

Rushcliffe Borough Council – Private rented offer (homelessness) policy April 2013

1. Purpose

To set out when we will make a private rented offer, within the meaning of section 193 of the Housing Act 1996, to a homeless applicant.

To set out the factors we will take into account when assessing the suitability of a private rented offer, in relation to the condition of a property and its location.

To set out what steps an applicant can take if they do not believe the accommodation offered is suitable.

2. Background

Part VII of the Housing Act 1996 creates a duty on us to secure permanent accommodation for any person they accept as being eligible for assistance, homeless, in priority need, not intentionally homeless and having a local connection to the district.

Following commencement of sections 148 and 149 of the Localism Act on 9 November 2012, section 193 of the Housing Act 1996 is amended such that we can discharge our duty to secure accommodation for a homeless household by means of an offer of suitable private rented housing, where the applicant is being offered a tenancy of at least twelve months.

We understand that many people would prefer to live in social housing than the private rented sector, because the rent is usually lower and social tenants normally enjoy the security of a secure or assured tenancy. However, there is a much greater demand for social housing than there is supply in Rushcliffe. There are over 1,000 applicants on the Housing Register as at February 2013, and only 279 lettings of social housing (including sheltered housing) in 2011/12. Each social housing property advertised attracts an average of 40 – 50 bids, of which only one can be successful.

Most private rented properties are ready immediately and there is a wide range of choice available, although some or all of that choice may be outside Rushcliffe. It will be particularly beneficial for families living in our hostels to move on more quickly. Although we provide high-quality accommodation and services, it is only a temporary solution, and there is considerable evidence that living in temporary accommodation has a negative effect on children's wellbeing, and particularly their educational achievement and mental health.¹ It is therefore in the interests of all parties to minimise the time that applicants have to spend in temporary accommodation.

¹ [Shelter](#)

3. Policy aims and objectives

The policy will ensure comprehensive and consistent needs and risk assessments are carried out for each statutory homeless household. This approach will ensure applicants' needs are appropriately met and risks to personal safety and that of staff and the community are minimised.

This policy and the needs assessment procedure will ensure there is no discrimination on the grounds of gender, age, religion, race, disability, nationality or sexuality.

Each case will be assessed on an individual basis, to avoid blanket policies.

The policy will comply with:

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

4. Assessment Procedure

When we make a decision to accept a main homelessness duty to an applicant, they will then have a period of six weeks in which they can find their own accommodation, either by bidding for social housing through the Homesearch scheme (for which they will normally have a Band 2 priority), by finding a private rented property, or any other option suitable for them. We will assist applicants to find accommodation; this might include searching for properties, liaising with landlords and arranging incentives such as the Deposit Guarantee Scheme.

If the applicant has not found an offer of accommodation six weeks after receiving their homelessness decision, we will place bids on their behalf on any suitable social housing that becomes available, search for private rented properties that may be suitable for them, and contact landlords to find out whether they would rent their property to the applicant.

A private rented offer will be considered for all statutory accepted households initially, but a thorough assessment process will be undertaken to ensure that this kind of accommodation is appropriate. If this proves not to be the case then a social sector tenancy will then be considered. Each case will be assessed on its own merits.

When we find a suitable private rented property, we will liaise between the landlord and the applicant to arrange a viewing, to offer incentives or support where required, and to confirm whether the landlord is prepared to offer the tenancy to the applicant.

Where the landlord confirms they are willing to offer a twelve month tenancy to the applicant, this will constitute a private rented offer. If the applicant does not accept this offer of accommodation then we may, where appropriate, discharge our duty to secure accommodation. We may also require the applicant to leave any temporary accommodation we have provided for them.

We will also take into account:

- Bedroom eligibility under Local Housing Allowance

- Financial circumstances and affordability
- Physical mobility / health needs
- Mental and emotional health needs
- Practical support needs
- Cultural or faith-related needs
- Risks to personal safety
- Risk to self (e.g. substance misuse/self-harming)
- Recent housing history
- Ability to manage finances and maintain a tenancy
- Ability to manage personal health and hygiene
- Other relevant issues raised by the applicant

An Equality Impact Assessment is to be carried out for this policy.

5. Suitability of accommodation

When assessing whether a property is suitable, we will use the criteria set out by the Government.² We will inspect each property to decide whether it is suitable to make a private rented offer. We will normally regard a property as suitable unless, in our opinion:

- It is not in a reasonable condition
- Any electrical equipment supplied does not meet safety regulation standards
- Reasonable fire safety precautions have not been taken
- The landlord has not taken reasonable steps to prevent carbon monoxide poisoning
- The landlord is not a fit and proper person
- It is a House in Multiple Occupation subject to licensing (either mandatory or discretionary), and has not been properly licensed
- It does not have a valid Energy Performance Certificate
- It does not have a current gas safety record
- An adequate written tenancy agreement has not been provided

We will also take into account the circumstances of the applicant and their household (for instance, disability or health needs) and make sure that any property offered as a private rented offer is suitable for their particular needs.

