

# APPENDIX 1

## Homelessness- Private Rented Sector Offer (PRSO) Policy

### 1. Introduction

- 1.1 Tameside MBC is responsible for a range of statutory functions in respect of services provided to homeless households in the district.
- 1.2 Tackling homelessness and reducing the number of households in Temporary Accommodation is a key priority area for the Council.
- 1.3 There is a wealth of evidence regarding the adverse effects on people living in Temporary Accommodation especially in the areas of health, wellbeing, education and employment. The impacts on children can be particularly damaging.
- 1.4 It is crucial that the Council has the power to use as many tools as are available to address this increase and reduce/ minimise the numbers of people living in Temporary Accommodation.
- 1.5 This Policy is concerned with how Tameside MBC will use the powers introduced in the Localism Act 2011 to end its main housing duty by making an offer of accommodation in the private rented sector (PRS).
- 1.6 This Policy does not apply to people who applied as homeless before 9 November 2012.

### 2. The Aims of the Policy

- 2.1 The Policy will cover the circumstances in which the Council believes it is appropriate to use an offer of PRS accommodation to end the main homeless duty.
- 2.2 The Policy will also cover those issues on which the Council needs to satisfy itself that an offer of a PRS property is suitable for the purposes of ending the main homeless duty.

### 3. The Legislative Framework

- 3.1 The key piece of legislation covering homelessness is the Housing Act 1996, Part 7. This was amended by the Homelessness Act 2002 and again by the Homeless Reduction Act 2017. The Council must also have regard to the Homelessness Code of Guidance in carrying out its homeless functions.
- 3.2 Under the Housing Act 1996, Part 7 (as amended), a Local Authority could only end its main homeless duty in the following circumstances:
  - 3.2.1 The applicant ceases to be eligible for assistance.
  - 3.2.2 The applicant becomes homeless intentionally from accommodation provided under the main duty.
  - 3.2.3 The applicant voluntarily ceases to occupy the accommodation provided.
  - 3.2.4 The applicant accepts an offer of a fully assured tenancy from a private landlord, including a housing association.
  - 3.2.5 The applicant accepts a private rented sector offer or a final offer under the authority's Part 6 allocation scheme.
  - 3.2.6 The applicant refuses certain offers of accommodation.

- 3.3 The Localism Act 2011 gave Local Authorities an additional power to be able to end the main duty to homeless households through an offer of an Assured Shorthold Tenancy in the private rented sector, without a requirement for agreement from the homeless applicant.
- 3.4 The Localism Act 2011 placed a requirement on Local Authorities who wished to use a Private Rented Sector offer to discharge the main homeless duty to produce and publish a Private Rented Sector Offer (PRSO) Policy.
- 3.5 All accommodation used by the Council in pursuance of its duties under the Housing Act 1996 Part 7 must be suitable. The Homelessness (Suitability of Accommodation) (England) Order 2012 states that Local Authorities must take into account the following aspects when determining suitability:
- location,
  - minimum standards around condition, size, space and safety,
  - the fitness of a person to be a landlord.
- 3.6 The Council is also required to comply with the Equality Act 2010 in determining suitability of a PRS offer for the purposes of ending the main homeless duty.

#### **4. The Policy**

- 4.1 Under the Private Rented Sector Offer Policy, the Council would look to end its main homeless duty via a Private Rented Sector offer in circumstances
- where there is sufficient availability of private rented stock,
  - where an offer of a private rented sector property is appropriate taking into account the needs of the household.
  - where the Council is fully satisfied that the offer is suitable under the relevant legislation.
- 4.2 Where the Council makes an offer of private rented accommodation and it is satisfied that this is an appropriate use of that property and that the property is suitable, this offer will be considered a final offer of accommodation and the main duty will be discharged by making this offer and the statutory duty will have ended. Any application to the Housing Register will be dealt with in line with the Council's Allocation Policy.
- 4.3 Households will be able to view any private rented property that they are offered to end the main housing duty. In circumstances where an applicant declines the opportunity to view the property and refuses the offer, or does not respond to an offer, the offer will still be considered a final offer of accommodation and the main duty will be discharged by making this offer and the statutory duty will have ended.
- 4.4 Where the Council considers that its duty has been ended by the offer of a PRS property, any application to the Housing Register will be dealt with in accordance with the Council's Housing Allocations Policy.
- 4.5 The homeless legislation gives applicants the right to request a review of suitability of any offer made for the purposes of ending the main duty. This includes an offer of private rented accommodation. The Council will make sure that applicants are aware of this right to review when an offer of private rented accommodation is made to end the main duty. Applicants will also be made aware that they will be required to leave any Temporary Accommodation that has been provided should the Council end its main homeless duty by an offer of private rented accommodation.
- 4.6 In line with the legislative framework, should a household becomes unintentionally homeless from their private rented sector tenancy within two years, the Council who made the PRS

offer will again owe the main homeless duty to the applicant, regardless of priority need status. This is often referred to as the re-application duty.

