

Housing Select Committee			
Title	Housing supply and demand		
Contributors	Executive Director for Customer Services, Head of Strategic Housing	Item	8
Class	Part 1 (Open)	Date	11 September 2013

1. Summary and purpose of this report

- 1.1. On 16 May 2013, the Committee considered a report on the supply and demand of housing in the borough. As a result it was agreed that the next report on supply and demand should review the options available to the Council to help address housing demand and meet residents' needs, including by considering the policy choices that other London boroughs are making or have made, and the effect of these on Lewisham. This report covers each of those areas.

2. Recommendation

Housing Select Committee is asked to:

- 2.1.1. note the information contained in this report
- 2.1.2. consider and comment on how the Council might respond to the new legislative framework enabling greater use of the private rented sector in the discharge of duty.

3. Background

- 3.1. At the May 2013 Housing Select Committee, Members heard about the severe difficulties that the Council is experiencing in supplying enough suitable accommodation in the borough to meet housing need and its statutory homeless duties. In short, the number of lettings available to the Council in the social rented housing sector is insufficient to meet the level of demand the Council receives from households in need seeking accommodation.
- 3.2. There is a general shortage of supply of social rented housing, which is reflected by the growing number of households on the housing register. In 2012 the Council made the policy choice to remove Band 4 (i.e. the lowest priority) from the housing register, given that these households were extremely unlikely to find accommodation. This resulted in a reduction in the housing register of some 10,000 households to slightly more than 7,000. In the year since that policy decision, the number of households on the register has continued to increase, growing by more than 1,000. In July of this year the number of households on the register passed 8,000 for the first time, and stood at 8,164 in August.
- 3.3. The majority of these 8,000 households are permanently but unsatisfactorily housed. That is, they currently have a social housing tenancy with either the Council or a Registered Provider partner, but they live in unsatisfactory conditions – such as over crowding, under occupation, or a home that does not

match their health needs – or they need to move as a result of a decant programme. As at July this accounted for approximately 6,800 or 85 per cent of the households.

- 3.4. The remaining 15 per cent, some 1,200 households as at July 2013, are not permanently housed, and instead are currently placed in temporary accommodation such as hostels or other emergency accommodation. These typically are households for whom the Council has accepted a statutory duty but for whom no suitable permanent accommodation is available. Given the nature of the overall housing market in London, and the financial challenges that households continue to face, officers project that a further 700 homelessness applications will be accepted before the end of the municipal year, further increasing the demand the Council faces and the likely use of temporary accommodation.
- 3.5. Typically the Council is able to access 1,200 new lettings per year from within its own stock and that of its Registered Provider partners. On the basis of the level of demand outlined above, even if the Council were to stop taking applications with immediate effect, it would take more than six years to meet all of the currently unmet demand, and potentially even longer for the largest households, for whom appropriate lettings are particularly infrequent.
- 3.6. As well as the shortage of permanent housing supply, all London boroughs are continuing to experience a declining supply of affordable temporary accommodation for homeless households. In the past 18 months there has been an estimated reduction of 20 per cent in the number of homes boroughs are able to access. Rapidly rising rents in the private rented sector generally are acting to change the balance of incentives for landlords who may previously have preferred the certainty of income local authorities could offer, and who may now choose instead to seek higher rents privately.
- 3.7. Put simply, the supply of available homes does not meet the current demand, and demand is projected to continue to increase faster still. As a result an increased use of bed and breakfast and other forms of temporary accommodation is unavoidable at present. London Councils estimates that the housing deficit in London will reach 221,700 by 2020. In Lewisham the number of households in bed and breakfast accommodation has doubled in the recent period and remains over the target of a maximum of 50 households.
- 3.8. The current absence of long term sustainable solutions to the housing supply crisis is leading many London boroughs to explore a range of new longer term investment strategies, including making use of new investment options arising from HRA reform and other policy options available as a result of legislative change. The following sections set out some policy options available to the Council in addressing the challenges previously set out here, in meeting resident demand for housing and delivering the Council's statutory obligations for homelessness.

