



## Chelmsford City Council Cabinet

30<sup>th</sup> January 2024

---

### Private Rented Sector Offer Policy

---

Report by: Cabinet Member for a Fairer Chelmsford

---

Officer Contact: Paul Gayler, Strategic Housing Services Manager,  
[paul.gayler@chelmsford.gov.uk](mailto:paul.gayler@chelmsford.gov.uk) Tel: 01245 606375

---

#### Purpose

To present a Private Rented Offer Policy which provides a framework to effectively enable the Council to end their main homelessness duty with an offer of accommodation within the Private Rented Sector, without the applicant's consent.

#### Options

1. Approve the Private Rented Sector Offer Policy as presented.
2. Approve the Private Rented Sector Offer Policy with amendments.
3. Decline to approve the Private Rented Sector Offer Policy.

#### Recommendations

1. The Private Rented Sector Offer Policy be approved as presented.
-

## 1. Background

- 1.1 Local housing authorities have a statutory duty to secure accommodation for certain categories of people who are at risk of homelessness. In 2018 this was extended by the Homelessness Reduction Act to also work to prevent homelessness and in cases where this is not possible to relieve homelessness by helping applicants find alternate accommodation. In cases where homelessness can be neither prevented nor relieved local housing authorities then need to establish whether there is a duty to provide settled accommodation that is suitable; suitable means homes that are of the right size, in the right location, affordable for each particular household and expected to be available for at least two years. The offer of a suitable privately rented property can therefore be used to relieve homelessness under s189 or to meet what is often referred to as the 'main duty' under s193 of the Housing Act,
- 1.2 Section 189(B)(2) of the Housing Act 1996 allows a local authority to take reasonable steps to help an applicant to secure suitable accommodation that is available for the applicant's occupation for at least 6 months to relieve homelessness. The Localism Act 2011 changed the way in which the duty on local authorities to secure accommodation, under section 193(2) of the 1996 Act, could be an offer of suitable accommodation in the private rented sector.
- 1.3 This change gave local authorities the power to end the main homelessness duty with a Private Rented Sector Offer, regardless of the applicant's preference of a private or Registered Provider as the landlord. The duty can only be ended in the private rented sector in this way with a minimum 12 month assured shorthold tenancy in a suitable property. Suitability includes, where relevant, access to education, employment, health and other types of support including, for example, places of worship.
- 1.4 Access to affordable housing in the private rented sector in Chelmsford is limited and to enable placement outside of the District an amended Private Rented Sector Policy Offer Policy is proposed. This is necessary in order for the Council to continue to meet its legal duties to those it has a duty to house at a time when the gap between need and supply would otherwise be unmanageable.
- 1.5 The proposed policy is aligned to Chelmsford City Council's Homelessness and Rough Sleeping Strategy 2020-24 and is being proposed due to the current housing market conditions and increased demand for permanent housing and temporary accommodation arising from the Homelessness Reduction Act 2017 which introduced new accommodation duties towards homeless households. A policy is required to demonstrate that the Council understands its legal duties under the legislation and has a fair and consistent process for allocating privately rented homes in addition to its allocation policy for the Housing Register.

## 2. Context

- 2.1 Social and affordable housing in Chelmsford is in high demand, and there are far more people on the Register than there are homes available. There are currently 1300 households on the Register. At the time of writing this report 118 households have been successfully rehoused from the register this financial year. Therefore, most households are not likely to be successful in finding a home through the Housing Needs Register (49 new builds are in development during 2023/24). In common with many other areas, there has been a considerable reduction in the supply of affordable homes (around 50% lower compared with the previous decade) and now a reduction in the number and affordability of privately rented homes which has until recently been a helpful supplement to the local supply of affordable homes.
- 2.2 There has been an increase in homelessness applications since the implementation of the Homelessness Reduction Act 2017 (which came into effect in April 2018). In 2018/19 the number of homeless enquiries was 776 but rose to 1155 in 2022/23. In October 2023 there were 474 households in Temporary Accommodation, 196 of whom are waiting for a permanent solution.
- 2.3 Homelessness demand in the longer term is difficult to predict as it is driven by a complex range of social, economic, and external factors, as well as changes to national legislation and policy. The availability of housing in Chelmsford has been significantly impacted by the housing market conditions including the extended differentials between housing costs and average incomes, the availability of homes in the private rented sector, and reductions in turnover in social and affordable housing as the housing market stagnates. The impact of increased interest rates and lack of certainty is slowing down the housing market further and reducing opportunities for people to move.

