is accompanied by a procedure which explains how the policy will be administered. This is to ensure that the policy is adhered to in a consistent manner, plus ensure transparency when executing the principles of this policy.

Legal context

The following sections in primary legislation represent the recent history of the new powers arising from the Localism Act 2011:

- s.197 Housing Act 1996 (repealed)
- s.7 Homelessness Act 2002 (amended 6 to 8 of Housing Act 1996 s.193)
- s.148 Localism Act 2011 (S193(7F))

On 9 November 2012, the Localism Act 2011 (Commencement No. 2 and Transitional Provisions) (England) Order 2012 SI 2012/2599 brought into force the provisions in the Localism Act 2011 that allow local authorities to end the main housing duty to a homeless applicant by means of a 'private rented sector offer', i.e. a fixed-term assured shorthold tenancy for a minimum of 12 months.

A person provided with accommodation in the private rented sector as final discharge of a homelessness duty will have no 'reasonable preference' for an allocation of permanent housing by reason of homelessness.

The change does not apply to people who have applied as homeless before 9 November 2012 and who were, on that date, owed interim accommodation pending a decision on their application.

Any accommodation secured by a local authority under Part 7 of the Housing Act 1996 must be suitable for an applicant. From 9 November 2012, the Homelessness (Suitability of Accommodation) (England) Order 2012 (SI 2012/2601) requires local authorities to take into account the location of accommodation offered when determining its suitability. The Order

also sets out the minimum standards that must be met if a 'private rented sector offer' is to be treated as suitable, including that the landlord is a fit and proper person and that the property meets a number of requirements regarding its condition.

From 9 November 2012, if an applicant makes a further homelessness application within two years of the acceptance of a 'private rented sector (PRS) offer', s/he is automatically to be treated as being in priority need. If the local authority decides s/he is homeless, eligible for assistance and not intentionally homeless, the main housing duty is revived and the applicant can be referred back to the authority which made the original PRS offer (except where there is a risk of domestic violence).

The Government published on 9 November 2012 supplementary guidance on the homelessness changes in the Localism Act 2011 and on the Homelessness (Suitability of Accommodation) (England) Order 2012.

The policy will comply with the following legal instruments:

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

The policy will appropriately reflect the priorities and rules shown in the following local documents:

- Housing allocations policy
- Homelessness strategy
- Tenancy strategy

Policy Position

The Council has decided to adopt the power to end the duty for some accepted cases. The adoption of this approach will involve a combination of factors that will be specifically assessed to ensure the Council can suitably fulfil each household's housing needs including:

- The location required
- The number of bedrooms required
- The type of property required
- The rental costs that can be afforded

The Homelessness (Suitability of Accommodation) (England) Order 2012 deals with suitability of location of private rented sector offers and sets out circumstances in which accommodation offered under section 193(7F) is not to be regarded as suitable for a person for the purposes of a private rented sector offer. The Order requires that a property must fulfil certain criteria. Statutory guidance on suitability contained in the Code of Guidance will also continue to apply in conjunction with this policy document.

The issue of location will be properly considered along with relevant matters that affect the sustainability of a household's accommodation including:

- Individual factors – e.g. special educational needs or factors (e.g. sitting exams), ill health (mental or physical), disability (physical/sensory)
- Interpersonal factors – e.g. being a former/present victim of crime, distance to essential local community facilities
- Environmental factors – e.g. availability of transport links, type/source of heating
- Economic – e.g. distance to employment/training opportunities

This policy will be applied on the basis of ensuring best use of housing stock in the local authority area. Whenever a household's housing needs are able to be satisfactorily sustained in either social rented housing or private rented sector housing, the Council will consider the following factors:

- Welfare reform impacts on specific household types, particularly in high cost housing market areas and on affordability for larger families; and
- Where there is low availability of social housing stock, both in terms of overall number of units and the frequency of them becoming available to re-let.

Even if a household has successfully bid, they may still be made an offer of suitable private rented sector accommodation. This will occur when the length of time to wait for a social housing unit to become ready to re-let is in excess of the time it will take a comparable private rented property to become available to re-let. This will ensure that households do not have to spend an excessive amount of time living in temporary accommodation.

