

Private Rented Sector Discharge Policy

Stevenage Borough Council

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1. Purpose

This document sets out Stevenage Borough Council's policy on homeless discharge into the private rented sector, following sections 148 and 149 of the Localism Act 2011. It is available for inspection at the main Council office and on the Council's website.

This policy sets out the arrangements Stevenage Borough Council has put in place to ensure that private rented sector offer accommodation meets the requirements of the Homelessness (Suitability of Accommodation) (England) Order 2012. The location requirements of this Order also extend to any accommodation secured under Part 7 of the Housing Act 1996 (including temporary accommodation).

This policy operates in conjunction with Stevenage Borough Council's Allocation Policy 2024 and will be reviewed in parallel with any future changes. It will also form part of the Council's Homelessness and Rough Sleeper Strategy 2025-2029.

Stevenage Borough Council will arrange a private rented sector offer based on the individual circumstances of the household and with regard to prevailing housing demand and supply pressure in the local area in order to support the best use of available housing stock locally.

2. Scope

Stevenage Borough Council will ensure that, under this policy, it will:

- Make offers which are in line with the government regulations and guidance.
- Make offers that are within a household's means.
- Offer tenancies that are sustainable for households.
- Offer properties that are safe and in a decent condition.
- Offer start-up and on-going tenancy support.

This Policy complies with:

- The Homelessness (Suitability of Accommodation) Order 1996 (SI 1906/3204)
- The Homelessness (Suitability of Accommodation) (England) Order 2012 (SI 2012/2601)
- Supplementary Guidance on Homelessness (Suitability of Accommodation) Order 2012
- Housing Act 1996 (as amended by Homelessness Act 2002)
- Housing Act 2004

- Homelessness Code of Guidance 2006
- Localism Act 2011
- Equality Act 2010

3. Legal Framework

The Localism Act 2011, amended the way in which the duty on local authorities to secure accommodation under section 193 (2) of the Housing Act 1996, can be brought to an end with an offer of suitable accommodation in the private rented sector.

The effect of these changes is to allow the local authority to end the main homelessness duty with a private rented sector offer without the applicant's consent. The tenancy must be a minimum 12 month assured shorthold. If the household becomes unintentionally homeless within 2 years of taking the tenancy then the reapplication duty (S 195A (1)) applies.

The statement of policy on offering choice to applicants under Part 6 is repealed. This means that there is no longer a presumption that most applicants owed the S193 duty will have the duty ended with an offer of accommodation under Part 6.

In 2012, the Government introduced new guidance for Local Authorities covering homelessness and Suitability of Accommodation for private rented sector offers. Local Authorities are required to have regard to this guidance when seeking to discharge the full homelessness duty into the private rented sector. Existing guidance on suitability contained in the Homelessness Code of Guidance 2006 continues to apply.

The previous requirement that authorities must be satisfied that it is reasonable for the applicant to accept the offer has been amended so that no factors, other than contractual or other obligations in respect of existing accommodation, are to be taken into account in determining whether it is reasonable to accept the offer. Where an applicant has contractual or other obligations in respect of their existing accommodation (e.g. a tenancy agreement or lease), the housing authority can reasonably expect the offer to be taken up only if the applicant is able to bring those obligations to an end before he is required to take up the offer.

This change does not mean that those subjective suitability issues which have become associated with 'reasonable to accept' case law are not to be taken into account. The intention is that these factors, as already highlighted in paragraph 17.6 of the Homelessness Code of Guidance for Local Authorities (for example, fear of racial harassment; risk of violence from ex-partner's associates), continue to be part of those factors/elements an authority considers.

4. Equalities

Under the Equality Act (2010) the Council has a legal duty to fulfil the requirements of the Public Sector Equality Duty (PSED). Through this duty and in the application of this policy, the council will carry out its functions in a way that:

- Removes discrimination, harassment, victimisation and any other conduct that is unlawful under the Equality Act (2010).
- Promotes equal opportunities between people who have a protected characteristic(s) and those who don't.
- Encourages good relations between people who have a protected characteristic(s) and those who don't.

Further information on the Council's fulfilment of the Equality Act (2010) is set out in the Equality, Diversity and Inclusion (EDI) Policy (2022) and Reasonable Adjustment Policy (2024).

5. Data Protection

The Council regards respect for the privacy of individuals and the lawful and careful treatment of personal information as very important to delivery of services.

The Council will ensure that it treats personal information lawfully and proportionately as set out in the General Data Protection Regulation (GDPR) and Data Protection Act (2018). For further information on the Councils approach to handling information please see [Data Protection Act \(stevenage.gov.uk\)](https://www.stevenage.gov.uk/data-protection-act)

6. Policy

SUITABILITY

Stevenage Borough Council will consider 4 tests in assessing if a private sector offer is suitable.

