



Cabinet Member for Housing and Communities

Time and Date

4.00 pm on Monday, 10th February, 2020

Place

Diamond Room 1 - Council House

Public Business

1. **Apologies**
2. **Declarations of Interest**
3. **Minutes** (Pages 3 - 4)
 - a) To agree the minutes of the meeting held on 9 December, 2019
 - b) Matters arising
4. **Updated Discharge into Private Rented Sector (PRS) Policy** (Pages 5 - 26)

Report of the Director of Housing and Transformation
5. **Outstanding Issues**

There are no outstanding issues
6. **Any other item of public business which the Cabinet Member decides to take as matters of urgency because of the special circumstances involved**

Private Business

Nil

Martin Yardley, Deputy Chief Executive (Place), Council House Coventry

Friday, 31 January 2020

Note: The person to contact about the agenda and documents for this meeting is Usha Patel Governance Services Officer, Tel: 024 7697 2301

Membership: Councillors T Khan and D Welsh (Deputy Cabinet Member)

By invitation: Councillors R Bailey and M Lapsa (Shadow Cabinet Members)

Please note: a hearing loop is available in the committee rooms

If you require a British Sign Language interpreter for this meeting
OR if you would like this information in another format or
language please contact us.

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Coventry City Council
Minutes of the Meeting of Cabinet Member for Housing and Communities held at
3.00 pm on Monday, 9 December 2019

Present:

Members: Councillor T Khan (Chair)
Councillor R Bailey (Shadow Cabinet Member)

Employees (by Directorate):

Place: R Haigh, U Patel

Apologies: Councillor M Lapsa

Public Business

6. Apologies

7. Declarations of Interest

There were no declarations of interest.

8. Minutes

The minutes of the meeting held on 24 September, 2019 were agreed and signed as a true record. There were no matters arising.

9. Draft Trees & Development Guidelines for Coventry - Supplementary Planning Document

Further to Minute 8/19 of the meeting held on 24 September, 2019, the Cabinet Member considered a report of the Deputy Chief Executive (Place) which reported that the public consultation did not commence as scheduled due to a small technical adjustment that had to be made to the way in which ancient and veteran trees were defined in the document, following legal advice.

Therefore, the report remained unchanged from September apart from the minor technical adjustment and the proposed consultation dates. The consultation period was now proposed to start Monday January 2020.

RESOLVED that, the Cabinet Member for Housing and Communities having considered the consultation document statement included at Appendix 2 of the report, approves a final round of public participation on the Trees & Development Guidelines SPD. The consultation period is proposed to run for six weeks between Monday 6 January, 2020 and Monday 17 February, 2020.

10. Outstanding Issues

There were no outstanding issues.

11. Any other item of public business which the Cabinet Member decides to take as matters of urgency because of the special circumstances involved

There were no other items of public business.

(Meeting closed at 3.15 pm)



Public report

Cabinet Member

10 February 2020

Name of Cabinet Member:

Cabinet Member for Housing and Communities – Councillor T Khan

Director Approving Submission of the report:

Director of Housing and Transformation

Ward(s) affected:

All

Title:

Updated Discharge into Private Rented Sector (PRS) Policy

Is this a key decision?

No - although the proposals affect more than two electoral wards, the impact is not expected to be significant.

Executive Summary:

In 2013 the Council agreed the Policy to Discharge the Main Homelessness Duty with an offer of accommodation in the Private Rented Sector. This followed new powers introduced by the Localism Act 2011 and a period of public consultation.

This policy has now been reviewed and technical updates made to take account of changes to legislation (most notably the Homelessness Reduction Act 2017) and the homelessness code of guidance. It is presented for approval by the Cabinet Member.

Recommendations:

The Cabinet Member is requested to:

- 1) Approve the updated policy which has been amended in line with technical changes to reflect updates to legislation and the code of guidance.

List of Appendices included:

Appendix 1 – Draft Discharge into PRS Policy (updated 2020)

Background papers:

None

Other useful documents

Report to Cabinet Member for Housing and Heritage 9 October 2013, 'Policy to Discharge the Main Homelessness Duty'.

<https://edemocracy.coventry.gov.uk/ieListDocuments.aspx?CId=567&MID=9749>

Coventry Housing and Homelessness Strategy 2019-24

https://www.coventry.gov.uk/downloads/file/30137/housing_and_homelessness_strategy_2019

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

No

Will this report go to Council?

