



# **Private Rented Sector Discharge Policy**

**Implemented from January 2015**

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## **1.0 Introduction**

- 1.1 The 1996 Housing Act as amended by the Homelessness Act 2002 enables local authorities to discharge their homeless duties through securing suitable accommodation for households. Under this Act, private rented accommodation could be made available as a qualifying offer usually with the consent of the applicant. Such offers could also be made to prevent homelessness for applicants who are threatened with homelessness within 28 days.
- 1.2 The introduction of the Localism Act of 2011 (sections 148 and 149) amended the 1996 Housing Act and new statutory regulations were issued. These have now made available new powers for local authorities that allow suitable private rented sector offers to be used to discharge the main homeless duty without requiring the applicant's consent and applies to new homeless applicants applying as homeless from the 9<sup>th</sup> of November 2012. The current regulations now require local authorities to consider a number of factors in assessing the suitability of prospective private sector accommodation as the legislation on 'qualifying offers' has been repealed.
- 1.3 The changes form part of the government's plan for wider social reforms and will grant local authorities greater freedom to benefit from use of good quality private sector accommodation for housing households accepted as homeless, so making best use of the permanent and temporary accommodation available across all tenures.
- 1.4 There is a large private rented sector market in Watford and surrounding boroughs and this policy is aimed at assisting people to whom the Council has a homelessness duty in accessing this market.

## **2.0 Private Rented Sector Offers**

2.1.1 Due to the demand on social housing in the borough, Watford Borough Council has made the decision to review the residency connection required by households in order to join the housing register for social housing. In order to register for social housing, households need to be living in the borough currently and also for 5 out of the last 6 years. Due to this and other qualifying criteria in the Nominations policy, there will be households to whom the authority owes a homelessness duty who cannot register for social housing.

2.1.2 In order to maximise the use of all the available housing stock, including the temporary accommodation owned or commissioned by the council, the decision has been made to consider all households accepted as homeless by the council for a Private Rented Sector Offer.

2.1.3 Watford Borough Council intends to fully discharge all full housing duty by way of a 'private rented sector offer' made using the power granted to it (s193(7AA)-(7AC) Housing Act 1996 as amended by s.148(5)-(7) Localism Act 2011.

2.1.4 Where an application has resulted in a full housing duty being owed, the presumption will be that the authority could discharge that duty by arranging for a private landlord to make an offer of an assured short-hold tenancy in the private rented sector for a period of at least 12 months ("a private rented sector offer").

2.1.5 A decision will be taken after a full consideration of household's individual circumstances and the facts that apply to that case. Having undertaken this consideration if the council is satisfied that it is appropriate to exercise the power given to it under the Housing Act 1996 (as amended) it will discharge its duty in this way.

2.1.6 Each private rented sector offer will be assessed for suitability against the Homelessness (Suitability of Accommodation) (England) Order 2012 Part and matched to an individual household. This further clarifies for all prospective applicants that homelessness will no longer give any guarantee that homeless households will receive an offer of social housing.

## **2.2 Criteria for Private Rented Sector Discharge**

- Fixed term Assured Shorthold Tenancy for 12 month minimum term
- 12 month minimum applies even if a household *agrees* to the private sector offer and the council is discharging its duty through it

- For every application considered appropriate, Watford BC will bring the duty to an end through a private rented sector offer as far as reasonably possible
- Watford Borough Council must have been involved in the arrangements for duty to be discharged
- If an applicant becomes unintentionally homeless within two years of the tenancy start date, Watford Borough Council will have a duty to assist and this is regardless of their Priority Need however they must remain eligible. Where a homelessness duty is reinstated, the revived duty may be discharged into the private sector again in accordance with this policy.
- The accommodation must be suitable in location, in property condition and management in the view of the Council .
- The applicant has the right to request a review on the suitability of the accommodation and of appeal to the county court.

### 3.0 Statutory Requirement

Statutory Requirement to consider	WBC Policy approach
If outside the district and the distance from it	<p>WBC will always seek to offer private sector accommodation within the district except:</p> <p>When it considers it beneficial to move applicant/household out of area, for example to reduce the risk of domestic violence, other violence or harassment, or to assist persons in breaking away from detrimental situations such as substance misuse.</p> <p>When the applicant would prefer or consents to move away from Watford or</p> <p>Where the person has very limited or no local connection to Watford</p> <p>However, when suitable accommodation is not available within Watford, private sector offers will be made in the next nearest location which has reasonable facilities and transport links or where a property is available.</p>