The level of PRS supply will determine the number of cases that have the duty ended with a PRSO. For some it may continue as the reasonable preference granted under Part 6 may lead to being housed before a PRSO can be made. In some areas social housing supply pressures will mean that the PRSO may be more likely to become available before a Part 6 offer. In areas of lower demand and/or higher supply of social housing, customers may seek to bid successfully for social housing before a PRSO is made.

There will be no households exempted to these rules. To ensure that households are not exposed to any threat, a risk assessment will be undertaken prior to making an offer and each household will also be secured appropriate support to be able to live independently.

Whenever possible, households will be offered a tenancy within the Council's own boundary. When there is an occasion that a move to another area will be necessary to ensure a suitable property can be offered the Council will adhere to what the law, under s.208 of Housing Act 1996, stipulates about out of borough placements.

Procedural requirements

Allocation of available properties will be at the Council's discretion. Each case will be assessed on individual circumstances and in line with the terms of this policy. Where the property is being let directly by a private landlord or letting agency, the landlord of the property will have the final decision on who will be accepted into the property.

Households will be afforded an opportunity to view any property they are offered in discharge of the s.193 duty prior to any expectation that they should sign a tenancy agreement.

The suitable offer

Statutory homeless households are entitled to one reasonable offer of accommodation. The Council will consider its homelessness duty discharged if a suitable offer (known as a “final” offer) is refused. The private rented sector offer must be an offer of an assured shorthold tenancy, with a minimum fixed term of one year. Under these circumstances, this will be considered the household’s one offer of suitable accommodation and will therefore discharge the statutory homelessness duty. If the household refuses the offer of accommodation, the Council can end its statutory homelessness duty. Once the offer has been formally made, the household’s homelessness application will be closed. Should the household wish to remain on the housing register, their application will be dealt with in line with the Council’s allocations policy.

Refusing or failing to respond to the suitable offer

If a statutory homeless household refuses or fails to respond to a suitable offer of accommodation in the private or social sector, the Council can end its statutory duty to provide accommodation. The Council will explain the household’s right to a review of the suitability of the offer of accommodation. The Council will also explain to the household that they may lose their right to temporary accommodation. A household, whose statutory homelessness duty has ended as a result of their refusal or failure to respond, will have their housing register application dealt with in line with the Council’s allocations policy.

Unintentional Homelessness within 2 years and the Reapplication Duty

If a household becomes unintentionally homeless from their private rented sector tenancy within two years, the statutory homelessness duty owed to them by the Council who made the private rented sector offer will automatically revive. This is called the re-application duty. However, this duty will only revive once; there will be no duty owed by the Council in continuation of the original duty if the applicant again became homeless. If the household becomes homeless for a second time within two years of accepting a private rented sector offer, they must make a fresh homelessness application. In cases where the duty revives and the applicant applies to a different local authority, the applicant can be referred back to this Council if it made the original decision, 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.

The Council will always attempt to make an offer of accommodation that is situated within its own boundary. When this is not reasonably practicable, the Council shall give in writing to the

local housing authority in whose district the accommodation is situated the following information:

- The name of the applicant
- The number and description of other persons who normally reside with him as a member of his family or might reasonably be expected to reside with him
- The address of the accommodation
- The date on which the accommodation was made available to him, and which function under this Part the authority was discharging in securing that the accommodation is available for his occupation.

The notification will be given before the end of the period of 14 days beginning with the day on which the accommodation was made available to the applicant.

Household's right to request a review

As part of the offer process and in accordance with the Council's policies and procedures, households will be advised of their right to request a review on the suitability of the accommodation offered. Households will also be advised of advice services that may be able to assist them to make a request for a review and provide support throughout the duration of the review.

The review process

Households can request a review within 21 days of the Council telling them that they consider an offer to be suitable and that it has discharged its duty under homelessness legislation. A representative on behalf of a household can make this request. Review requests can be made in writing or verbally to the Council. The Council will advise the household of the full procedure and process for completing a review of the suitability of the accommodation offered. The Council will consider review requests received after 21 days, but they are not obliged to agree to carry out the review. Once a review request has been received, the Council will write to the household to acknowledge the request and provide details of the review procedure. The Council will need to complete the review within 56 days of receiving the household's original review request (unless a longer period is agreed). A senior officer at the Council will carry out the review. This officer must not have been involved in the original decision.