No

Report title:

1. Context (or background)

- 1.1 Following the Homelessness Reduction Act 2017, Local Authorities have a duty to prevent homelessness for those who are threatened with homelessness and relieve homelessness for those who are homeless. One of the ways authorities can end the prevention and relief duties is with the offer of a suitable 6-month Assured Shorthold Tenancy within the private rented sector. Authorities also owe certain applicants (who are homeless, eligible for assistance, in priority need and not intentionally homeless) the 'main housing duty' to secure suitable accommodation.
- 1.2 In 2013 the Cabinet Member agreed a policy to discharge the main homelessness duty with an offer of accommodation in the private rented sector providing a tenancy is offered for at least 12 months and the property is suitable. This decision was made following an 8-week consultation and formed part of the Coventry Tenancy Strategy 2013-18, which was approved by Council in January 2013. Since that time the Council's Housing and Homelessness Service has used the policy to make offers into the Private Rented Sector, especially as demand for social housing continues to outweigh supply.

2. Options considered and recommended proposal

2.1 Option 1 – 'do nothing'

- 1.1.1 This option would be to continue using the policy that was agreed in 2013 in its existing form. The policy would still allow for offers to be made into the Private Rented Sector to end the main homelessness duty.
- 1.1.2 This option is not recommended as changes to legislation and the homelessness code of guidance mean that several sections of the original policy are now out of date. The policy refers to legislation that has since been amended, most notably by the Homelessness Reduction Act 2017, and does not refer to the updated code of guidance. Furthermore, the original report recommended that the policy be subject to regular review, which is now overdue.

2.2 Option 2 (recommended option) – review and update the existing policy

- 1.1.3 This option would be to use the same basic policy as agreed in 2013, but with updates where necessary to the technical and legislative elements. The core purpose of the policy and much of the content would be unaltered as they are still relevant. The updated policy is included in **Appendix 1 – Draft Discharge into PRS Policy (updated 2020)**.
- 1.1.4 The review and update to the policy would include consideration of the Council's new duties under the Homelessness Reduction Act 2017 which introduced a duty to prevent homelessness for those who are threatened with homelessness and a duty to relieve homelessness for those who are homeless. Under the prevention (s195) and relief (s189B) duties, Local Authorities are required to take reasonable steps to help the applicant secure accommodation.
- 1.1.5 The updated policy would make clearer the definition of a 'suitable offer' and how this offer should be made, referring to the code of guidance, and more information on the Health and Safety standards required of Private Sector Accommodation. The policy would also include more detailed provisions on landlord responsibilities, the practicalities of making an offer to the client (including viewing the property) and make reference to the new homelessness service application and assessment processes.

3. Results of consultation undertaken

- 3.1 There has been no consultation undertaken as amendments to the policy are only technical to reflect changes to legislation and the homelessness code of guidance since 2013.
- 3.2 The introduction of the policy in 2013 was subject to an 8-week consultation as part of the introduction of the Tenancy Strategy and was supported by 72% of respondents.

4. Timetable for implementing this decision

- 4.1 If the amended policy is approved, it will be implemented with immediate effect following the call-in period.

5. Comments from Director of Finance and Corporate Services

5.1 Financial implications

The gap between the cost of temporary accommodation and housing benefit subsidy grant is met by the Council. The average cost to the council of a family household in temporary accommodation, at the end of December 2019, equated to just under £14K per annum. This will obviously vary dependent on the size of property. Continued use of a PRS policy and scheme will allow the council to avoid cost of up to £14K per household by not using temporary accommodation. The cost avoidance will be reduced by any costs that would be involved in administering a PRS scheme.

5.2 Legal implications

Under Part VII of the Housing Act 1996, the Council has a statutory duty to provide accommodation to eligible households, which are in priority need and unintentionally homeless. The provisions under the Localism Act 2011 enabled the Council to discharge that duty by making an offer of suitable accommodation in the private rented sector.

The Council implemented the policy in 2013, following Consultation, and it has been used intermittently since then. The attached policy has been reviewed and updated to take into account changes in legislation and Council practice.

Since the Policy was implemented in 2013, The Homelessness Reduction Act 2017 came into force on 3 April 2018. It has made significant changes to Part 7 of the 1996 Act. Its main effect is to place increased duties on local authorities to assess an applicant's needs and to prevent and relieve homelessness. It should be noted that the changes introduced under the Act will not apply to an applicant who applied as homeless before 3 April 2018.

The Homelessness Code of Guidance for Local Authorities is issued by the Ministry for Housing, Communities and Local Government (MHCLG). It provides statutory guidance on how to interpret and apply the homelessness legislation and contains details of good practice that local authorities should adopt. It is not legally binding but local authorities are required to have regard to it. Failure to have regard to the current Code can be used as a basis for a judicial review challenge. The current Code came into effect on 3 April 2018. The previous Code (and supplementary Codes) should apply to applications made before 3 April 2018.