Test 1 Space and Arrangement	Is the offer suitable on the facts of the property itself. This is an existing requirement for all offers of temporary accommodation as well as private rented sector offers.
Test 2 Affordability	Is the property affordable. This is an existing requirement that applies to all offers whether of temporary accommodation or private rented sector offers.

Test 3 Location	Is the property suitable for that applicant considering the Homelessness (Suitability of Accommodation) (England) Order 2012 — Part 1 which requires a consideration of the suitability of the property location and in particular the significance of any impact on education, health, employment, support. This will also include an assessment of any subjective matters based on the applicant's circumstances which are relevant to whether the offer of accommodation is suitable.
Test 4 Property Standards and Management	The Homelessness (Suitability of Accommodation) (England) Order 2012 — Part 2 sets out a list of requirements relating to the property and its management that must be met in order for the property to be suitable.

Test 1 Space and Arrangement:

Stevenage Borough Council will consider the space and arrangement of a property when considering its suitability in accordance with the Homelessness Code of Guidance and taking into account local housing conditions.

Test 2 Affordability:

Stevenage Borough Council will consider the following in assessing affordability:

- If the applicant can afford the housing costs without being deprived of basic essentials such as food, clothing, heating transport other essentials.
- Consider any access to a discretionary housing payment which may reduce any rent shortfall to a level where the rent is affordable.
- Consider opportunities to secure accommodation at affordable rent levels where this is likely to reduce perceived or actual disincentives to work.
- Any other relevant factors including debts which may impact on an applicants ability to meet a private sector rent.

Test 3 Location:

Stevenage Borough Council will not usually offer accommodation out of area and, where possible, will provide accommodation that is as close as possible to where the applicant was previously living. In the event that Stevenage Borough Council does have to consider out of area, it will take the following into account:

- The distance from its district.
- The significance of any disruption to employment, caring responsibilities or education.
- The proximity and accessibility of medical facilities and other support.
- The proximity and accessibility of local services, amenities, and transport.
- The retaining of established links with schools, doctors, social workers and other key services and support.
- The need to reach a normal workplace and the need to minimise disruption to the education of young people, particularly at critical points, such as leading up to GCSEs or equivalent.
- Recognise that, in some cases, there can be benefits to out-of-district accommodation, such as in cases of domestic violence, ex-offenders and people in need of employment and those who chose to move out of area for any other reasons.
- Any other relevant factors.

Test 4 Property Standards and Management:

Stevenage Borough Council will need to be satisfied that the accommodation is in reasonable physical condition and will carry out the following:

- Impact the property at the start of the tenancy and at regular intervals to look for signs of poor condition such as damp or mould. This will be done in conjunction with Environmental Health where necessary.
- Inspections will be documented to record condition (using broadly similar categories to the HHSRS approach) and to ensure consistent quality. They will usually be undertaken by Housing staff, but where possible HHSRS category 1 or 2 hazards are identified, then a further inspection by qualified HHSRS assessors will be required (usually from Environmental Health).
- Check the property has a valid energy performance certificate.
- Check the property has a current gas safety certificate.
- Check that the electrical equipment meets safety regulations.
- Check that the landlord has taken reasonable fire and carbon monoxide safety precautions.
- Work with the local Fire and Rescue authorities to provide fire safety advice for applicants.
- Check that all furniture and furnishings supplied by the Landlord are shown to comply with the Furniture and Furnishings (Fire Safety) Regulations 1988 (as amended).

HOUSES IN MULTIPLE OCCUPATION

Stevenage Borough Council will consider whether houses in multiple occupation with shared facilities will be suitable for discharge of duty. In doing so, the following will be considered:

- If there are adequate facilities for food storage, preparation and cooking and how the applicant will fit in with other residents.
- Suitability of sharing and cultural needs, such as preparation of food, and privacy in using bathroom facilities.
- Stevenage Borough Council will check that all houses in multiple occupation have a licence if required.

Stevenage Borough Council will need to check that the landlord is fit and proper to manage the accommodation. In doing so, the following will be considered:

- If the landlord has committed any relevant criminal offences, such as harassment or illegal eviction, or otherwise contravened any rule of landlord and tenant law.
- Check that the deposit is protected in a tenancy deposit scheme.