4. New supply and efficient use of existing supply

- 4.1. The Council has taken a number of steps in this regard which may be grouped into two types. First it is making use of the new investment freedoms available as a result of HRA reform to build new council homes for the first time in 30 years. Second, it is taking all available steps to maximise the efficient use of its current stock through initiatives, for instance, to incentivise moves for under occupiers and for residents to move to another area where they have expressed a preference to do so.
- 4.2. In July 2012 Mayor and Cabinet committed the Council to build 250 new homes within five years, as part of the Housing Matters programme reviewing all of the Council's long term housing investment needs and options. Since then rapid progress has been made in identifying sites for new developments and bringing forward options on those sites. In April the Committee received a detailed presentation setting out these options, which noted that there was the potential to build up to 600 homes on the first tranche of sites, by employing all available means such as direct build, support for new build by RP partners and also by residents themselves on a community self build scheme.
- 4.3. The direct build of new homes - The New Homes, Better Places Programme – was launched by Mayor & Cabinet in May of this year with the identification of the Mercator Road garage site as the first new build scheme, and papers elsewhere on the agenda for this meeting set out the progress that has been made in delivering that. It is expected that the pace of delivery of new homes will increase rapidly now that the first, pilot, site is closer to delivery. This will be aided in large part by the delivery of more than 100 new homes on specialist housing schemes for older people, details of which again are set out elsewhere on this agenda. Furthermore a second phase of new build will be launched early in the new year, and the Committee will receive a full update on this next month.
- 4.4. However Committee will note that regardless of the speed of progress of these initiatives, it will not be possible to resolve the current crisis by council-led build alone, as the lead times to delivery are too long and because of restrictions on the amount of investment that remain as a result of Government rules. Whilst the Housing Matters programme continues to review options for attracting more investment – such as by potentially pursuing a stock transfer to Lewisham Homes which would then not be restricted by the Council's government-imposed borrowing cap – this still will be insufficient. Even the most ambitious building programme, with a target of 600 homes in ten years as a result of stock transfer, will not alone address this issue sufficiently quickly.
- 4.5. The alternative to building more is to make better use of existing stock. Here also a range of initiatives are either in place or being developed to ensure that the homes available to address housing challenges are used in as efficient a manner as possible. The council has two dedicated accommodation officers who work with tenants expressing an interest in moving, and employs a range of schemes to support those moves, details of which are set out below.
- 4.6. The Cash Incentive Scheme is targeted at secure tenants who wish to move to either a private rental property or into home ownership. The incentives available

to applicants were recently increased and the table below shows the levels of incentive available. The resulting void property is made available to someone from the housing list.

Property type	Grant for releasing a flat	Additional £5,000 grant if releasing a house
5 bed properties	£39,000	£44,000
4 bed properties	£34,000	£39,000
3 bed properties	£29,000	£34,000
2 bed properties	£26,000	£31,000
1 bed properties	£21,000	£26,000

- 4.7. Lewisham is part of the Mayor of London’s housing mobility scheme that allows tenants of London boroughs or housing associations to move outside their existing borough to a different part of London. It’s run by the Greater London Authority and Lewisham are participating by contributing a small number of nominations each year.
- 4.8. The Seaside and Country Homes scheme provides bungalows and flats for older tenants who want to move out of the city to a seaside or country location. Priority is given to tenants vacating larger properties, again potentially creating chain lettings with several moves. Only tenants of council or RP properties, over 60 years of age, can qualify for this scheme.
- 4.9. Lewisham’s Fresh Start scheme enables Lewisham Council tenants to move into the private rented sector. It is a self-help scheme and applicants need to be proactive in looking for suitable properties in the private sector.
- 4.10. The current team has successfully supported around 47 moves in the past 5 years, at an average of 9 per year. Committee will note, however, that even were these levels to be increased and combined with increased levels of new building, this would still be insufficient to meet the demand for housing the Council faces.