In discharging its functions, the Council must also have due regard to the Public Sector Equality Duty in s149 Equality Act 2010. S149(1) provides that, in exercising its functions, a public authority must have due regard to the need to (a) eliminate discrimination,

harassment, victimisation and any other conduct that is prohibited by or under the 2010 Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

6. Other implications

None

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

This policy contributes to the following objectives in the Council Plan:

- ‘Reducing the impact of poverty’ – by supporting people who are homeless to secure suitable and sustainable accommodation. Evidence shows that secure housing can lift people out of poverty and reduce the wider impact of poverty on their lives
- ‘Improving health and wellbeing’ – by providing safe and secure housing to promote independence, which evidence shows is one of the key wider determinants of health and wellbeing
- ‘Protecting our most vulnerable people’ – by offering support and guidance to people who are homeless or threatened with homelessness, ultimately helping them to secure permanent accommodation
- ‘Making savings so that we can support frontline services’ – by making offers into the private rented sector the Council reduces the number of people in expensive Temporary Accommodation. This saves money that can be better used to fund activities that prevent homelessness in the first place
- ‘working together with neighbours and partners across the voluntary, public and private sectors’ – this policy requires the Council to work with private accommodation providers to form relationships that create good outcomes for vulnerable residents.

6.2 How is risk being managed?

1.1.6 A key risk is that offers into the Private Rented Sector may not result in sustainable tenancies, with clients finding themselves homeless or threatened with homelessness again after their homelessness duty is discharged. To mitigate against this risk all members of the Housing and Homelessness Service are trained to ensure that any accommodation secured for homeless applicants is suitable. This includes consideration of the accommodation’s physical standard, health and safety requirements, ensuring that landlords are fit and proper people, the location of the accommodation and its affordability to the client.

1.1.7 The Housing and Homelessness Service can see whether clients approaching the service have done so previously and access their full case history. They also monitor the overall re-approach rate, which is the percentage of clients accessing the service who have previously received assistance. This will be used to track whether the policy influences the overall re-approach rate of clients who are made an offer into the Private Rented Sector. Due to the mitigation in 6.2.1 above, we do not expect re-approaches to increase, but tracking this data will flag if there is an issue with the sustainability of tenancies long term.

6.3 What is the impact on the organisation?

Staff will be briefed on the updates to the policy and processes and procedures amended accordingly. The relevant training on legislation and the code of guidance is already in place.

6.4 Equality and Consultation Analysis (ECA)

As this policy is currently in operation there will be no additional impacts on protected groups and there is no requirement of an ECA. For information, a breakdown of characteristics for households in Temporary Accommodation is shown below.

Age (of all household members, not only the main applicant):

Age	Percentage of total (%)
Under 18	41
18 to 27	20
28 to 37	20
38-47	12
48-57	5
58-67	2
68-77	1
78-87	Less than 1

Disability (of main applicant only):

18.2% of main applicants have disclosed a disability. A large number of applicants choose not to disclose whether they have a disability or not.

Marriage and Civil partnership:

85% of main applicants are not married or in a civil partnership.

Pregnancy and Maternity:

2% of main applicants in temporary accommodation are pregnant. The data does not account for other household members who may be pregnant.

Race:

Summary ethnic groups	Percentage of total (%)
White British	60.7
White other	5.7
Asian	7.0
Black	16.3
Other/not stated	10.3

Religion:

Religion	Percentage of total (%)
No religion	36
Christian	28
Other	4
Muslim	10
Sikh	1
Hindu	Less than 1
Buddhist	Less than 1
Jewish	Less than 1
Not disclosed/not known	18

Sex:

45% of main applicants are women and 55% are men.

Sexual Orientation:

The proportion of people recorded as 'LGBO - Lesbian, Gay, Bisexual or other' is 5%. For 7% the figure is unknown or they preferred not to state.

Gender reassignment:

The Council's main homelessness and housing benefit systems do currently not capture any information on gender reassignment, so it is not possible to publish a breakdown here.

This policy primarily affects homeless people who are owed a main housing duty, which are those applicants who are found to be homeless, eligible for assistance, in priority need and not intentionally homeless.