## 3. Private Rented Sector Offer Policy (PRSO)

- 3.1 The introduction of this Policy will enable the Council to secure housing in the private rented sector and therefore meet its main homelessness prevention or relief duty.
- 3.2 The Private Rented Sector Offer Policy document is attached at Appendix 1. It clearly sets out the approach to be taken by the Council in sourcing private rented accommodation when discharging its homelessness duty. The approach ensures that any property is suitable and affordable.
- 3.3 Allocating to the private rented sector in accordance with the policy will ensure the Council lawfully meets its homelessness duties.

## 4. Conclusion

- 4.1 The demand for social and affordable housing is increasing as is the number of people approaching the Council for advice and assistance due to homelessness or the threat of homelessness.
- 4.2 Adoption of a Private Rented Sector Offer Policy provides the Council with the opportunity to discharge homelessness duties through offers of accommodation into the private rented sector and extending accessible housing options outside of the District. Offers will still comply with the legal guidance of suitability which vary from one household to another. All applicants will have a legal right to request a review of any offer made but where this is found to be a suitable offer no further assistance would be provided and any offer of temporary accommodation would be ended with reasonable notice.

### List of appendices:

Appendix 1- Private Rented Sector Offer Policy

### Background papers:

None

---

## Corporate Implications

Legal/Constitutional: These are set out in the report. This policy falls within Cabinet remit to approve.

Financial: None. The implementation of the policy should reduce the amount of temporary accommodation.

Potential impact on climate change and the environment: None

Contribution toward achieving a net zero carbon position by 2030: None

Personnel: None

Risk Management: None

Equality and Diversity: An Equality Impact Assessment has been carried out.

Health and Safety: None

Digital: None

Other: None

---

### Consultees:

None

---

**Relevant Policies and Strategies:**

Chelmsford Housing Strategy 2022-2027

Chelmsford Homelessness and Rough Sleeping Strategy 2020 -2024

## **Private Rented Sector Offer Policy**

### **1.0 Background**

Due to the housing crisis, a reducing supply of affordable homes and a significant rise in approaches for housing and homelessness applications, the demand for social and affordable housing outstrips the availability and supply. This policy statement sets out Chelmsford City Council's (the Council) policy for offering Private Rented Sector Offer (PRSO) accommodation.

The Localism Act 2011 changed the way in which the duty on authorities to secure accommodation under section 193(2) of the 1996 Act can be an offer of suitable accommodation in the private rented sector.

The changes made to section 193(2), specifically at section 193(7AA)(7AC) gives local authorities the power to end the main homelessness duty with a PRSO. The duty can only be ended in the private rented sector in this way with a minimum 12 month assured shorthold tenancy in a suitable property. In relation to suitability, whilst a number of relevant factors can and will be taken into account on a case-by-case basis, the Homelessness (Suitability of Accommodation) (England) Order 2012 set out a list of ten factors relating to the physical condition of the property and the character of the landlord in relation to PRSO and those factors must be complied with before the Council can be satisfied the accommodation is suitable.

### **2.0 Rationale**

In Chelmsford there is a high demand for accommodation but a very limited supply of social or affordable housing, therefore we are having to look increasingly at the resources offered by private sector housing.

The Council use this power to discharge the Section 193 homelessness duty into suitable private sector rented accommodation where appropriate.

The Council's policy is that a PRSO can be made to any applicant in discharge of the main housing duty in any case where it is permissible in law.