5. Moves across borough boundaries

- 5.1. The growing and continued supply and demand pressures on all London boroughs has forced some of them to procure properties outside of London. Although this practice has existed for many years, now that welfare reform has been introduced some boroughs are feeling that they have no choice but to use accommodation out of their own area and London because it is cheaper for households as accommodation has become unaffordable in their boroughs.
- 5.2. London Councils has been monitoring activity across boroughs for many years and is able to provide information on movements across boroughs in nightly paid bed and breakfast accommodation. However, it is more difficult to capture information on boroughs leasing properties in the private rented sector as temporary accommodation or on a more settled basis.

- 5.3. As at June 2013, London Councils reported that 204 out-of-London properties had been let to households from London boroughs. The boroughs who appear to be taking more households than others, are: Birmingham (18); Dartford (59); Northampton (9); Reading (21) and Thurrock (10). Information received directly from Dartford Council reveals that in the past four years, 436 households have been placed in temporary accommodation in Dartford and 86 in Gravesham.
- 5.4. Specific schemes of which officers are aware include those run by the boroughs of Harrow and of Kensington and Chelsea. Harrow has developed a scheme that moves homeless households out of the borough and London temporarily or permanently. They have developed good links with South Wales and Manchester and are working very closely with landlords in other boroughs and providing incentives to ensure they access accommodation. In Kensington and Chelsea a straightforward incentive – £2,500 – is available to households who relocate. The West London sub region has also developed an out of borough procurement scheme.
- 5.5. In the past a good example of a co-ordinated scheme to enable moves outside London was called LAWN – also sometimes known as the *Out of London* Scheme. This was established to offer local authority and some housing association tenants in London, opportunities to relocate to other parts of the country with lower housing demand. It was officially launched in July 2002. Unlike the Seaside and Country Homes scheme, there was no age limit. The scheme required the referral of a landlord and was voluntary – therefore, not all London boroughs participated. Some boroughs operated schemes with identical aims but different names. Lewisham participated in the LAWN scheme.
- 5.6. Participants in LAWN or similar schemes were entitled to:
- Help with the costs of viewing property in other areas;
 - Information on the locale;
 - Financial assistance with removal costs;
 - A relocation grant or other payment in respect of the London property they vacate.
- 5.7. A new LAWN type scheme is currently being developed in London. The Home Connections scheme (one of the sub regional choice based lettings schemes) has partnered with a London borough and have created a scheme to move households out of London and as part of the scheme prospective tenants will be accompanied to view their properties. The landlords are incentivised to give the households support. The scheme has been presented to London Councils Housing Directors and boroughs are being invited to join. They claim to have over 1,000 landlords interested in the scheme.

6. Discharge into private rented sector accommodation

Background

- 6.1. This section suggests how the Council might approach this as a policy option.
- 6.2. It is the council's vision that all of our residents live in a home they can afford, that is safe and well managed in a neighbourhood they can be proud of. In an

ideal world this would mean an extensive range of housing options, with residents able to choose the area and tenure they want to live in. However, this is not the case and the potential to discharge homelessness cases into private rented housing, subject to a thorough and fair suitability assessment, could help to resolve households' needs more quickly as well as ease housing pressures and costs for Lewisham Council.