If accommodation in the private rented sector is offered, it must be suitable for the applicant's household (including considerations of affordability, location, condition, size etc.). Applicants have the right to appeal the decision to discharge the main housing duty with such an offer. The Council also retains the option to bring the main homelessness duty to an end with the offer of a social tenancy if the private rented sector is not suitable given the household circumstances.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

None

Report author(s):

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Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
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Jim Crawshaw	Head of Housing and Homelessness	People	08/01/2020	09/01/2020
Names of approvers for submission: (officers and members)				
Finance: Rachael Sugars	Finance Manager	Place	09/01/2020	27/01/2020
Legal: Mandeep Bajway	Regulatory Civil Lawyer	Place	09/01/2020	23/01/2020
Director: David Ashmore	Director of Housing & Transformation	People	09/01/2020	10/01/2020
Members: Cllr T Khan	Cabinet Member for Housing and Communities	-	17/01/2020	28/01/2020

This report is published on the council's website:
www.coventry.gov.uk/councilmeetings

Appendix 1

Draft

Discharge into Private Rented Sector (PRS) Policy

Policy Document 2013

Updated February 2020

1. Background

- 1.1 The Localism Act 2011 has made significant changes to the way in which local authorities can deal with applications under Part VI and VII of the Housing Act 1996.
- 1.2 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 provision).
- 1.4 The Localism Act allows local authorities to fully discharge the main housing duty by a "private rented sector offer" [s193 (7AA) – (7AC) Housing Act 1996 as amended by 2.148 (5) – (7) Localism Act 2011]. This must be an offer of assured shorthold tenancy with a minimum fixed term period of 12 months.
- 1.5 In addition to the main housing duty (193(2)), the Homelessness Reduction Act 2017 introduced a duty to prevent homelessness for those who were threatened with homelessness and a duty to relieve homelessness for those who were homeless. Under the prevention (s195) and relief (s189B) duties, Local Authorities are required to take reasonable steps to help the applicant secure accommodation - which can include, as a minimum, a 6 month Assured Shorthold Tenancy within the private rented sector. Duties arise when an eligible household presents to the Council as homeless or threatened with homelessness within 56 days or with a valid s21 notice from a private landlord.
- 1.6 The introduction of the Homelessness Reduction Act 2017 requires that Local Authorities provide temporary accommodation (TA), to those households who they believe may have a priority need and in the relief stage. If the relief duty comes to an end and the Council has been unsuccessful in relieving homelessness, the household will remain in TA until the Council can discharge their homeless duty.
- 1.7 Coventry City Council will assess each statutorily homeless household to establish whether an offer of a tenancy in the private rented sector may be suitable for the purpose of discharging the main housing duty under section 193(7F) of the Housing Act 1996.

2. Policy aims and objectives

- 2.1 The policy will work alongside Coventry City Council's Housing Allocations Policy (Coventry Homefinder Policy) and complies with:
- Part VII of the Housing Act 1996, (as amended)
 - The Localism Act 2011
 - Homelessness Code of Guidance for Local Authorities (2018)
 - Homelessness (Suitability of Accommodation) (England) Order 2012
 - Equality Act 2010
 - Children's Act 2004
- 2.2 This Policy will ensure a comprehensive and consistent assessment is carried out for each household where the main applicant's homeless assessment, and personalised housing plan (PHP), has identified that consideration of private rented accommodation is a viable option, and when there is a suitable property available within the private rented sector.
- 2.3 The policy aims to relieve homelessness by assisting applicants to secure long-term suitable accommodation and to minimise time spent in temporary accommodation.
- 2.4 All households will be assessed based on their individual housing need. This policy will 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, gender or sexual orientation.

3. Suitability of Accommodation

- 3.1 The Homelessness Code of Guidance (2018) gives guidance on the suitability of offers of accommodation to fulfil the council's duties under section 193(2) of the Housing Act 1996.
- 3.2 The Homelessness (Suitability of Accommodation) (England) Order 2012 sets out specific conditions for private rented sector offers made to fulfil these duties.
- 3.3 The Suitability Order consists of two parts. The first part deals with the location of the accommodation, this applies to all accommodation offered under part VII of the Housing Act. The second part is concerned with those circumstances in which accommodation is not to be regarded as suitable for a person for the purposes of a private rented sector offer under section 193 (7F) of the Housing Act 1996.
- 3.4 Where practical, households will be encouraged to take part in viewings of any property identified as suitable 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.

Location

- 3.5 Existing guidance on this aspect is set out in Section 17 of the Homelessness Code of Guidance (2018). The suitability of the location for all the members of

the household must be considered. Particular consideration must be made of the employment, caring responsibilities and educational needs of the household.