<b>Statutory Requirement to consider</b>	<b>WBC Policy approach</b>
<p>The significance of any disruption caused by the location from employment, caring responsibilities or education of the household</p>	<p>In determining whether a location is suitable, Watford Borough Council will consider:</p> <p>Whether the applicant and / or their partner are in employment usually taken to be at least 16 hours per week. If they are, the location must be within a reasonable travel to work area of that employment and have transport links frequent enough to enable it.</p> <p>If the applicant is verified as a carer for another person, who cannot readily withdraw this care without serious detriment to the well being of the other party then the location will need to be of sufficient proximity to enable this, although this may require public transport.</p> <p>If any members of the household are undertaking GCSEs at school (Years 10 &amp; 11 – children aged 14 to 16), or other proven vital examination, then they should not be required to change schools</p>
<p>The proximity and accessibility to medical facilities and other support which are used by, or essential to the well-being of the household</p>	<p>If the applicant or any member of the household requires specialist medical treatment or support which can only be provided in Watford, then the location will need to be of sufficient proximity to enable this, although this may require public transport.</p> <p>Watford Borough Council will also have regard to other medical treatment or support required by the applicant or any member of the household.</p>
<p>The proximity and accessibility to local services, amenities and transport</p>	<p>WBC will seek to offer accommodation that is reasonably accessible to local services and amenities,.</p>

<b>Statutory Requirement to consider</b>	<b>WBC Policy approach</b>
Whether the property is in a reasonable physical condition	<p>WBC officers will either:</p> <p>Physically inspect all PRS accommodation before it is offered or</p> <p>Require a letting agent to physically inspect a property (usually requiring that agent to be a member of a suitable trade body such as ARLA or NLA) or</p> <p>Request another local authority or agent to undertake an inspection on its behalf</p> <p>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)</p>
Whether any electrical equipment meets the requirements of the Electrical Equipment (Safety) Regs 1994	<p>All landlords/agents will be required to supply a satisfactory Electrical Safety Certificate from within the last 5 years</p> <p>Any moveable electrical items in the property will require a Portable Appliance Test (PAT) within the last year, with a suitable indication of this usually expected to be identifiable on the inspection of the appliances plug</p> <p>The physical inspection of the property will seek to identify any broken fittings or obvious electrical defects, such as loose wiring or electrical faults.</p>
Whether the local authority are of the view that the landlord has taken reasonable fire safety precautions	<p>The physical inspection of the property will check that it is fire safe. Working smoke detectors are expected to be provided in all accommodation (battery or mains). Should additional fire safety provisions be expected, for example</p>

Statutory Requirement to consider	WBC Policy approach
	<p>where a building has common parts, then a copy of the Fire Risk Assessment will be required from the landlord. If required, expert assistance will be sought from Environmental Health.</p> <p>All furniture and fittings supplied by the Landlord must also be shown to comply with the Furniture and Furnishings (Fire Safety) Regulations 1988 as amended.</p>
<p>Whether the local authority are of the view that the landlord has taken reasonable precautions to prevent carbon monoxide poisoning.</p>	<p>If the property has an active gas supply (for heating or cooking) then a recent carbon monoxide detector should be provided by the landlord and appropriate advice and assistance to ensure it is properly fitted.</p> <p>Gas fires will usually be expected to be removed.</p>
<p>Whether there is a current gas safety record for the property</p>	<p>If the property has a gas supply, then all landlords/agents will be asked to supply a current Gas Safety Certificate.</p> <p>Lettings will not be started until the council has receipt of a copy of this.</p>
<p>Whether the accommodation has a valid Energy Performance Certificate</p>	<p>All landlords/agents will be asked to supply a valid EPC for the property</p>
<p>Whether the accommodation is an HMO and is licensed if required</p>	<p>Environmental Health will be contacted to ensure the property is properly licensed and compliant.</p>
<p>Whether the landlord has provided a written tenancy agreement that the local authority considers to be adequate</p>	<p>WBC offers a model Assured Shorthold Tenancy for landlords to use. Where this is not used, officers will ensure that an acceptable, written AST is used clearly setting out the rents and charges, landlord and tenants obligations and is free from any unfair or unreasonable terms. Landlords will also be informed of the requirements to use Tenancy Deposit Schemes by officers prior to sign ups.</p>

## 4.0 Property size

4.1 The Council will assess the property size required as follows, with the assumption that where there are two reception rooms in a property, one may be used as a bedroom.

