

Private Rented Sector Offer policy 2024

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1. Introduction

- 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 of the Housing Act 1996 as amended (HA96) to an end, by making an offer of a private rented sector tenancy rather than a social housing tenancy.
- 1.2. Amendments under the Homelessness Reduction Act 2017 extend the powers in the HA96 to encourage local authorities to embed an approach to use private sector accommodation to discharge its Prevention Stage and Relief Stage duties to homeless households and households threatened by homelessness.
- 1.3. The aim of the Homelessness Reduction Act is to assist households with resolving their homelessness situation.
- 1.4. This policy sets out the basis on which the council will use these powers.

2. Scope & definition

- 2.1. Scope The policy and the associated guidance details how applicants will be prioritised for Private Sector Rented accommodation offers in Gravesham, and out of area.
- 2.2. Definitions Homelessness applicant – This is a person who completes an application to be assessed as homeless. The definition of legally homeless is set out in the 1996 Housing Act (*as amended*). This policy refers to a homelessness applicant as ‘the applicant’.

3. Policy statement

- 3.1. Gravesham Borough Council seeks to accommodate homeless households in Gravesham wherever practicable and will consider the circumstances of individual household needs and suitability of accommodation. However, due to a shortage of affordable housing locally and rising rental costs, some households may be placed in accommodation outside of Gravesham. Accommodation will only be procured outside of the area, when all other reasonable options have been exhausted. An assessment will be carried out to determine the suitability of accommodation.
- 3.2. Gravesham Borough Council will consider a ‘private sector offer’ (PSO) to end the homelessness duty in all cases. If an options officer considers that a PSO is appropriate to the needs of the applicant, and if suitable accommodation can be secured, then such an offer will routinely be made.
- 3.3. This will be considered the household’s one offer of suitable accommodation and whether the household accepts or refuse this offer, it will discharge the Council’s statutory homelessness duty.
- 3.4. This policy supports the council’s current approach to preventing homelessness wherever possible, and to encourage applicants to apply for housing through the housing register route, rather than the homelessness route. Due to the shortage of social housing securing accommodation in the private sector has become a necessity to enable the council to successfully bring its housing duty to an end.

4. Policy Complies with

4.1 The Housing Act 1996 Part VII (as amended)

4.1.1 The Council may have a legal duty to provide temporary accommodation, if there is reason to believe that the applicant may be homeless, eligible for assistance and has a priority need.

4.1.2 Section 206(1) provides that the authority may discharge their housing duty only by securing “suitable” accommodation, albeit by a variety of routes.

4.1.3 Section 208(1) provides that: “So far as reasonably practicable a local housing authority shall, in discharging their housing duty under this Part, secure that accommodation is available for the occupation of the applicant in their Borough”.

4.2 The Children Act 2004 (s11)

4.2.1 Local authorities- have a particular duty under act to have regard to the need to safeguard and promote the welfare of children.

4.3 The Children Act 1989 (s17)

4.4 The Homelessness (Suitability of Accommodation) orders 1996, 2003 and 2012

In determining whether accommodation is suitable for a person, the local housing authority must consider the location of the accommodation, including.

4.4.1 where the accommodation is situated outside the Borough of the local housing authority, the distance of the accommodation from the Borough of the authority; the significance of any disruption which would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person or members of the person’s household.

4.4.2 the proximity and accessibility of the accommodation to medical facilities and other support which —

4.4.3 (i) are currently used by or provided to the person or members of the person’s household; and

4.4.4 (ii) are essential to the well-being of the person or members of the person’s household; and

4.4.5 (iii) the proximity and accessibility of the accommodation to local services, amenities and transport.

4.5 Equality Act 2010

4.6 Homelessness Reduction Act 2017

4.6.1 Section 206(1) provides that all accommodation provided under Part 7 of the 1996 Act must be suitable for the applicant and their household, and the suitability requirements under section 210 apply.

4.7 Homelessness Code of Guidance for Local Authorities

4.7.1 The code of guidance provides further information about the suitability of the location of accommodation. The code consolidates the existing legislation, case law and good practice.

4.8 **The Temporary Accommodation Policy 2023**

5. **Policy details**

5.1 The purpose of this Policy is to clarify what the term ‘reasonably practicable’ (4.1.C) usually means in terms of the suitability of offers made within and outside of the Gravesham area.