- 3.6 Where possible and appropriate, Coventry City Council will try to seek to secure accommodation close to where the applicant was previously living in order to retain established links with schools, doctors, social workers and other key services, such as access to transport and other support services.
- 3.7 Coventry City Council will seek to secure accommodation in the Coventry area to discharge its main housing duty, unless a household wishes to be rehoused outside of the city. It will only seek to look at specific areas in Coventry if: there is specific welfare reason linked to family support where supporting documentation is provided, if a dependent child in the family is in their final exam year at school, or if there are special educational needs that require attendance at a particular school.
- 3.8 Applicants whose household has a need for social services support or a need to maintain links with other essential services within the borough, for example families with children who are subject to safeguarding arrangements, should be given particular attention when temporary accommodation is allocated, to try and ensure it is located in or close to the housing authorities own district. Careful consideration should be given to applicants with a mental illness or learning disability who may have a particular need to remain in a specific area, for example to maintain links with health service professionals and/or a reliance on existing informal support networks and community links. Such applicants may be less able than others to adapt to any disruption caused by being placed in accommodation in another district.

Physical condition of the property

- 3.9 Authorities should secure accommodation that is in reasonable physical condition. Authorities should ensure that the property has been visited by either a local authority officer or someone acting on their behalf to determine its suitability before an applicant moves in. Existing aspects of suitability such as space and arrangement set out in statutory guidance continues to apply.
- 3.10 In determining whether the property is in reasonable physical condition, attention should be paid to signs of damp, mould, indications that the property would be cold, for example cracked windows, and any other physical signs that would indicate the property is not in good physical condition.
- 3.11 Properties will be inspected by a suitably qualified officer who must be satisfied that it is in a reasonable condition and free from any Category 1 hazards under the Housing Health & Safety Rating System (HHSRS).

Health and Safety Matters

- 3.12 All accommodation must comply with the following:

- Landlords are by law required to ensure that all electrical equipment in a property is safe. The local authority is required to satisfy themselves that any electrical equipment provided in the property meets the requirements of Schedule 1 of the Electrical Equipment (Safety) Regulations 2016.
- All landlords/agents will be asked to supply a satisfactory Electrical Safety Certificate from within the last five years.
- Any moveable electrical items in the property will require evidence of a Portable Appliance Test (PAT) within the last year.
- The inspection of the property will seek to identify any broken fittings or obvious electrical defects such as loose wiring, or electrical faults.
- The Regulatory Reform (Fire Safety) Order 2005 applies to the common or shared parts of multi-occupied residential buildings (e.g. houses of multiple occupation). As such landlords, owners or managing agents will need to carry out a fire risk assessment of the common parts and implement and maintain appropriate and adequate fire safety measures. As part of their responsibilities, landlords should put in place appropriate management and maintenance systems to ensure any fire safety equipment or equipment which may represent a fire hazard, is maintained in good working order, and in accordance with the manufacturer's instructions.
- Private Sector Landlords are required to have at least one smoke alarm installed on every storey of their properties.
- Landlords are also required to ensure that furniture and furnishings supplied must comply with the Furniture and Furnishings (Fire) (Safety) Regulations 1988 (as amended).
- Local authorities and fire and rescue authorities should work together to ensure the safety of domestic premises including the provision of fire safety advice to households (such as the benefits of a working smoke alarm). Local authorities will need to satisfy themselves that these regulations have been adhered to.
- The landlord must take reasonable precautions to prevent the possibility of carbon monoxide poisoning in the accommodation, where such a risk exists. Taken together with a valid gas Safety Record, the installation of a carbon monoxide alarm fitted in all rooms containing a solid fuel burning appliance (e.g. a coal fire or wood burning stove) would constitute reasonable precaution to prevent the possibility of carbon monoxide poisoning, where such a risk exists.
- The landlord must make sure the fire and carbon monoxide alarms are in working order at the start of each new tenancy.
- If the accommodation is or forms part of residential property which does not have a valid Energy Performance Certificate (EPC) as required by the Energy Performance of Buildings (England and Wales) Regulations 2012, then it will not be regarded as suitable. Local authorities should ensure they have had sight of a current certificate with a rating of 'E' or above to ensure that this requirement has been met.
- Accommodation that is or forms part of relevant premises in accordance with regulation 36 of the Gas Safety (Installation and Use) Regulations 1998 has a current gas safety certificate. A local authority can do this by requesting sight of the valid Gas Safety certificate

3.13 Compliance with these requirements will be checked during the property inspection and landlords should provide copies of any relevant certificates.