HOUSEHOLD SIZE	NUMBER OF BEDROOMS
Single person (including where expecting first child)	Bedsit /1 bedroom
Single person with staying access to children	Bedsit/1bedroom
For the following, access to one living room whether sole or shared plus:	
Couple	1 bedroom
For the following, sole use of one living room plus:	
Parent (s) plus 1 child	2 bedrooms
Parent (s) plus 2 children, same sex (where under 16 or one or more is over 16 but the age gap is less than 7 years)	2 bedrooms
Parent (s) plus 2 children of opposite sex (under 10 years)	2 bedrooms
Parent (s) plus 2 children of opposite sex (over 10 years)	3 bedrooms
Parent (s) plus 2 children, same sex where there is an age gap of 7 years or more and one child is 16 or over	3 bedrooms
Parent (s) plus 3 children	3 or 4 bedrooms depending on ages and gender
Parent (s) plus 4 children or more	3 or 4 bedrooms depending on ages (limited number of 4 bedroom properties)

4.2.1 Where an additional bedroom may be required for exceptional circumstances, the council will make an assessment to determine whether this can be accommodated.

4.2.2 These exceptional circumstances will be limited to:

- Medical conditions or disabilities caused or made worse by sharing a bedroom or not having an additional bedroom
- The need for a live in carer which has been verified by appropriate professional agencies

4.2.3 The assessment of exceptional circumstances will take into account:

- Whether there is a verified need for an additional bedroom supported by appropriate independent agencies
- Whether there is a proven link between the issues identified and the property size
- Whether a larger property would be affordable to the household in the long term
- Whether a larger property is likely to become available within a reasonable timescale and whether this could be justified bearing in mind pressures on properties of that size
- Whether there are alternative solutions for the household e.g. independent arrangements for some family members
- Note: Housing benefit is not necessarily granted in all these cases.
- Where there are more households owed the full homeless duty than properties available in the private rented sector to end the duty, applicants will be nominated for a private rented sector offer using criteria set to meet the most pressing needs of clients and the operational needs of the service and financial impact on the authority.

Criteria used to prioritise these nominations may include for example-

Applicants owed a full housing duty that:

- Do not qualify for the Housing Register
- Are in temporary accommodation where there is a cost to the council
- Have expressed a preference to live in a particular area. Choice of area will be considered when making a PRS offer but cannot be guaranteed.
- Are in temporary accommodation where due to the level of rent charged there is a cost to the applicant
- That have been accepted as being threatened with homelessness and owed a full housing duty and where a PRS offer will avoid the need for the household to go into temporary accommodation.
- That are owed the full homeless duty and have been waiting longest since being accepted as homeless by the council
- Applicants who are to be made a private rented sector offer of accommodation are expected to co-operate with council officers and the appropriate private sector landlord and abide by the terms of their respective tenancy agreements once an offer has been made.

- Have a clear rent/service charge account

## **5.0 Suitability Review**

5.1.0 With an offer of accommodation under this policy, applicants will be required to confirm their decision whether or not they will accept the offer within a reasonable period of time, usually at the viewing. They will also be advised of their right to request a review of the suitability of the offer of accommodation. They will be signposted to agencies such as the Citizens Advice Bureau and Shelter as appropriate for support with this process.

5.1.1 An applicant can request a review of the decision that a property is suitable and that the duty owed to them under the homeless legislation is discharged within 21 days of being notified of the decision. Review requests received later than this will only be accepted in exceptional circumstances.

5.1.2 Once a review request is received, the Council will write to the applicant to acknowledge receipt of the request. The review will normally be completed within 56 days of the review being requested unless a longer time period has been agreed. The review will be carried out by a senior officer who was not involved in the original decision or by the independent reviews service commissioned by the Council for this purpose.

5.1.3 The review may be unsuccessful (that is the original decision is upheld) or successful in which case the original decision is amended. The Council will write to the applicant to advise of the decision. The letter will be sent to their address and where this is not known, a copy will be available for collection at the Council's offices. The decision letter will give reasons for any findings. It will also set out the limited right of appeal to the County Court.

## **5.2 Accommodation Pending Review**

5.2.1 The Council is not obliged to provide temporary accommodation during the review process and will only do so in exceptional circumstances. A review can be completed after the disputed offer has been accepted provided this is within the timescales above. Applicants will be advised to accept the disputed offer even if they wish to request a review to ensure that, if unsuccessful, they are not left without accommodation

## **6.0 Implementation**

6.1.0 Once this policy is adopted, the Housing Service will communicate to all applicants where a homeless application has been made after the 9<sup>th</sup> November 2012 and where a full housing duty is owed. A copy of this policy

will be available to applicants via the Council's website. This policy will also be sent to all relevant stakeholders in Watford along with the Nominations Policy.

## **7.0            Reviewing the Policy**

7.1.0 The Policy will be monitored and reviewed formally in line with the development of a new Homelessness Strategy to ensure effectiveness. If changes are required, these will be made as and when necessary. The Policy may also be reviewed at any time, in line with any relevant changes in legislation or Guidance issued by relevant Government Departments.