The Council anticipates that a PRSO will be appropriate for most applicants, unless there are exceptional circumstances which mean that this is not possible. We therefore expect to use the power to discharge duty into the private rented sector in many cases where a homelessness duty is accepted. For the avoidance of doubt, this is not a blanket approach to the ability to use PRSO under section 193 of the Housing Act 1996; the Council will make a decision in accordance with the law on a case-by-case basis. However, the Council will in all cases where a homeless duty is accepted actively consider using the power to discharge the main homelessness

duty through a PRSO, considering the shortage of social housing in the district and the costs of providing temporary accommodation to homeless households.

In developing the policy regard has been had to the relevant statutory provisions, statutory guidance and caselaw.

This policy applies only to applicants who approached the Council as homeless or threatened with homelessness on or after 9 November 2012.

### **3.0 Key Principles**

The Council's policy is to make available suitable PRSO accommodation within Chelmsford wherever reasonably practicable, except in cases where there is a specific reason why the household should not be accommodated within the district which may include:

- Those who are at risk of domestic abuse or other violence in the Chelmsford district;
- Those who on the advice of services for the management of offenders would benefit from being housed outside of the district;
- Those with substance abuse problems who would benefit from being accommodated outside the area to help break links with previous contacts or others who need help to avoid those who could exert a negative influence;
- Those who would benefit moving closer to employment or would have a better level of support in another area;
- Applicants who have expressed a need or desire to move to another area.

The Council will assess whether accommodation is suitable for each household individually, and case records should demonstrate that they have taken the statutory requirements into account in securing the accommodation.

Any decisions regarding an offer of a PRSO will have regard to the Council's obligations under the Children Act 2004 including the need to safeguard and promote the welfare of children.

Any decisions regarding an offer of a PRSO will have regard to the provisions of the Homelessness (Suitability of Accommodation) Order 2012 and the Code of Guidance.

### **3.1 Sourcing Accommodation**

Accommodation may be acquired from providers by the Council's housing services, or applicants may find their own property.

Changes to the local housing market and other factors largely outside the Council's control have made it increasingly difficult to acquire properties for use as PRSO accommodation in the district and in surrounding areas that meet the standards that are required, in particular homes that are affordable.

The service may therefore acquire properties in a range of other locations where it appears the supply of units in the district whether social housing through the Housing

Register or homes available to rent from private landlords will not be sufficient for the anticipated demand.

The level of supply of private rented sector accommodation will impact upon the number of applicant's who will be made a suitable PRSO.

### **3.2 Property Standards / Suitability**

All accommodation offered as a PRSO will conform to agreed minimum property standards:

- The accommodation is in reasonable physical condition and free of Category 1 hazards;
- The accommodation, appliances and furnishings comply with relevant fire and electrical safety legislation;
- If subject to House in Multiple Occupancy licensing the property is licensed;
- There is a valid Energy Performance Certificate;
- There is a current Gas Safety record;
- There is a valid Energy Performance Certificate;
- There is a current Gas Safety record;
- All parts of the property and furnishings comply with Fire Regulations;
- The size of any property complies with the Council's policy for the allocation of homes;
- The offer is affordable taking into account the applicant's financial means;
- Arrangements are made to meet the educational needs of children;
- Arrangements for accessing medical treatment;
- Access to public transport, shops and other facilities.

Where applicants have found their own properties which have not been inspected by the Council, the Council will obtain evidence from the landlord that confirms its suitability.

These standards meet the requirements of the Homelessness (Suitability of Accommodation) Order 2012 and the Homelessness Code of Guidance for Local Authorities.

In assessing the **suitability & affordability** of any property for a PRSO for a particular applicant, the Council will consider whether the applicant can afford their housing without being deprived of basic requirements such as food, clothing, heating, transport and other essentials, and in so doing will take account of the costs arising from the location of the accommodation.

### **3.3 Location**

The Council will also take account of the **location** - distance from the district, potential disruption to employment, education or caring responsibilities, accessibility of essential medical facilities and support, and accessibility of local amenities, services, and transport.