Landlord Behaviour and Management of the Property

- 3.14 The landlord must be a fit and proper person to act in the capacity of a landlord. Coventry City Council will take appropriate steps to satisfy itself that the landlord is a fit and proper person.
- 3.15 To assess if a landlord is “fit and proper person” the Council is required to consider:
- Any committed offences involving fraud or other dishonesty, violence or illegal drug use or sexual offences that are listed in Schedule 3 to the Sexual Offences Act 2003(b) (offences attracting notification requirements).
 - Practised unlawful discrimination on grounds of sex, race, age, disability, marriage or civil partnership, pregnancy or maternity, religion or belief, sexual orientation, gender identity or gender reassignment in, or in connection with, the carrying on of any business.
 - Whether the landlord has contravened any provision of the law relating to housing (including landlord or tenant law).
 - Prosecutions for offences of harassment and illegal eviction.
 - Acted otherwise than in accordance with any applicable code of practice for the management of a house in multiple occupation, approved under section 233 of the Housing Act 2004(c).

When placing applicants outside of the area officers will liaise with the receiving district to check whether that authority has taken any enforcement activity against the landlord.

If, after making these checks, it is determined that the landlord is not a fit and proper person, taking into account the type of behaviour and the elapsed time period, Coventry City Council will not continue to engage or recommend prospective tenants to the landlord.

- 3.16 The Landlord must provide a written tenancy agreement which they propose to use in renting the property which is adequate and does not contain unfair or unreasonable terms. The landlord will also provide the tenant with a copy of the current Governments ‘How to Rent Guide’.
- 3.17 The tenancy must be an Assured Shorthold Tenancy with a minimum fixed term period of 12 months to discharge the main housing duty or a minimum of 6 months under the prevention and relief duties of the Homelessness Reduction Act 2017. The Council will seek, where possible, to secure 2-year tenancies.
- 3.18 The landlord will within 30 days of receipt protect deposits under a Government Approved Scheme.
- 3.19 The landlord will secure a licence if the property is a house in multiple occupation (HMO).

4.0 Circumstances where a private sector offer of accommodation will be made

- 4.1 A private sector offer made to applicants under the prevention and relief stages of the Homelessness Reduction Act which may end the prevention and relief duties (Sections 195(8)(a) and 189B(7)(a)) as well as those owed under the main Section 193 duty.
- 4.2 It is acknowledged that private sector property/tenancies may not be suitable for all applicants. The following persons will not normally be considered as suitable for an offer of accommodation in the Private Rented sector for the purposes of discharging a homelessness duty:
- People requiring supported accommodation (due to old age, physical disability, learning disability or mental health).
 - Households requiring adapted properties.
 - In cases of domestic violence, racial harassment or hate crime, where the property concerned is deemed to be too near the alleged perpetrator and could put the household at risk of harm.
 - In cases where the household has extra support needs (learning disability and/or learning disabilities) where the available accommodation is located too far from the household support networks
 - Where applicants under 18 years.

5.0 An offer to bring to an end the main housing duty

- 5.1 An offer to end the main housing duty is defined by section 193 Housing Act 1996 as an offer of an Assured Shorthold Tenancy made by a private landlord to an applicant in relation to any accommodation which:
- Has been made available for the applicant's occupation by arrangements made by the Council with a private landlord or
 - Is made with the approval of the Council, in pursuance of arrangements made by the authority with the landlord with a view to bring the section 193(2) of the Housing Act 1996 to an end, and
 - Is a fixed term Assured Shorthold Tenancy for a minimum period of at least 12 months and where possible the Council will seek 2 year tenancy agreements.
- 5.2 If that applicant accepts or refuses a private rented sector offer the Council will consider its main housing duty ended, subject to the applicant having been informed in writing of the following matters (as mentioned in section 193(7AB) Housing Act 1996):
- The possible consequence of refusal or acceptance of offer
 - That the applicant has the right to request a review of the suitability of the accommodation, and

- In a case which is not a restricted case, the effect under new section 195A of a further application to the authority within two years of acceptance of the offer (the reapplication duty).

5.3 The Council must also be satisfied that the offer:

- Is suitable for the applicant and other household members, and
- that the applicant is not under contractual or other obligations in respect of his or her existing accommodation or, that if he or she is, they must be able to bring those obligations to an end before being required to take up the offer.

6.0 A final accommodation offer made in the 189B relief stage

6.1 An offer is a “final accommodation offer” if

- It is an offer of an Assured Shorthold Tenancy made by a private landlord to the applicant in relation to any accommodation which is, or may become available for the applicant’s occupation,
- It is made with the approval of the authority, in pursuance of arrangements made by the authority in the discharge of their duty under section 189B(2), and
- The tenancy being offered is a fixed term tenancy within the meaning of part 1 of the Housing Act 1988 for a period of at least 6 months

6.2 The authority’s duty to the applicant under section 189(B) comes to an end if the applicant accepts or refuses a final accommodation offer, subject to the applicant having been informed of the consequences of refusal and the applicant’s right to request a review of the suitability of accommodation.