The review outcome can be:

- Unsuccessful – in this situation the Council’s original decision will stand; or
- Successful – in this situation the Council will amend their original decision.

Once the review has been completed, the Council will write to the household informing them of the review decision. The letter will be sent to the household or will be available for collection from the local authority offices. The outcome letter will explain the following:

- The review decision;
- How the local authority reached this decision; and
- The right to appeal the review decision to the County Court if the applicant believes the decision is legally incorrect.

An appeal must be made within 21 days of being notified of the review decision.

During the review process, the Council is not legally obliged to provide the applicant with temporary accommodation. Households will be advised to accept the final offer of accommodation whilst the review is being considered where the landlord has confirmed they are happy to release the household from the tenancy if the review request is successful. This is because:

- The household 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.

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 household may be offered the property again. The local authority will consider its homelessness duty discharged.

A household can appeal to the County Court on any point of law for one of the following reasons if they feel the review decision is legally incorrect or if the Council 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. Households considering an appeal to the County Court will be advised of advice services that may be able to assist them

to make a request for an appeal and provide support throughout the duration of the appeal. The Council is not legally obliged to provide the applicant with accommodation during an appeal process.

If a household 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. The Ombudsman will consider a complaint if a household believes they have been treated unfairly as a result of maladministration. Examples include:

- Delayed taking action without good reason
- Taken into account irrelevant considerations or ignored relevant considerations
- Not followed rules (legal or local procedures)
- Given the wrong decision
- Not reached a decision in the correct way

Contact details for the Local Government Ombudsman are:

The Local Government Ombudsman

PO Box 4771

Coventry

CV4 0EH

Telephone: 0300 061 0614

Website: www.lgo.uk

Future Review

Both this policy and procedure will be reviewed in line with any significant change in legislation, guidance issued by the Department for Communities & Local Government or significant case law. In the absence of this, it should be reviewed every two years.

Checks and balances will be put in place to performance monitor and support delivery of this policy and procedure and reports will be made available for scrutiny going forward post-implementation. Customer feedback will be continuously collected to inform delivery across the service subsequent to the introduction of this policy and procedure.

Appendix B

Procedure for making a private rented sector offer (PRSO) to statutorily homeless households

This procedure applies to applicants who have been identified as being owed the main homelessness duty by Copeland Borough Council (hereafter known as the Council) and the Council intends to bring that duty to an end by making a suitable offer of private rented sector accommodation. [***This procedure is in accordance with the Council's policy for making a private rented sector offer to statutorily homeless households.***] Throughout this procedure, whenever a document is to be completed or issued, a copy should be retained on the file.

1. Assess the applicant's housing needs and budget

Once an applicant has been identified as being owed the main homelessness duty, the housing options officer should establish the applicant's housing needs and budget by completing the Housing Needs and Affordability Assessment (Document 3).

2. Locate a property

The housing options officer should use available records, databases and contacts to locate a property within the Council's own district which meets the applicant's requirements as set out in the Housing Needs and Affordability Assessment. Where appropriate, the housing officer should try to secure a property that is as close as possible to where the applicant was previously living. The housing options officer will only consider properties in other areas if:

- a. there is a specific reason to do so, such as the applicant being at risk of violence in the Council's own district; or
- b. if it is not reasonably practicable to find a property that meets the applicant's requirements and is suitable within the Council's own district.

3. Assess the suitability of the property for the applicant

The housing options officer must not approve a PRSO unless satisfied that the property being offered is suitable. The housing options officer should assess

whether the property is suitable for the applicant and all members of the applicant's household by completing the Suitability Calculation (Document 4). If the Suitability Calculation indicates that the property is not suitable, the housing options officer must find an alternative property.