#### 4.7 Appropriate Use of the Private Rented Sector Offer Policy

4.8 The Council recognises that it should only look to use this Policy in appropriate circumstances.

4.9 The Council recognises that there are some circumstances where it would not be appropriate to use a private rented sector offer to end the homeless duty for a particular household.

4.10 It is impossible to set out an exhaustive list of circumstances where a PRS offer would not be appropriate.

4.11 However, examples of where a PRS offer may not be considered appropriate include:

- where the support needs of the family exceed the support that would be available to that household in the property,
- where there is clear evidence of a household's inability to manage a private rented sector tenancy,
- where there is evidence that there would be an unmanageable risk to the homeless household or others arising from the use of a PRS offer.

4.12 The Council has developed a range of pathways to facilitate move on into the private rented sector. This includes the provision of appropriate support where needed.

4.13 There is a statutory duty for the Local Authority the needs and circumstances of all homeless people which should be used to inform a person centred plans and pathways. These plans will be used to make an informed assessment as to the appropriateness of a private sector offer for that particular household.

#### 4.14 Suitability of PRS Offer

4.15 In order to comply with the homeless legislation, any offer of private rented accommodation made by the Local Authority must be assessed and confirmed to be **suitable** accommodation.

4.16 The Local Authority will carry out a full suitability assessment of any private rented accommodation unit that it intends to use to discharge the main duty.

4.17 This assessment of suitability will cover the following elements:

- Affordability,
- Physical Condition of the Property, Safety, Size and Space Arrangements,
- Location,
- Period of Rental Agreement,
- Right to Rent,
- Compliance with the Equality Act 2010,
- Landlord Suitability.

#### 4.18 Affordability

4.19 For household who are in receipt of welfare benefits, the property will only be considered suitable for the purposes of ending the main homeless duty where it is within LHA levels. An offer of accommodation where rent is above the LHA level can never be defined as suitable.

4.20 For those who are working, the applicant will be asked to complete an income expenditure form so that the Local Authority can assess and confirm that the property is affordable.

#### 4.21 Physical Condition, Property Layout, and Size of Property

4.22 The Council will carry out a property inspection to ensure that the property is in good physical condition, complies with all Health and Safety regulations, and is of an appropriate layout in order to confirm the suitability of any offer of private rented accommodation made to end the main duty.

4.23 The Council will require the landlord to provide copies of Gas Safety Certificate, Electrical Safety and an EPC. The landlord will be required to provide smoke alarms, Carbon Monoxide monitors and any other safety equipment required by legislation relevant at the point of letting.

4.24 The Council will not consider PRS accommodation where there is a risk of violence or harassment to be suitable for the purposes of ending the main duty.

4.25 The Council will ensure that the property was of a suitable size for the household and that they would not be overcrowded in order to determine the suitability of any offer of private rented accommodation used to end the main duty.

#### 4.26 Location

4.27 The Council will need to consider the personal circumstances of a household in order to satisfy itself that the property is suitable in terms of location for the purposes of ending the main duty.

4.28 While the Council will take into account the personal preferences of the household, this will not be the sole defining factor. The Council will look at the following factors in order to determine suitability in terms of location:

- Place of employment,
- Place of education and any special education needs,
- Ill health/ disability,
- Public transport links,
- Proximity to essential support networks,
- Proximity to essential community amenities.

4.29 It is unlikely that the Council would normally consider an offer of accommodation outside the boundaries of Tameside MBC as suitable. However, in some cases, such as where there is a risk to the household of remaining in Tameside, an offer out of area may be considered suitable.

4.30 An offer out of area will also be considered suitable where it is specifically requested by the household to whom the homeless duty is owed.

#### 4.31 Period of Rental Agreement

4.32 The Local Authority will only class a Private Rented Sector offer as suitable where

- the landlord grants a minimum of a 12 month fixed term, and
- the landlord issues a written Tenancy Agreement.

#### 4.33 Public Sector Equality Duty

4.34 The Council will have regard for the protected characteristics defined in the Equality Act 2010 and will ensure that the property is suitable with regard to any such characteristics within a household in order to satisfy itself that the property is suitable in order to end the main homeless duty.

#### 4.35 Landlord Checks

- 4.36 The Council will carry out checks to satisfy itself that the landlord is a suitable person to be a landlord to determine the suitability of a private rented offer for the purposes of ending the main homeless duty.

**5. Monitoring, Review and Procedural Matters**

- 5.1 The Council will monitor the impact of this Policy as part of its regular monitoring of the homelessness function.
- 5.2 The Policy will be subject to review in line with any changes to legislation, statutory guidance and/ or case law.
- 5.3 The Council will produce standard operational procedures that cover this element of the homeless service and ensure all staff are suitably trained in the implementation of this Policy.