- 6.3. Under existing legislation (principally the Housing Act 1996), local housing authorities are required to provide accommodation to those accepted as statutory homeless. This is referred to as 'temporary accommodation'. The duty to provide temporary accommodation is enduring, and will last until such time as the duty is brought to an end in one of a number of ways set out in the Act. This is referred to as 'discharge of duty'. The main way that duty has traditionally be discharged is by an offer of social rented housing. Before the recent change in legislation an offer of private rented accommodation could be made, although this has usually been through a 'qualifying offer' (with the consent of the applicant). An offer of suitable private rented property can also be made in order to prevent homelessness, for applicants that are threatened with homelessness within 28 days. Private rented housing has also be provided as temporary accommodation for homeless households without discharging the duty such as Lewisham's Private Sector Leasing Scheme.
- 6.4. The annual supply of social housing is reducing and after a long period of steady reduction numbers of households in temporary accommodation (TA) are increasing again. The affordability of TA for Lewisham Council is a major concern. Changes to TA subsidy rules, housing benefit, and a private rental market experiencing above inflation rises all combine to put significant financial pressure on the authority. The introduction of benefit caps from August has further increased these pressures.
- 6.5. At present it can take at least 2 years or more in temporary accommodation to secure suitable social rented accommodation due to the slow turnover of housing and high level of housing need of those people registered on Lewisham's Housing Register.
- 6.6. This type of accommodation is not suitable for families. Any approach which results in homeless families having a shorter stay in temporary accommodation or more preferably not having to go into temporary accommodation in the first place would be welcomed. Previously the Council did not have a choice: the legislation required it to provide temporary accommodation regardless of its cost, even if there was suitable private rented housing available, but this situation has now changed.
- 6.7. The use of 'Private Sector Offers' is a new power, and local authorities are expected to develop clear policies on the use of these, and to consider the individual circumstances of each household when deciding if they wish to apply this option. A number of safeguards are available regarding length of tenancy, suitability, property standards, and ongoing responsibilities if the accommodation comes to an end.

- 6.8. The term of an Assured Short hold Tenancy must be for at least 12 months. If an applicant becomes unintentionally homeless within two years of the tenancy start date, a new 'Reapplication Duty' applies. This is regardless of their Priority Need, although they must remain eligible and be homeless unintentionally. It provides more of a 'safety net' for such applicants for this two year period. This does not have to be a re-application to the same authority nor from the same property. In making decisions, local authorities shall have regard to the prevailing housing supply and demand pressures in the local area. The existing requirement for local authorities, as far as reasonably practicable, to secure accommodation in their own district remains, helping applicants to retain established links to schools, doctors, social workers, key services and support.
- 6.9. Accommodation must now only be suitable. The previous requirement that it was also 'reasonable to accept' has now been removed. This is a shift to checking issues before an offer, rather than addressing reasons for refusal after it. 'Suitability' in the Order is in two parts. The first concerns location, and the second relates to property condition and management. The affordability of accommodation must also be taken into account. There are rights of review on suitability and appeal to the County Court.
- 6.10. Use of private rented accommodation has been a central part of Lewisham's homelessness prevention strategy for many years. Last year the housing Options Centre enabled 522 new tenancy 'starts' in the private sector. However many applicants choose to decline this as an option, preferring to be placed in temporary accommodation and to wait for a secure social tenancy. This means we are unable to make the best use of the supply, and match the private sector properties we have available to those that are most suitable. Discharge of homelessness duty through private sector offers would therefore support the homelessness prevention strategy.
- 6.11. Discharge into private rented housing is not in itself going to eliminate the need for temporary accommodation entirely, but including this as part of the menu of options available to meet housing need will help reduce expenditure on unsuitable and expensive temporary accommodation such as B&B.

Access to Social Housing

- 6.12. Although the homelessness duty can traditionally be ended by an offer of social rented housing, the limited supply of this type of accommodation means that homeless household typically have to wait a long time in temporary accommodation before being offered social housing. Homeless households do not have overriding priority for social housing, and a homeless family seeking a 2-bed or larger home can expect to wait three years or longer.
- 6.13. Because the homelessness duty can now be discharged by an offer of social housing *or* an offer of private rented housing it is tempting to see the decision as a choice between these two alternatives. However, this is a misleading comparison because who has priority for social housing is in fact determined by the council's housing allocations scheme, not the homelessness legislation or the council's discharge policy.