4. Carry out a risk assessment for the offer

A risk assessment must be undertaken prior to any PRSO being approved and the housing options officer should use the Risk Assessment (Document 5) which also enables the housing options officer to consider whether any additional support needs to be secured for the applicant to enable the applicant to live independently. If the property is not safe for the applicant, the housing options officer must locate another property.

5. Confirm that the landlord is fit and proper

The housing options officer must be satisfied that the landlord is a fit and proper person to act as a landlord, having considered all relevant factors, including whether or not the landlord has:

- a. committed any offence involving fraud, dishonesty, violence, illegal drugs or any sexual offence;
- b. practised unlawful discrimination on the grounds of sex, race, age, disability, marriage or civil partnership, pregnancy or maternity, religion or belief, sexual orientation, gender identity or gender reassignment in connection with any business;
- c. contravened any housing law, including landlord and tenant law and prosecutions for harassment and illegal eviction; or
- d. not acted in accordance with any applicable code of practice for the management of a house in multiple occupation.

The housing options officer should search available records and databases to establish if the landlord is fit and proper. The searches should include carrying out a free online search of the Individual Insolvency Register and contacting the environmental health team, the finance team and the Department for Work and Pensions to confirm whether they are aware of any disputes with or actions against the landlord. If the property is not within the Council's own district, the housing options officer should carry out equivalent searches with the authority for the area

the property is in.

The housing options officer must keep a record on the file of all searches carried out and should consider all the search results equally when determining whether the landlord is fit and proper. If after carrying out all necessary investigations the housing options officer is not sufficiently satisfied that the landlord is fit and proper, the housing options officer should discuss the matter with a senior officer. The housing options officer and the senior officer should consider whether to require the landlord to undergo a Criminal Records Bureau check, although this should not be necessary in every case.

6. Inspect the property

The Council must be satisfied that the property is in a reasonable physical condition and meets safety requirements, such as containing appropriate fire safety equipment. An inspecting officer must therefore carry out an inspection of the property using the Inspection Report (Document 6). The landlord will be required to provide a number of documents to prove that the property meets the requirements. These are referred to in the Inspection Report, but may not be available at the inspection. The housing options officer should ensure that copies of each of the documents are collected following the inspection and before the PRSO is made. If the property fails the inspection and the failures cannot be remedied within a reasonable period, the housing options officer should find an alternative property.

7. Check the assured shorthold tenancy agreement (AST)

Once the housing options officer has established that the property is suitable, the housing options officer should request a copy of the AST which the landlord proposes to offer to the applicant. The initial fixed term of the tenancy must be at least 12 months. The housing options officer must be satisfied that the AST is adequate so should review it against the Tenancy Agreement Checklist (Document 7). If the housing options officer does not consider the tenancy to be adequate, the housing options officer should contact the landlord and request an alternative agreement. If no alternative is provided or the alternative is still deficient, the housing options officer should warn the applicant of the deficiencies in the Offer Letter (Document 8).

8. Check that the applicant is able to accept the offer

Although this will have been checked as part of the Housing Needs and Affordability Assessment, the housing options officer should confirm immediately before the PRSO is made that the applicant is not under any contractual or other obligations in respect of the applicant's existing accommodation which the applicant cannot bring to an end before being required to take up the offer. If any such obligations exist, they must be resolved before the offer can be made. The housing options officer should also confirm immediately before the PRSO is made that there has been no material change in circumstances that might affect the suitability of the property.

9. Make the offer

The offer must be of an AST of the property made with the approval of the Council pursuant to arrangements between the Council and the landlord designed to bring the Council's main homelessness duty to an end. The housing options officer should make the offer to the applicant in the form of the Offer Letter (Document 8) which explains to the applicant:

- a. the possible consequences of refusal or acceptance of the offer;
- b. the applicant's right to request a review of the suitability of the property and the advice services that may be able to assist the applicant in relation to any review; and
- c. the effect of a further application within 2 years of acceptance of the offer (if the application is not a restricted case).

10. Allow the applicant to inspect the property

The housing options officer should liaise with the landlord to ensure that the applicant is given an opportunity to inspect the property before being expected to accept or refuse the offer.