The guidance is intended to frame the decisions made in each individual case, having regard to the: –

5.1.1 Accessibility of the private rented sector accommodation location, including transport links to shops and local facilities (e.g., healthcare)

5.1.2 Proximity of the private rented sector accommodation location (and distance to travel) to a place of current employment

5.1.3 Proximity of the private rented sector accommodation location (and distance to travel) to schools, which children are currently attending.

5.1.4 The significance of any disruption which would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person or members of the person’s household.

5.2 The criteria above will be applied based on reasonableness in deciding whether an offer of private rented sector accommodation is made inside or outside of the Gravesham area.

5.3 There are a substantial number of households who approach the Council seeking assistance who do not originate or have not recently been resident within Gravesham. It may not be reasonably practicable to provide private rented accommodation to every applicant within the Gravesham area, although this depends on current demand and where the household has been living recently. Every case will be considered individually based on risk and suitability, having regard to the criteria above, whilst most households will be offered private rented accommodation in Gravesham, however there may be some households who could be placed in suitable accommodation outside of the Gravesham area.

5.4 The Local Housing Allowance (LHA) is used to work out how much benefit a household will receive to pay their rent. LHA rates depend on who lives in the household, and the area they are making their claim in. These areas are called Broad Market Rental Areas (BMRA). Gravesham Borough Council is included within four BMRAs, which are used to calculate LHA rates in the area.

5.5 Due to the limited supply of affordable, suitable private rented accommodation in Gravesham, it may be necessary to procure accommodation out of area. Where possible, this accommodation will be in areas neighbouring Gravesham. However, it may be necessary to secure accommodation further away. This will only be sourced when all other reasonable options have been exhausted.

6. Property Condition and Management

- 6.1 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.
- 6.2 The local authority must be of the view that the accommodation is in reasonable physical condition. The authority must also satisfy itself that the property is suitable in relation to:
 - 6.2.1 Valid electrical installation condition report or electrical installation certificate.
 - 6.2.2 Fire safety.
 - 6.2.3 Functional Smoke alarm on all habitable floors of the accommodation.
 - 6.2.4 Functional Carbon monoxide alarm in all rooms with a solid fuel or gas burning appliance.
 - 6.2.5 HMO license if applicable
 - 6.2.6 The property has a valid energy performance certificate (EPC) with a minimum rating of 'E'.
 - 6.2.7 Up to date Gas safety record including all gas appliances at the property.
 - 6.2.8 That a written tenancy agreement will be provided
 - 6.2.9 The landlord is a fit and proper person to act in the capacity of landlord.
 - 6.2.10 If property is located outside of Gravesham the Private Sector Housing Team of the relevant authority will be contacted to confirm no outstanding disrepair or action relating to the property.
- 6.3 To ensure suitability against these statutory standards a property will always be visited by an officer from the Council's PRS or services or undertaken by the authority's agent.
 - 6.3.1 There is no requirement in the suitability order for a technical inspection to be undertaken by qualified HHSRS officer however where an officer is available, and the property is located within Gravesham a full inspection of the property will be undertaken.
 - 6.3.2 If there are any concerns that a Category 1 hazard may be present, the property will be referred over to the Councils Private Sector Housing Service for a technical assessment under Section 4 of 2004 housing Act.

7. Private Rented Sector offers and refusals

- 7.1 Due to the shortage of suitable accommodation in Gravesham, homeless applicants who are housed under the Council's interim duty to accommodate pursuant to Section 188 HA96 may initially be placed in emergency accommodation, including bed and breakfast and short-term self-contained accommodation, such as annexes, while enquires are carried out. This accommodation may be outside of the borough. If the Council decides it has a duty to house the household, they will be made a PRSO as soon as a suitable property becomes available.

- 7.2 Applicants will be given one offer of suitable accommodation where a housing duty has been accepted or a PRSO, they will be advised to accept this. There is no obligation upon the Council to enable applicants to view the accommodation prior to acceptance. In making the offer, the household's individual circumstances will be considered, taking into account the factors set out in **section 7** of this policy and Council's criteria on in/out of borough placements detailed in **section 9**.
- 7.3 If an applicant rejects an offer, they will be asked to provide their reasons for refusal. This applies to new applicants to whom the Council has an interim duty to accommodate under Section 188 HA96, as well as those seeking a transfer from existing temporary accommodation (TA) or those in TA who are required to move by the Council whom the Council has accepted a rehousing duty towards under Section 193 HA96. The Council will consider the reasons given and undertake further enquires as necessary. If the Council accepts the reasons for refusal and agree the offer is unsuitable, the offer will be withdrawn and a further offer will be made.
- 7.4 Where applicants refuse suitable PRSO accommodation (which may include out of borough placements) and the Council does not accept their reasons for refusal, and considers that the offer is suitable, applicants will not be offered further accommodation, and the housing duty will be discharged. If the applicant is resident in emergency accommodation, they will usually be asked to vacate the property within 14 days and advised that no further assistance will be provided. If they are already in longer-term temporary accommodation, the current housing provider would be advised that the duty has been discharged.
- 7.5 Where Applicants, whom the Council has accepted a s193 duty refuse a suitable offer of PRSO accommodation and submit a review request, they will only continue to be accommodated during the review period in exceptional circumstances. Each case will be considered on an individual basis, taking into account the overall merits of the review request, any new information or evidence that may affect the original decision, and the personal circumstances of the applicant and the potential impact of the loss of accommodation.