APPLICATION OF POLICY

All homeless applicants owed the full homelessness duty will be considered for private rented sector discharge. The level of private rented supply will be a factor in determining the number of households that will have their full duty ended with a suitable private rented sector offer. Where there are more households offered the full homeless duty than private rented sector properties available to end the duty, applicants will be selected to be offered a private rented sector offer using criteria set to meet the operational needs of the service and the financial impact on Stevenage Borough Council. Criteria may change subject to operational or financial circumstances and a copy of the current criteria used will always be available for any applicant, or member of the public, who requests a copy. Criteria may include (the following are examples and are for illustrative purposes only):

- Applicants who do not satisfy Stevenage Borough Council's allocations qualifying criteria under Part 6.
- Applicants who have been accepted as being threatened with homelessness and owed a full housing duty and where a private rented sector offer will avoid the need for the household to go into temporary accommodation.
- Applicants who are in temporary accommodation and require longer term accommodation as a matter of urgency.
- Applicants where there are no exceptional circumstances relating to the need for the provision of long term social housing.
- Applicants who have the financial means to secure alternative accommodation.

Stevenage Borough Council will not usually make a private rented sector offer for the following:

- Applicants who are vulnerable, requiring supported accommodation, or who are considered unlikely to be able to adequately sustain a private rented tenancy.
- Applicants or a member of their household requiring significant disabled adaptations to make the property suitable.
- If the applicant was previously a social housing tenant (Council or Housing Association) and has fled domestic violence; other violence; or harassment.

One or several criteria may apply at the same time. Regardless of the fact that an applicant has met the criteria for being considered for a private rented sector offer, Stevenage Borough Council will still ensure that it only makes a private rented sector offer after a full consideration of the household's individual circumstances and the facts that apply to that case.

OFFERS OF ACCOMMODATION

Statutory homeless households are entitled to one reasonable offer of accommodation. Stevenage Borough Council will consider its homeless duty discharged if a suitable private rented sector offer is accepted or refused. Once the offer has been formally made, the applicant's homeless application will be closed. Should the applicant wish to remain on the housing register their application will be dealt with in line with Stevenage Borough Council's Allocations Policy. Applicants will no longer be placed in the homelessness reasonable preference category.

Refusal or failure to respond to an offer of suitable accommodation.

Under these circumstances, this will be considered the applicant's one offer of suitable accommodation and will therefore discharge the statutory homeless duty. Stevenage Borough Council will explain the applicant's right to a review of the suitability of the offer of accommodation. Stevenage Borough Council will also explain to the applicant that they may lose their right to temporary accommodation, an applicant, whose statutory homeless duty has ended as a result of their refusal or failure to respond, will have their housing register application dealt with in line with Stevenage Borough Council's allocations policy

NEW APPROACHES FROM APPLICANTS PREVIOUSLY HOUSED INTO THE PRIVATE SECTOR

If an applicant becomes unintentionally homeless from their private rented tenancy within 2 years, the statutory homeless duty owed to them by the local authority who made the private rented sector offer will automatically revive. However, this duty will only revive once; there will be no duty owed by a local authority in continuation of the original duty if the applicant again becomes homeless. If an applicant 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 the original local authority, 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. However, under these circumstances, Stevenage Borough Council will consider the likelihood of further repeat homelessness.

REVIEWS OF THE SUITABILITY OF ACCOMMODATION OFFERED

Applicants can request a review within 21 days of the local authority telling them that they consider an offer to be suitable and that it has discharged its duty under homeless legislation. This request can be made by a representative on behalf of an applicant. Review requests can be made in writing or verbally to Stevenage Borough Council who will inform the applicant of the full procedure and process for completing a review of the suitability of the accommodation offered. Stevenage Borough Council will consider review requests received

after 21 days but is not obliged to agree to carry out the review. Once a review request has been received, Stevenage Borough Council will write to the applicant to acknowledge the request and provide details of the review procedure. The review will be completed within 56 days of receiving the applicant's original review request (unless a longer period is agreed). The review will be carried out by a senior officer at Stevenage Borough Council who was not involved in the original decision.

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 local authority 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.

7. Monitoring and Review

This policy will be reviewed by the relevant Business Unit's Head of Service or Service Manager every 2 years (see page 1 for details of Business Unit) or earlier if there is a change in legislation. Where more than 10% of the policy content is changed the Assistant Director and appropriate Portfolio Holder will be required to decide if the policy needs to be formally reconsidered by the Executive or appropriate decision-making body.

Where there is a request for the content of the policy to be reviewed in response to a complaint, the relevant Business Unit's Assistant Director will be notified. If the Assistant Director agrees that a review of policy is required, this will be discussed with the appropriate Portfolio Holder. The Head of Service or Service Manager will be responsible for implementing a subsequent policy review.

8. Version History

Date	Outlined Amendments	Author
14/6/2024	Reviewed content. Point 3 - Suitability reference to Welfare reform in Test 2 removed. Placed on new corporate template.	Sarah Pateman