- 6.14. What constitutes “social housing” is itself changing. Councils and housing associations now offer a range of different types of housing, including short-term tenancies and “affordable” tenancies which are up to 80% of the market value. In short, the distinction between “private rented” and “social rented” is less relevant than it was in the past.

Examples from other boroughs

- 6.15. Other Authorities have adopted the power to discharge into the private rented sector. Some local authorities have already implemented this policy and are using the new legislation in certain circumstances. Examples of other council approaches are detailed below.

London Borough of Ealing

- 6.16. The following addendum to their Homelessness Strategy has been published on their website:

- Ealing Council intends to fully discharge any 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. This is not a blanket application of the new power. 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 by arranging for a private landlord to make a suitable 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”).

Oxford County Council

- 6.17. Will consider a ‘Private Sector Offer’ (PSO) to end their main homeless duty in all cases. OCC feels that this approach will encourage people to use the housing options route when looking for housing rather than through homelessness. Exclusions to this approach include:

- if the applicant is vulnerable, requiring supported accommodation, or who is considered unlikely to be able to adequately sustain a private rented tenancy;
- if the applicant or a member of their household requires significant disabled adaptations to make the property suitable;
- if the applicant was previously a social housing tenant (Council or Housing Association) and who has fled domestic violence; other violence; or harassment;
- will also consider the affordability of the accommodation, having regard to Housing Benefit/Local Housing Allowance rates and the overall Benefit Cap that could be applied to the household. This means that this measure is unlikely to be used often for single persons under 35 years of age (as the single room rent could apply). The Benefit Cap may also make a PSO inappropriate on the grounds of cost, for larger families.

Crawley

6.18. The new power is exercised on the basis that the following is taken into account (in addition to the mandatory considerations specified by the legislation):

- Each case to be considered on an individual basis;
- The financial circumstances of each household to be taken into account;
- Any special needs or property requirements to be considered;
- The prevailing housing conditions within the borough and the demands on the social housing stock to be taken into account;
- The size requirement of the accommodation needed by each household to be met;
- Any relevant issues raised by the applicant to be taken into account;
- Any special cultural or faith needs of the household to be taken into account.

How might we apply a Discharge Policy in Lewisham

6.19. Were this route to be pursued by Lewisham, appropriate applicants could be encouraged to take a private sector offer, rather than being forced to do so. Any use of PRS to discharge homelessness duty would only be carried out **following a thorough and fair suitability assessment**. Considerations could include:-

- Care leavers would not be expected to enter the PRS
- Whether there are support needs which mean private rented accommodation is unlikely to be sustainable. This is likely to be particularly relevant for under 35s who would be unable to have their own self contained accommodation in PRS.
- Older People; as there is a relatively abundant supply of designated older peoples housing, we might be less likely to discharge older people into the private sector
- If adapted property is required discharge into the PRS would not be suitable
- If there are any safeguarding issues generally location is likely to be a more important consideration than tenure.
- Time spent in Lewisham – we might be more likely to discharge into the private rented sector for households who have not spent much time in Lewisham

6.20. Location of the accommodation would be a significant factor when discharging duty. A family with children at local schools would be less suitable for discharge outside the borough.

6.21. Accommodation offered would be in a 'reasonable physical condition'. For all properties within Lewisham or London, we would require landlords to be accredited through LLAS. For areas outside of London we would accept properties where the landlord is signed up to a similar accreditation scheme, or arrange for an inspection to be carried out by the receiving local authority or suitable qualified person. The accreditation / inspection would ensure that the accommodation is in reasonable physical condition and that it is suitable in relation to:

- Certain electrical regulations
- Fire safety
- CO poisoning – there must be adequate carbon monoxide alarm/s

- HMO licensing
- The property has a valid energy performance certificate (EPC)
- Gas safety record
- That a written tenancy agreement will be provided
- And that the landlord is a fit and proper person to act in the capacity of landlord.