8. Suitability of Accommodation – Factors to consider

- 8.1 In offering accommodation, the council will assess the suitability of the offer, using the following factors.
- 8.1.1 **Location** – if suitable affordable accommodation is available in the area, applicants will be housed in Gravesham, allowing them to maintain any established links with services and social/support networks. However, when there is a lack of suitable accommodation or there are higher priority households needing accommodation in Gravesham, outside of Gravesham placements will be used to meet the Council's housing duty (see Section 11). If no suitable accommodation is available in the Gravesham area, attempts will be made to source accommodation locally. If this is not available, the provision of accommodation further afield may have to be considered.
- 8.1.2 **Size, condition and facilities** – accommodation must provide adequate space and room standards for the household and be fit to inhabit. Households in temporary accommodation will often be placed into units with 1 bedroom less than they would be entitled to on a permanent basis, with the expectation that the living room provides dual purpose as a living and

sleeping area. In deciding on the fitness of the property, consideration should be given to the length of time needed to complete any necessary repairs and whether it is reasonable to complete these while the property is occupied. The quality of the decoration/furniture, the layout/type of accommodation, provision of parking and lack of access to a garden are extremely unlikely to be acceptable reasons for a refusal.

- 8.1.3 **Health factors** – the Council will consider health factors, such as ability to climb stairs, care and support provided by other statutory agencies or the need to access any specialist medical services that are only available in Gravesham. If the applicant or a member of the resident household is citing medical grounds that were not identified during the initial assessment, the applicant will be asked to submit medical information. The key test in determining the impact of medical issues is whether the condition itself makes the housing offered unsuitable. Problems such as depression, asthma, diabetes, or back pain would not normally make a property unsuitable, as the problems would persist in any sort of accommodation. However, any medical problems will be reviewed in line with the Council's legislative duties.
- 8.1.4 **Education** - attendance at local schools will not be considered a reason to refuse accommodation, though some priority will be given to special educational needs and students who are close to taking public examinations in determining priority for placements in Gravesham.
- 8.1.5 **Employment** – the Council will consider the need of applicants, who are in paid employment, to reach their normal workplace from the accommodation that is secured. This will include having a regard to both travelling time and the costs associated with this travel.
- 8.1.6 **Proximity to schools and services** - The Council will consider the proximity to schools, public transport, primary care services, and local services in the area in which the accommodation is located.
- 8.1.7 **Safeguarding** - The Council will seek to identify the welfare of any children in the household, including any needs of the children and promote their welfare in making decisions on whether the offer is suitable.
- 8.1.8 **Special circumstances** - The Council will consider any other reasons put forward by the applicant and come to an overall view about whether the offer is suitable.

9. Suitability and the consideration of any subjective matters

- 9.1 All matters relating to employment, caring responsibilities or education and accessibility of the accommodation to medical facilities and other support will be considered specifically under the suitability order regulation requirements set out in section 8.
- 9.2 In addition, any other subjective matters which on the facts and circumstances relating to the applicant or a member of their household may affect the suitability of the property offered will also be considered at the point the property is matched to the applicant and where any subjective matters are raised by an applicant as the reason that they wish to reject the offer as being unsuitable. The leading case of

Awua v Brent 1996 (HOL) is still leading case law and states that although suitability is primarily a matter of space and arrangement other matters may be material.