## **4.0 Offering PRSOs**



The decision about whether to make an offer of private rented accommodation as discharge of the S193 homelessness duty to a particular household will be made on a case-by-case basis and will be based on a range of circumstances including:

**4.1 The ability of the applicant to manage a private rented sector tenancy.**

This will initially be assessed by the service at the point of application but can be reconsidered at any point including when a potential property has been identified.

**4.2 Suitability assessment.** To include (this is not an exhaustive list) affordability, availability and cost / impact on the Council's finances, and the proportionate impact of the disruption. Every applicant will have an affordability assessment to determine the maximum rental costs which can be expected to be met from their income and personal finances.

**4.3 Location** - All properties provided to be used for PRSOs will be zoned as follows:

Zone A - located in Chelmsford City Council area

Zone B - located in adjacent local authority areas, Braintree, Maldon, Rochford, Basildon, Brentwood, Epping and Uttlesford

Zone C - located in other districts of the county of Essex.

Zone D - located outside of Essex.

Where it is not reasonably practicable to offer a property in Zone A within a reasonable time, due to the availability of affordable housing and costs to the Council of maintaining the household in temporary accommodation, a sequential search for a property in Zone B or Zone C may be offered, depending on its suitability for the applicant and their household before considering a property in Zone D.

When making placements in Zone B the aim is to work effectively moving out from Chelmsford taking a concentric approach, minimising the distance away from the district, however this will be impacted by transport links and housing markets in the surrounding areas.

Where this policy is being applied and the applicant has accepted a PRSO but requested a review of its suitability, other applicants who have not yet been made a PRSO will be prioritised ahead of the relevant applicant.

Where applicants have expressed a wish to be housed in a particular location outside Chelmsford this will be considered when identifying properties.

Applicants will be individually assessed prior to any offer to determine the type and location of accommodation that should be offered.

The size of property offered will reflect the Council's Housing Allocations Scheme.

In cases where the applicant has accepted an offer made under this policy their cases will be regularly reviewed taking into account any expected date of the expiry of a tenancy.

### **5.0 Process and prioritisation**

Before an offer is made, a matching exercise will be carried out considering the requirements of the household and the nature and location of the individual property; the results of this matching exercise will be recorded in full on the applicant's file.

The following households will normally be given highest priority for accommodation within or close to the district in Zones A or B (or close to their place of employment/medical facilities/place of education as appropriate).

- Households with one child (or more) in secondary school in the year at the end of which they take their GCSEs or AS or A level exams.
- Households with one child (or more) who has an Education Health and Care Plan, including SEN.
- Households with one child (or more) who is the subject of a Child Protection Plan
- Households where one person (or more) is receiving medical treatment that can only be provided by a specific medical facility: this group will be prioritised for housing as close as possible to the medical facility, including people on end-of-life care.
- Households where one person (or more) is in permanent and settled part time or full-time employment and has been for at least three months prior to the date of the offer (or in appropriate circumstances the review). Part time employment must be for a minimum of either 16 hours for a single person household or 24 hours for a couple per week— this group will be prioritised for housing as close as possible to their workplace.
- Households where a member of the household is the main carer for another person in the Chelmsford district who falls into one of the following categories:
  - a) Over 75 years old and living alone, or with no other member of the household under 75 years of age, OR
  - b) In receipt of a registered care package, OR
  - c) In receipt of the medium or higher rate of the care component or the higher rate of the mobility component of the Disability Living Allowance, Attendance Allowance or War Disablement pension, or Foster Carers.

It should be noted that the above categories and priorities are for guidance only and the individual circumstances of each household must always be taken into account when determining the suitability of a PRSO and other housing options.

Given the shortage of available properties, it is likely that officers will need to make decisions to prioritise the offer of particular properties available in Zones A and B not

only between households who fall into one or more categories described above, but also between households who do not fall into any of the categories.

