

# Private Rented Sector Offer Policy

*Somerset Council [TEAM NAME]*

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## **1. Introduction and legislative background**

- 1.1. The Localism Act 2011 (sections 148 and 149) introduced provisions which enable the council to bring its statutory housing duty under section 193(2) of the Housing Act 1996 as amended to an end, by making an offer of a private rented sector tenancy rather than a social housing tenancy.
- 1.2. Article 3 of the Homelessness (Suitability of Accommodation) (England) Order 2012 concerns the suitability of privately rented accommodation offered to certain applicants who are homeless or threatened with homelessness.
- 1.3. Private rented sector accommodation must meet the requirements of Article 3 if it is to be considered suitable when offered to bring to an end the section 193(2) main housing duty (section 193(7F)).

## **2. What is a private rented sector offer (PRSO) and when will it be used?**

- 2.1. A PRSO is an offer of a fixed term assured shorthold tenancy of at least one year, offered by a private landlord and arranged by a local authority to end its main housing duty.
- 2.2. The offer must be of suitable accommodation and will be subject to an enhanced level of suitability (see Article 3). It must be offered with a start date that allows the applicant to end liabilities with respect to current accommodation.
- 2.3. The council's policy is that a PRSO may be made to any homeless household where the law allows it. This policy does not exclude any groups from being offered a Private Rented Sector Offer, however it is accepted that for some cases it is more realistic to find suitable accommodation within the social housing sector. For example, there are some situations where the physical characteristics of a potential home are not suitable for somebody with a particular disability. Major adaptations may be required to make the potential offer of accommodation suitable and may delay the offer. It is more likely that major adaptations can be completed on a social rented property than a privately rented property as any adaptations require the permission from the landlord.
- 2.4. The number of households that will be made a PRSO each year will depend on the supply of suitable private rented sector properties.
- 2.5. Officers will communicate to people that are homeless or at risk of homelessness at the earliest opportunity that the council can end the main housing duty in this way.
- 2.6. When making a private rented sector offer, the council must inform the applicant in writing, clearly outlining the possible consequences of refusal and of the right to request a review of the suitability of the accommodation.

## **3. What are the requirements of Article 3?**

- 3.1. A private rented property must not be regarded as suitable if the housing authority are of the view any of the following apply:
- 3.1.1. the local housing authority are of the view that the accommodation is not in a reasonable physical condition;
  - 3.1.2. the local housing authority are of the view that any electrical equipment supplied with the accommodation does not meet the requirements of regulations 5 and 7 of the Electrical Equipment (Safety) Regulations 1994(1);
  - 3.1.3. the local housing authority are of the view that the landlord has not taken reasonable fire safety precautions with the accommodation and any furnishings supplied with it;
  - 3.1.4. the local housing authority are of the view that the landlord has not taken reasonable precautions to prevent the possibility of carbon monoxide poisoning in the accommodation;
  - 3.1.5. the local housing authority are of the view that the landlord is not a fit and proper person to act in the capacity of landlord, having considered if the person has:
    - a. committed any offence involving fraud or other dishonesty, or violence or illegal drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003(2) (offences attracting notification requirements);
    - b. 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;
    - c. contravened any provision of the law relating to housing (including landlord or tenant law); or
    - d. 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(3);
  - 3.1.6. the accommodation is a house in multiple occupation subject to licensing under section 55 of the Housing Act 2004 and is not licensed;
  - 3.1.7. the accommodation is a house in multiple occupation subject to additional licensing under section 56 of the Housing Act 2004 and is not licensed;
  - 3.1.8. the accommodation is or forms part of residential property which does not have a valid energy performance certificate as required by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007(4);
  - 3.1.9. the accommodation is or forms part of relevant premises which do not have a current gas safety record in accordance with regulation 36 of the Gas Safety (Installation and Use) Regulations 1998(5); or
  - 3.1.10. the landlord has not provided to the local housing authority a written tenancy agreement, which the landlord proposes to use for the purposes of a private rented sector offer, and which the local housing authority considers to be adequate.

#### **4. Re-application within 2 years**

4.1. Under section 195A(1) (re-application after private rented sector offer), the section 193(2) duty will apply regardless of whether the applicant has a priority need where:

- (a) a person makes a re-application for assistance within 2 years of accepting a private rented sector offer under section 193(7AA); and,
- (b) the applicant is eligible for assistance and has become homeless unintentionally.