6.3 The Council must also be satisfied that:

- The offer is suitable for the applicant and other household members, and the applicant is not under contractual or other obligations in respect of his or her existing accommodation or, that if he or she is, they must be able to bring those obligations to an end before being required to take up the offer.

6.4 The refusal of a final accommodation offer precludes the applicant for subsequently being owed the main housing duty.

6.5 In cases where the section 189B(2) duty ceases as a consequence of the applicant’s deliberate and unreasonable refusal to co-operate , the main (section 193) housing duty will not apply, but the Council are obliged to secure that accommodation is made available to the applicant (section 193C(4)). This duty will cease if the applicant accepts or refuses a final accommodation offer.

7.0 An offer to an applicant who has a priority need in order to prevent or relieve their homelessness

- 7.1 An offer of a private sector accommodation to an applicant who has priority need in order to prevent or relieve homelessness must meet the additional suitability requirements of Article 3 (Homelessness (Suitability of Accommodation) (England) Order 2012).

8.0 Assessment Procedure

- 8.1 When the Housing and Homelessness Service have sourced a private rented property that is suitable, affordable and has regard for the household's Personalised Housing Plan (PHP) - this property will be offered to that applicant under the relevant homelessness duty.
- 8.2 Each case will be assessed on its own merits. Assessments will be made into the following area of need and risk:
- Bedroom requirement for the composition of the family, dependant on the need and giving regard to national guidance on housing related welfare benefits.
 - Physical, mental and emotional health needs.
 - Location needs, where these are linked to social support networks and educational requirements for dependent children in their final exam year at school.
 - Risk to personal safety and community.
 - Recent housing history/tenancy.
 - Affordability and financial circumstances (including eligibility for assistance with housing costs).
 - Availability of appropriate resources.
- 8.3 All applicants being considered for a private rented sector offer of a specific property will undergo an affordability assessment which will take into account the applicants' income, expenditure and costs. A property will be judged to be affordable if a household would be able to meet their priority debts as they fall due, taking into account their necessary or reasonable living expenses. Applicants will not be made a private rented sector offer that is not affordable for them.
- 8.4 The Council will ensure that applicants with insufficient capital, any requirement by the landlord for rent in advance/bond will be considered by the Housing Options Service on a case by case basis. Subject to acting in accordance with data protection laws, the Housing Options Team will also liaise with the Council's Revenues and Benefits team regarding the possibility of assistance with Discretionary Housing Payment (DHP).
- 8.5 Young single applicants will normally be considered for Housing in Multiple Occupation, unless they are in an exempt category. If the single person is able to afford a one-bedroom property and the property is suitable this may also be considered.

8.6 If the applicant is matched to a property, or they have identified a property themselves, the officer will invite the applicant to view the property, providing full details of the viewing time and location. The applicant will be sent/given an offer letter which will explain the details of the offer and the implications of not attending or refusing the offer.

9.0 Offers of accommodation

9.1 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 procedure set out in this policy.

9.2 A private sector offer is made with the approval of the local authority. However, the landlord will have the final decision on whether a particular household will be accepted into the property.

9.3 If Coventry City Council has accepted a statutory duty towards an applicant and a private rented property is available and suitable for the applicant, an offer will be made immediately.

9.4 The applicant will be informed in writing of the offer and the letter will include the following matters:

- the consequences of refusing the offer of accommodation.
- the consequences of accepting the offer of accommodation
- that the applicant has the right to request a review of the suitability of the accommodation
- the effects under new section 195A of a further application to the authority within two years of acceptance of the offer (the 'reapplication duty')

9.5 Once the offer has been made, and the applicant has been housed, the main housing duty will be discharged. If the applicant wishes to remain on the housing register, their application will be dealt with in line with the Council's allocations scheme.

10.0 Re-application within two years

10.1 The re-application duty Housing Act 1996 Part VII s. 195A applies where:

- The application for homelessness assistance was made on or after 9th November 2012; and
- The applicant accepted a private rented sector offer which brought the main housing duty to an end; and
- The private rented sector tenancy subsequently ended within 2 years of the duty ending.