6.22. To ensure suitability against these statutory standards a property would always be visited by an officer from the authority's Lettings Team or undertaken by the authority's agent. There is no requirement in the suitability order for a technical inspection to be undertaken by qualified HHSRS officer but where an officer or the authority's agent have any concern that a Category 1 hazard may be present they will refer the property on for a technical assessment under Section 4 of 2004 Housing Act.

Possible Safeguards

6.23. As with other offers made to end the main duty, applicants would be able to discuss any concerns with their housing options officer before during and after the viewing. Applicants would 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.

6.24. Applicants would have the right to request a review from a more senior officer. This review process would allow for the applicant to make representations and avail themselves of professional qualified legal advice. Were the review to conclude that the property was suitable, applicants would still have the right to challenge the decision further by way of an appeal (on a point of law) to the County Court.

Potential Options for Members to consider

Option	Considerations / Impact
1. Not to adopt the power.	<ul style="list-style-type: none"> • High levels of social rented allocations to accepted homeless cases; homelessness remains the perceived route through to social housing. • Increased levels in Temporary accommodation • Use of the private rented sector would continue much as it is now.
2. Considered for suitable homelessness applications. Discharge particularly used in cases where there is a significant financial burden on the local authority or applicant. All cases subject to individual assessment	<ul style="list-style-type: none"> • Weakens the perceived link between homelessness and social housing • Mitigates against the impact of welfare reform and unsustainable temporary accommodation costs • Takes account of the lack of supply of social and private sector homes.
3. Use the power to end the duty for all accepted homelessness cases	<ul style="list-style-type: none"> • This would completely remove the link between homelessness and obtaining social housing

	<ul style="list-style-type: none"> • Pressures on the supply of private rented homes could become as problematic as social rented supply and unable to meet all need. As such an untenable position. • There are certain groups for whom private rented housing not suitable.
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7. Conclusion

- 7.1. Demand for social housing greatly outstrips supply and the differential is expected to continue to grow, leading to increasing numbers of households in temporary accommodation.
- 7.2. The Council is taking a number of proactive steps to address this situation, including by building new homes and through a number of incentive schemes to make best use of existing stock. Nonetheless, these initiatives are unlikely to address the gap between supply and demand, even in the medium term.
- 7.3. Legislative change means that Councils can now make private sector offers to households in temporary accommodation. Were Lewisham to consider adopting this approach, a number of safeguards would be available, as set out in the report.
- 7.4. The Committee is asked to consider and comment on how we might respond to the policy option to discharge the Council's homeless duty by making a private rented sector offer.

8. Financial implications

- 8.1. The report for information and, as such, there are no financial implication arising from the recommendation set out in 2.1 of this report.

9. Legal and human rights implications

- 9.1. There are no direct legal implications to add to those contained within the body of the report save for the following Equality Act legal obligations to note.
- 9.2. The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 9.3. In summary, the Council must, in the exercise of its functions, have due regard to the need to:
- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
 - advance equality of opportunity between people who share a protected characteristic and those who do not.
 - foster good relations between people who share a protected characteristic and those who do not.

- 9.4. The duty continues to be a “have regard duty”, and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.
- 9.5. The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled “Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice”. The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:
<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>
- 9.6. The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:
1. The essential guide to the public sector equality duty
 2. Meeting the equality duty in policy and decision-making
 3. Engagement and the equality duty
 4. Equality objectives and the equality duty
 5. Equality information and the equality duty
- 9.7. The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at:
<http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

10. Crime and disorder implications

- 10.1. There are no direct crime and disorder implications arising from this report.

11. Equalities implications

- 11.1. Any policies arising from this report will have their own detailed equalities implications, fully assessing any impacts and suggesting mitigations.

12. Environmental implications

- 12.1. There are no environmental implications arising from this report.

13. Background documents and originator

13.1. Housing Select Committee – Housing Supply and Demand – 16th May 2013

If you require more information on this report please contact Genevieve Macklin, Head of Strategic Housing on 0208 314 6057.