11. If the offer is accepted

If the applicant accepts the PRSO and the parties enter into the tenancy, the Council's main homelessness duty comes to an end and the housing options officer should notify the applicant using the Acceptance Letter (Document 9). The housing options officer should also remind the landlord of its responsibilities to place the applicant's deposit in a tenancy deposit protection scheme using the Landlord's Notice (Document 10).

If the property is not within the Council's own district, the housing options officer must notify the authority in whose area the property is situated **within 14 days** of the property becoming available to the applicant using the Local Authority Notice (Document 11).

In light of the re-application duty explained below, the housing options officer should diarise to contact the applicant **10 months** from the start of the tenancy to review the situation and determine whether any support needs to be provided to prevent the tenancy coming to an end at the expiry of the initial 12 months.

12. If the applicant makes a further application

An applicant is automatically treated as being in priority need if the applicant:

- a. makes a further homelessness application within 2 years of accepting a PRSO (regardless of whether or not the applicant secured their own accommodation between the expiry of the initial 12 month assured shorthold tenancy and becoming homeless again);
- b. is eligible for assistance; and
- c. has become homeless or is threatened with homelessness unintentionally.

This re-application duty only applies once so will not apply if the applicant becomes homeless for a second time within 2 years of accepting a PRSO. It also does not apply in restricted cases where the Council has only accepted the main homelessness duty because of a restricted person being in the applicant's household. A restricted person is not eligible for assistance with homelessness, is subject to immigration control and either does not have leave to enter or remain in

the UK or such leave is subject to that person maintaining and accommodating themselves and any dependants without using public funds.

On receiving any application, the housing options officer must carry out necessary investigations to establish whether or not the re-application duty applies, even if another authority arranged the original PRSO. If there is reason to believe that the re-application duty may apply, the Council is under a duty to secure accommodation for the applicant pending a decision as to the duty owed. If the housing options officer concludes that the re-application duty applies, the housing options officer should notify the applicant using the Re-application Duty Letter (Document 12) and should work through this procedure again from the beginning.

Once the initial investigations have confirmed that the re-application duty applies, the applicant can be referred back to the authority which made the original PRSO if it was not the Council. However, the applicant cannot be referred if:

- a. there is an identified risk of domestic violence in that area to the applicant or anyone who might reasonably be expected to be a member of the applicant's household; or
- b. the applicant, or anyone who might reasonably be expected to reside with the applicant, has suffered violence or threats of violence which are likely to be carried out in that area and returning to that area will probably lead to further violence.

The housing options officer should carefully assess whether any of these risks apply, but no enquiries should be made with the perpetrators of violence. When assessing the likelihood of threats of violence being carried out, the housing options officer should only consider the probability of violence rather than actions which the applicant could take, such as injunctions. If no risks apply and the housing options officer decides it would be reasonable to refer the applicant to the authority which made the original PRSO, the housing options officer should notify the applicant of the referral as part of the Re-application Duty Letter. The housing options officer should also notify the authority that made the original PRSO by telephone and confirm this in writing using the Referral Notice (Document 13). If contact cannot be made by telephone, the housing options officer should send the Referral Notice by fax or email as well as by post.

The two authorities shall agree whether or not the conditions for referral are satisfied in accordance with the statutory guidance in the Homelessness Code of Guidance for Local Authorities. If they cannot agree, the decision shall be made by a person appointed by the authorities or by the Chairman of the Local Government Association from a panel if the authorities cannot agree on an appointment. Once it has been decided whether or not the conditions for referral are met, the housing options officer shall notify the applicant of the decision using the Referral Decision Letter (Document 14). If the conditions have been met, the authority which made the original PRSO will take over the application. If the conditions have not been met, the housing options officer should deal with the application using this procedure.

If the housing options officer receives a referral from another authority, the housing options officer should assess whether the conditions for referral are satisfied. The other authority will already have established that the applicant is eligible for assistance and has become homeless or is threatened with homelessness unintentionally, so this cannot be reconsidered. The housing options officer should reply to the other authority **within 10 days** of receipt of the notification of referral to confirm whether or not it is agreed that the conditions for referral have been met. If the conditions have been met, the housing options officer should deal with the application using this procedure. If the housing options officer does not accept that the conditions have been met, the housing options officer should include in the response full reasons for that opinion and the two authorities should resolve the matter in accordance with the statutory guidance in the Homelessness Code of Guidance for Local Authorities.