- 9.3 The list below contains examples of the type of subjective matters that may be relevant and will be taken into account. This list is to illustrate matters that the authority will consider and however it is not an exhaustive list of all subjective matters the authority will take into account.
- 9.3.1 Any safety issues relating to possible harassment or domestic abuse that relate to the location of the accommodation offered.
 - 9.3.2 Any medical issues which do not relate proximity and accessibility of the accommodation to medical facilities.
 - 9.3.3 Any issues of support which do not relate proximity and accessibility of the accommodation to medical facilities.
 - 9.3.4 The size of the accommodation offered in respect of bedroom eligibility under the Local Housing Allowance rules.
 - 9.3.5 Any physical, mental health, or addiction issues and the impact of the accommodation on any of these issues.
 - 9.3.6 Any claim that the property is too far away from a church, mosque or place of worship.
 - 9.3.7 Any claim that the property is a flat and has no access to a garden which is essential.
 - 9.3.8 Any claim that the property location will impact on the ability of the applicant to access childcare which is essential for an applicant to continue in education or training.

10. Suitability and ensuring the property is affordable

- 10.1 For the property to be suitable it must be affordable under Homelessness (Suitability of Accommodation) Order 1996 (SI 1996 No. 3204). In assessing affordability, the Council will consider not only if it is affordable now but whether it will be affordable in the *next 12 months* if it is known that the household based on their known circumstances is likely to receive a reduction in income due to changes in benefit entitlement due to welfare reform.
- 10.2 An individual affordability assessment will be undertaken for every applicant to be certain they can afford the housing without being deprived of basic essentials such as food, clothing, heating, transport and other essentials; and in so doing will take account of costs resulting from the location of the accommodation.

11. Criteria for placements inside/outside Gravesham

- 11.1 Gravesham Borough Council aim to accommodate all households within the borough where it is safe do so dependent on such accommodation being available. However, some households may be housed outside of Gravesham.
- 11.2 In some cases, housing out of area can be more sustainable for the household in the longer term, with lower rents allowing them to better meet their subsistence and household costs, and avoid rent arrears.
- 11.3 If accommodation cannot be sourced in or immediately adjoining Gravesham, the principal needs of the individual household must be acknowledged, including adults and children, and assessed both individually and collectively when determining the location of accommodation.

- 11.4 Written evidence and explanation should be recorded and given on a case-by-case basis when making out of area placements, acknowledging each household's collective and individual needs.
- 11.5 Households must be given sufficient time to decide on an out of area offer, when no alternatives are available and thorough information regarding the proposed area must be provided.
- 11.6 Priority for accommodation within, or in areas immediately adjoining Gravesham borough will be given to:
- 11.6.1 An applicant or a member of their household with a severe and enduring health condition requiring intensive and specialist medical treatment where a move from Gravesham Borough would disrupt that treatment and continuity of care.
 - 11.6.2 An applicant or a member of their household who are in receipt of a significant package and range of health care options that cannot easily be transferred.
 - 11.6.3 An applicant or a member of their household with a severe and enduring mental health problem who is receiving psychiatric treatment and aftercare provided by community mental health services and have an established support network where a transfer of care would severely impact on their wellbeing.
 - 11.6.4 Applicants who have as part of their household a child registered on the Child Protection Register in Gravesham borough, who are linked into local services, and where it is confirmed that a transfer to another area would adversely impact on their welfare.
 - 11.6.5 Applicants who have as part of their household a child with special educational needs who is receiving education or educational support in Gravesham borough, where change would be detrimental to their well-being.
 - 11.6.6 An applicant or a member of their household who have a longstanding arrangement to provide care and support to another family member in Gravesham Borough who is not part of the resident household and would be likely to require statutory health and social support if the care ceased.
 - 11.6.7 An applicant or a member of their household who have a formal arrangement to receive housing related or other support, including addiction help or recovery, and where a move from Gravesham borough would disrupt that support.
 - 11.6.8 Any other special circumstances will also be considered (including any particular needs of the children in the household not already identified in a) to g) above).
- 11.7 Whilst priority will be given for these placements, this is dependent on such accommodation being available.
- 11.8 Priority for placements within neighbouring areas in locations that might not be immediately adjoining Gravesham Borough, will be given to:

- 11.8.1 Applicants who have as part of their household, a child or children who are enrolled in GCSE, AS, or A level courses or post 16 vocational qualifications (for example BTEC) in Gravesham borough, with exams to be taken within the academic year. Wherever practicable, we will seek to place such households within 60 minutes' travelling distance of their school or college.
- 11.8.2 Wherever practicable, an applicant or a member of their household who works for more than 16 hours a week will not be placed more than 90 minutes travelling distance, from the place of their employment. Consideration will also be given to the affordability of the travel arrangements needed to reach the place of employment. This will include women who are on maternity leave from employment.
- 11.8.3 An applicant or a member of their household who is in higher or adult education, vocational or professional training, a recognised apprenticeship, self-employed with a business predominantly in Gravesham borough, have a confirmed start date to commence employment in Gravesham borough or are enrolled in a Gravesham Borough work readiness programme. Any other special circumstance will be considered (including and particular needs of the children in the household not already identified).
- 11.9 Applicants who meet none of the above criteria may be offered properties outside of Gravesham. Efforts will be made to reduce the distance from Gravesham to a minimum but the supply of accommodation at any point in time will vary considerably. In such cases homelessness case law (*Calgin v Enfield 2006*) has confirmed that the shortage of accommodation and cost of accommodation were issues that an authority could take into account in deciding to make a suitable offer of accommodation outside of its area.
- 11.10 If placed outside of Gravesham borough or immediately adjoining areas, the council will provide as much detail as possible about the accommodation that they are being offered.
- 11.11 To support the transition to a new area, the council will check whether the family has any involvement with other services. Where no existing support has been identified, the council may offer support to people after their move for a reasonable period, on a case-by-case basis. This may include:
- 11.11.1 Information about their new local area, for example details regarding local authority services, health services, access to places of worship, or the ethnic and religious make-up of that area
- 11.11.2 Information on places where parents can get involved with community groups, social activities for their children, and other groups or networks of support.
- 11.11.3 Information on travel and transport, especially back to their home area.
- 11.11.4 Identifying and arranging schools.
- 11.11.5 Health, for example signing up with a local GP.

- 11.11.6 Council links, for example Council Tax, electoral register.
 - 11.11.7 Welfare benefits.
 - 11.11.8 Removals and assistance with identifying appropriate storage.
 - 11.11.9 Financial assistance with immediate resettlement costs, possibly through Local Welfare Provision.
- 11.12 The package of support will be kept under review and amended as required to ensure the provision of appropriate support.

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

- 12.1 If a statutory homeless applicant refuses or fails to respond to a suitable offer of accommodation in the private or social sector, the local authority can end its statutory duty to provide accommodation. The local authority will explain the applicant's right to a review of the suitability of the offer of accommodation.

13. Dealing with a fresh application

- 13.1 If within 2 years of accepting the offer an applicant re-apply for accommodation, or for assistance in obtaining accommodation, and the authority is satisfied that they are homeless, or threatened with homelessness, and eligible for assistance, and not satisfied that they became homeless intentionally, then a new duty to secure that accommodation will fall to the authority. An applicant who reapplies will be considered to be homeless, or threatened with homelessness, if they have been served with a valid notice under s.21 Housing Act 1988 by the landlord of the private rented sector property.

14. Statutory Review

- 14.1 As with other offers made to end the main duty, applicants will be able to discuss any concerns with their [Housing Options] officer before during and after the viewing. Applicants will receive a written decision letter confirming the Council's position on the suitability of the offer after its refusal, stating reasons for why the decision has been taken.
- 14.2 Applicants have the right to request a review from a more senior officer. The review process allows for the applicant to make representations and avail themselves of professional qualified legal advice. If this review concludes that the property was suitable, applicants have the right to challenge the decision further by way of an appeal (on a point of law) to the County Court.

15. Equality and diversity

- 15.1 The Council has a statutory duty to have due regard to the need to promote disability, race & gender equality.
- 15.2 The Council should also be proactive about putting in place arrangements to ensure that they do not unfairly discriminate against individuals on the grounds of their age,

religion, personal relations or living and caring arrangements, or whether they live in an urban or rural area. Equality should be integral to the way in which social care is prioritised and delivered.

- 15.3 The potential impact of this policy on the various protected characteristics has been identified and addressed through an Equality Impact Assessment.

16. Monitoring & Reporting Arrangements

- 16.1 Monitoring will be included within the performance framework of the Housing Needs Service and officers will monitor the outcomes of the policy to help assess the success of it.
- 16.2 The Council continuously monitors the number of households offered private rented accommodation to ensure that budgetary pressures can be monitored and reported upon. The analysis of this data will be used to procure suitable private rented accommodation to ensure that appropriate provision is made in respect of long-term housing options.

17. Responsibilities & reviews

- 17.1 The Housing Options Manager will be responsible for overseeing the delivery and monitoring of this policy.
- 17.2 The Policy will be monitored and reviewed formally in line with the 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.