6. Affordability of accommodation

We will also take into account whether the accommodation is affordable to the applicant in the long term, or whether the rent would be excessive given their income (including any Housing Benefit or Universal Credit they would be entitled to) and their essential household expenditure.

Applicants should note that if they need to claim Housing Benefit or Universal Credit to pay their rent, they will only be eligible for the Local Housing Allowance rate for the size of property they

² [Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#)

require. For instance, a couple with two children under 10 would be eligible for the two bedroom rate, not the three bedroom rate.

Single applicants who need to claim Housing Benefit or Universal Credit to pay their rent and are under 35 years old should note that they will normally only be eligible for the Local Housing Allowance rate shared accommodation. We will normally try to assist these applicants to find shared accommodation, as this will be most affordable for them.

7. Location of accommodation

So far as possible, we will aim to find accommodation within Rushcliffe so that applicants do not need to move out of the Borough. However, Rushcliffe has higher house prices and higher rents than any of its surrounding areas, and very few properties advertised in the private rented sector are priced to be affordable under the Local Housing Allowance rates. This is particularly the case for family sized houses.

We will therefore also look for property located outside Rushcliffe which may be suitable for a private rented offer. When deciding whether a property is suitable, we will take into account:

- the distance of the property from Rushcliffe;
- the significance of any disruption to the employment, caring responsibilities or education of any member of the applicant's household;
- the proximity and accessibility to medical facilities or other support which are essential to any member of the household's wellbeing (and whether they could access alternative facilities or support in the area they were moving to);
- the proximity and accessibility to local services and transport.

Rushcliffe is a predominantly rural borough, and many of our residents routinely use facilities and services in nearby urban areas, such as Nottingham, Newark, Leicester and Loughborough. In some cases, it may be less disruptive for a homeless household to move to one of these areas than to move to a more remote part of Rushcliffe, and this may allow them to remain closer to their existing community. We will assess each case individually, and help them to find the best housing option for their circumstances, within the restricted choice available in the market.

When we discharge our duty by securing the applicant a property that is in a different local housing authority's area, we will notify that authority of the name of the applicant, the people who form part of their household, the fact that we have discharged our homelessness duty, and that the duty will reoccur on us should they become homeless again (except if intentionally) within the next two years. If the household becomes homeless again after two years of our duty being discharged, they should normally approach the local authority where they now reside for advice and assistance.

8. Reviews on the suitability of accommodation offered

As part of the offer process and in accordance with the Allocation Policy and Procedures, applicants will be advised of their right to request a review on the suitability of the accommodation offered. Applicants will also be advised of advice services, for example Citizens Advice Bureau or Shelter.

Review process

Applicants can request a review within 21 days once we consider an offer to be suitable and that its duty under homeless legislation can be discharged.

Review requests can be made in writing or verbally to the Housing Options Team. We will advise the applicant of the full procedure and process for completing a review of the suitability of the accommodation offered.

The Housing Options Team 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 Housing Options Team will write to the applicant to:

- acknowledge the request
- provide details of the review procedure.

The Housing Options Team will complete the review within 56 days of receiving the applicant's original review request (unless a longer period is agreed).

The review will be carried out by the Housing Options Team Leader so long as they have not been involved in the original decision. If they have been involved in the original decision, the review will be carried out by the Strategic Housing Manager.

Review outcomes

The review outcomes can be:

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

Once the review has been completed, the Housing Options Team will write to the applicant informing them of the review decision. The letter will be sent to the applicant or will be available for collection from the Council's offices.

The outcome letter will explain the review decision, how the Council 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. (For further information on the appeals process, please see below).

Accommodation options during and after a review decision

During the review process, the Council is not legally obliged to provide the applicant with temporary accommodation. Applicants will be advised to accept the final offer of accommodation whilst the review is being considered. This is because the applicant 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. Unfortunately this may not be possible in cases of private rented accommodation.

If the review is unsuccessful and the property is still available, the applicant may be offered the property again. The Strategic Housing Manager will confirm if the statutory homeless duty has been ended.

10. County Court Appeals

An applicant 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.

Applicants considering an appeal to the County Court are advised to obtain independent legal advice e.g. from the Citizens Advice Bureau or Shelter. The Council is not legally obliged to provide the applicant with accommodation during an appeal process.

11. Complaints to the Local Government Ombudsman

If an applicant 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 an applicant believes they have been treated unfairly as a result of maladministration. Examples include where the Council may have:

- 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:

Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH
Telephone: 024 7862 1960
Website: www.lgo.uk

12. Reviewing the Policy

This policy will be reviewed in line with any significant change in legislation, guidance issued by government or significant case law. In any case, it will be reviewed every five years.

ALTERNATIVE FORMAT OR LANGUAGE REQUIRED?

If you would like a copy of this document in a different format such as large print, Braille, audio tape or translated into a different language, please contact us:

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Rectory Road
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