13. If the offer is refused

If the offer is not accepted within a reasonable period depending on the circumstances, the housing options officer is to use reasonable efforts to contact the applicant to confirm that the offer has been received. If possible, the housing options officer is to use an alternative method of communication to contact the applicant, such as telephoning the applicant. If the applicant still does not respond after a reasonable period, the applicant will be treated as having refused the offer. If the housing options officer is in any doubt as to what is a reasonable period in

the circumstances, the housing options officer should discuss the matter with a senior officer.

If a suitable offer is refused, the Council's duty will have been discharged and the housing options officer should notify the applicant using the Refusal Letter (Document 15). If the applicant does not request a review within 21 days, the housing options officer can close the homelessness application and any continuing housing register application should be dealt with in line with the Council's Housing Allocations Policy.

14. If the applicant requests a review

The applicant or a representative for the applicant can request a review of any decision of the Council as to the duty owed, the suitability of the property or a referral to another authority within 21 days of being notified of the relevant decision, although the Council will at its discretion consider review requests received after 21 days.

On receipt of a verbal or written request for a review, the housing options officer must acknowledge receipt of the request and provide details of the review procedure using the Review Acknowledgment Letter (Document 16). During the review process, the Council is not obliged to provide the applicant with accommodation so the housing options officer should advise the applicant to accept the PRSO whilst the review is being considered so long as the landlord has confirmed it will release the applicant from the tenancy if the review is successful. If the applicant does not accept the PRSO, the landlord may agree to keep the property available so that the applicant can be offered the property again if the review is unsuccessful.

As soon as the Review Acknowledgment Letter has been sent, the housing options officer should refer the request and the file to a senior officer who was not involved in the original decision. The senior officer will carry out the review, including considering any representations made by the applicant, within **56 days** of receiving the review request (unless a longer period is agreed in writing with the applicant).

If the reviewer concludes that there was a deficiency or irregularity in the original decision or in the manner in which it was made, but is minded to make a decision against the interests of the applicant anyway, the reviewer shall notify the applicant of the reviewer's intentions and the reasons for them. The applicant, or someone acting on the applicant's behalf, may then within a reasonable period make oral and/or written representations to the reviewer.

Once the review has been completed, the senior officer will inform the applicant of the outcome using the Review Decision Notice (Document 17).

15. If the applicant appeals

If the applicant is dissatisfied with the review decision or the Council has not met the time limit to complete the review process, the applicant can appeal to the County Court within **21 days** of being notified of the review decision on any point of law arising from the decision.

The Council is not obliged to provide the applicant with accommodation during an appeal so if the PRSO is still available and the landlord has confirmed it will release the applicant from the tenancy if the appeal is successful, the housing options officer should advise the applicant to accept the PRSO whilst the appeal is being considered. If the applicant does not accept the PRSO, the property may, at the landlord's discretion, be held open whilst the appeal is considered and re-offered to the applicant if the appeal is unsuccessful. If the applicant is not provided with interim accommodation whilst an appeal is being determined, the applicant can also appeal this decision and the County Court can order the Council to secure accommodation for the applicant during this period. The County Court can only make such an order for the period until determination of the main appeal and if it is satisfied that the failure to provide accommodation will substantially prejudice the applicant's ability to pursue the main appeal.

If the housing options officer becomes aware that the applicant intends to appeal the review decision or receives notice that an appeal has been commenced, the housing options officer should immediately pass the file to the legal team.

This procedure will be reviewed in line with any significant change in the 'Council's policy for making a private rented sector offer to statutorily homeless households', legislation, guidance issued by the DCLG or significant case law. Separate to this it should be reviewed every two years.

Checks and balances will be put in place to monitor and support delivery of this procedure and reports will be made available for scrutiny going forward post-implementation. Officer and customer feedback will be continuously collected to inform delivery across the service subsequent to the introduction of this procedure.

Review Date - September 2016

Process chart for making a private rented sector offer (PRSO) to statutorily homeless households