10.2 The applicant will be entitled to the main housing duty, or to the equivalent duty owed to those threatened with homelessness, if the applicant:

- Is eligible for assistance
- Is homeless or threatened with homelessness
- Did not become homeless intentionally

- 10.3 The main housing duty will be owed regardless of whether the applicant still has a priority need.
- 10.4 There are three situations where the re-application duty will not be owed:
- Where the duty has been discharged into the private rented sector but the household is a 'restricted case'
 - Where the re-application duty has already been activated and a further offer of private rented accommodation has been made and accepted. If this tenancy then comes to an end within two years of the date of acceptance, the applicant must make a fresh application for homelessness assistance and would have to have a priority need in order to be entitled to the main housing duty again.
 - This special provision will not apply to those applicants whose applications for assistance are made more than two years after the date of acceptance of a private rented sector offer.

11.0 Reviews on the suitability of accommodation offered.

- 11.1 As part of the offer process and in accordance with part VII of Housing Act, applicants will be advised of their right to request a review on the suitability of the accommodation offered. Applicants will also be advised of external advice services.
- 11.2 Applicants can request a review of suitability within 21 days of the offer; this can be done by writing or verbally. If the review request is outside of the 21 days, careful consideration will be given to the agreement of the review taking place as this is not an automatic right. The decision not to grant an out of time review must be rational and proportionate to the circumstances being reviewed.
- 11.3 Once a review request has been received, Coventry City Council will write to the applicant to acknowledge the request and to provide details of the review procedure.
- 11.4 Coventry City Council will complete the review in line with the Allocation of Housing and Homelessness (Review Procedures) Regulations 2018. This will normally be within 8 weeks of the request for the review, however this period can be longer if both the applicant and the Local Authority agree in writing. The review will be carried out by a Senior Housing Review & Communications Officer or Senior Housing Officer who will not have been involved in the original decision.
- 11.5 Once a review decision is made, Coventry City Council will write to the applicant informing them of the decision. The letter will be sent to the applicant or will be available for collection from Coventry City Council's Customer Service Centre.
- 11.6 The review outcome can be:
- *Upheld* – in this situation the offer of accommodation will have been deemed to be reasonable and suitable and the decision to discharge the main housing duty will still apply.

- *Overtured* – in this situation Coventry City Council will revisit the offer of accommodation and will make a further offer of suitable accommodation with consideration for the reasons that the previous offer of accommodation was unsuitable. The main housing duty will not be discharged until a further offer of suitable accommodation is made.

11.7 The letter will explain the review decision, how Coventry City Council came to the decision and the right to appeal the review decision to the County Court on a point of law. An appeal must be made within 21 days of being notified of the review decision.

11.8 There is no 'general' right of appeal to the county court against every decision made under Part VII the Housing Act 1996. The pre-requisites for a county court appeal against a substantive part VII decision are that:

1. the initial decision must have been a reviewable decision; and
2. the applicant must have made a request for a review; and
3. the review decision must have been properly notified; and
4. the time limit for proper notification of a review decision must have expired; and
5. the appeal must be on a point of law; and
6. the appeal must be brought within the prescribed time limit (21 days or such extension of it as the court may allow)

12.0 Accommodation during and after a review decision

12.1 Coventry City Council is not legally obliged to provide the applicant with any temporary accommodation pending an outcome of the review.

12.2 Applicants will be advised to accept the offer whilst the review is being considered and the landlord agrees to release the applicant from the tenancy if the review is overturned. This is encouraged as it ensures that the applicant has accommodation during the review period and in the event that the review is not successful.

12.3 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 Coventry City Council will consider its homelessness duty discharged.

13.0 Complaints to the Local Government and Social Care Ombudsman

13.1 If an applicant is not satisfied with a review decision and believes that there has been maladministration, 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.

- 13.2 The Local Government and Social Care Ombudsman will normally only consider such complaints if the customer has already followed the Local Authorities prescribed complaints procedure. The Ombudsman does however have the discretion to take on complaints outside of this process, where it is felt that the case is sufficiently urgent to require their intervention.
- 13.3 The Ombudsman will consider a complaint if an application believes they have been treated unfairly as a result of maladministration. Examples include:
- Delayed taking action without good reason
 - Taken into account irrelevant consideration or ignored relevant considerations
 - Not following rules (legal or local procedures)
 - Given wrong information
 - Not reached a decision in the correct way.
- 13.4 Contact details for the Local Government and Social Care Ombudsman are:
Telephone: 0300 061 0614
Website: www.lgo.org.uk

14.0 Monitoring and Review

- 14.1 Details for whom a duty is discharged will be reported on quarterly to the Ministry of Housing, Communities and Local Government on the H-CLIC data collection system.
- 14.2 This policy will be reviewed every three years unless a review is required prior to the end of the three-year period.

This policy will be reviewed in line with any significant change in legislation, guidance issued by the Ministry of Housing, Communities and Local Government or significant case law.

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