Appendix 1

2012 No. 2601

HOUSING, ENGLAND

The Homelessness (Suitability of Accommodation) (England)

Order 2012

Made - - - - 11th October 2012

Laid before Parliament 17th October 2012

Coming into force - - 9th November 2012

The Secretary of State in exercise of the powers conferred by sections 210(2)(a), (2)(b) and 215(2)

of the Housing Act 1996(a), makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Homelessness (Suitability of Accommodation) (England)

Order 2012 and comes into force on 9th November 2012.

(2) This Order applies in relation to England only.

Matters to be taken into account in determining whether accommodation is suitable for a person

2. In determining whether accommodation is suitable for a person, the local housing authority

must take into account the location of the accommodation, including—

(a) where the accommodation is situated outside the district of the local housing authority,

the distance of the accommodation from the district of the authority;

(b) 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;

(c) the proximity and accessibility of the accommodation to medical facilities and other support which—

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

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

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

(a) 1996 c.52.

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Circumstances in which accommodation is not to be regarded as suitable for a person

3. For the purposes of a private rented sector offer under section 193(7F) of the Housing Act

1996, accommodation shall not be regarded as suitable where one or more of the following apply—

(a) the local housing authority are of the view that the accommodation is not in a reasonable physical condition;

(b) the local housing authority are of the view that any electrical equipment supplied with the

accommodation does not meet the requirements of regulations 5 and 7 of the Electrical Equipment (Safety) Regulations 1994(a);

(c) the local housing authority are of the view that the landlord has not taken reasonable fire

safety precautions with the accommodation and any furnishings supplied with it;

(d) the local housing authority are of the view that the landlord has not taken reasonable precautions to prevent the possibility of carbon monoxide poisoning in the accommodation;

(e) the local housing authority are of the view that the landlord is not a fit and proper person

to act in the capacity of landlord, having considered if the person has:

(i) committed any offence involving fraud or other dishonesty, or violence or illegal drugs, or any offence listed in Schedule 3 to the Sexual Offences Act 2003(b) (offences attracting notification requirements);

(ii) practised unlawful discrimination on grounds of sex, race, age, disability, marriage or civil partnership, pregnancy or maternity, religion or belief, sexual orientation, gender identity or gender reassignment in, or in connection with, the carrying on of any business;

(iii) contravened any provision of the law relating to housing (including landlord or tenant law); or

(iv) acted otherwise than in accordance with any applicable code of practice for the management of a house in multiple occupation, approved under section 233 of the Housing Act 2004(c);

(f) the accommodation is a house in multiple occupation subject to licensing under section

55 of the Housing Act 2004 and is not licensed;

(g) the accommodation is a house in multiple occupation subject to additional licensing under

section 56 of the Housing Act 2004 and is not licensed;

(h) the accommodation is or forms part of residential property which does not have a valid

energy performance certificate as required by the Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2007(d);

(i) the accommodation is or forms part of relevant premises which do not have a current gas

safety record in accordance with regulation 36 of the Gas Safety (Installation and Use) Regulations 1998(e); or

(j) the landlord has not provided to the local housing authority a written tenancy agreement,

which the landlord proposes to use for the purposes of a private rented sector offer, and which the local housing authority considers to be adequate.

Signed by the authority of the Secretary of State for Communities and Local Government

Mark Prisk

Minister of State

(a) SI 1994/3260.

(b) 2003 c.42. There are amendments to Schedule 3 not relevant to this Order.

Schedule 3 was most recently amended by

section 177 of and Schedule 21 to the Coroners and Justice Act 2009.

(c) 2004 c.34.

(d) SI 2007/991. The SI has been amended by SIs 2007/1669, 2007/3302, 2008/647, 2008/2363, 2009/1900, 2010/1456, 2011/2452 and 2012/809.

(e) SI 1998/2451.

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