The following circumstances will be considered when prioritising between households:

- a) Level of need relating to the welfare and safeguarding of any children in the household
- b) Level of educational need
- c) Identified risks posed by living in particular areas
- d) Permanency/flexibility of employment
- e) Access to transport
- f) Level of need to be close to services and amenities
- g) Level of need to be close to health services
- h) Level of need to be close to support networks
- i) Level of need to be close to cultural or religious amenities
- j) Impact on caring responsibilities
- k) Affordability of the accommodation
- l) Impact of the relocation, and of occupying the accommodation on a continuing basis, on the well-being of household members
- m) Impacts of the relocation, and of occupying the accommodation on a continuing basis, on the well-being of any children in the household, having regard to the Council's duty under the Children Act 2004 to safeguard and promote their well-being

The impact of these and any other relevant circumstances will be considered both individually and cumulatively. Households that have a relatively low level of need when considering the above circumstances are more likely to be offered accommodation in Zones C and D (if suitable).

However, even if a household is considered to have a lower level of need than other applicants to be in or close to the Chelmsford district, they will be offered available units in Zone A or Zone B if these units are not required by higher priority households.

Before an offer of PRSO accommodation is made, an affordability assessment will be carried out to ensure that the offer is suitable for the household. This will consider Local Housing Allowance levels and the applicant's current and likely future circumstances.

Households in receipt of welfare benefits may be subject to restrictions on the amount of benefit they can receive, which may affect their ability to pay rent. This will be considered as part of the affordability assessment.

Offers of accommodation in Chelmsford or adjacent districts are subject to suitable accommodation being available and the applicant being able to afford accommodation in these areas. Those on low incomes are less likely to be able to afford a PRSO property in Chelmsford.

Before an offer of PRSO accommodation is made the Council will consider the support and relocation need of the household making such inquiries as necessary to be satisfied that those needs will be met.

## **6.0 Rights of Review**

Any PRSO offer will contain information for applicants about their right to request a review on the suitability of the accommodation offered. Applicants can request a review within 21 days of receipt of notification of a PRSO.

The Council will consider whether to accept review requests received after 21 days but will not be obliged to carry out a review. The Council will complete the review within 56 days (unless an extension is agreed). The review will be carried out by a senior officer who will not have been involved in the original decision.

If a PRSO is refused, the property will not be held open while a review is conducted. An applicant can accept the PRSO, move in and still exercise the right of review.

If the review upholds the original offer, and the PRSO was accepted, then the applicant may remain in the PRSO property. If the review overturns the original decision to make the offer and/or discharge duty, a new offer will be made, and interim accommodation will be provided in the interim period.

If an applicant does not move into a PRSO property and requests a review, an assessment will be made on whether to exercise a discretionary power to provide interim accommodation pending review. This discretion will be exercised in accordance with the principles in Camden LBC ex parte Mohammed 1997.

If the review upholds the original decision, then no further offers will be made, and the council's duty will remain discharged.

## **7.0 Support and Resettlement**

The Council will provide information for applicants placed in PRSO accommodation which covers help with removals and setting up home, how to get repairs done, getting school places, accessing transport and leisure.

The Council will provide details of incoming households to receiving boroughs as required under section 208 of the Housing Act 1996.

For any household placed in PRSO accommodation outside of the district, information will be provided on how to access local services, amenities, and facilities in the local area.

This will include:

- Claiming local Council Tax support/Housing Benefit
- Registering with the Local GP
- What to do if they need emergency funds

- How to apply for a school place in the borough in which they are going to reside
- Where a particular area outside the borough is used on a regular basis for the provision of PRSO, an information pack will be provided covering local services and facilities in that area.
- This support information may be provided by local agents in the area.

In relation to those applicants who have accepted an offer their cases will be kept under review e.g. cases approaching the expiry of an AST.

### **8.0 Re-applications**

If an applicant re-applies for accommodation within two years of accepting a PRSO, and the Council is satisfied that s/he is unintentionally homeless or threatened with homelessness, and eligible for assistance, then a further duty to secure accommodation will fall to the Council, which can be discharged, if appropriate, by a further PRSO.

### **9.0 Policy Review**

A desktop review of the Policy will be undertaken annually, considering the conditions of the housing market, the demand for housing and temporary accommodation and a customer impact assessment.

**Approved by insert date**

**To be reviewed: 12 months**