

Homeless Discharge into the Private Rented Sector Policy

May 2023



Homeless Discharges into the Private Rented Sector

Introduction

Following amendments to the Housing Act 1996 (consequential to the implementation of the Homelessness Reduction Act), local housing authorities have a duty to help people to secure accommodation for an applicant when it has not been possible to prevent homelessness.

This is in addition to the continuing duty to provide suitable accommodation when the main housing duty has been accepted. This is the situation where an applicant is unintentionally homeless and in priority need.

Local housing authorities can discharge duties to applicants through suitable private rented sector offers. The law requires that where this is done that a number of matters are taken into account in determining the suitability of accommodation.

The use of the private rented sector to help applicants has advantages for both applicants and the local housing authority. It enables more people to be helped into suitable properties, thus reducing the pressure on expensive temporary accommodation. Without the use of the private sector, applicants would usually be housed in temporary accommodation for a long time; before a property could be offered through the Choice Based Lettings scheme.

'Private Sector Offers'

There are two circumstances when a local authority can secure private sector accommodation for homeless applicants. This can be at the 'relief' stage (before a decision is made on whether an authority must secure accommodation) or at the main duty stage when it is decided accommodation must be secured.

There is no legal requirement to make offers of suitable accommodation at the relief stage. However, Oxford City Council may choose to do so if there is a suitable property available to ensure that an applicant is no longer homeless. In this situation, the minimum term of an assured shorthold tenancy must be six months, although the Council will try to ensure it is for twelve months. This provides more stability, particularly for families with children.

Where the main duty applies to secure accommodation any offer of a private rented sector must be of an assured shorthold tenancy of at least twelve months, although the Council will try to secure two year agreements with landlords, where possible.

Oxford City Council Approach

Although each assessment is made on a case by case basis, the Council will usually consider a private sector offer (PSO) to relieve homelessness. If a Housing 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 be made. This will usually be through the Council's Home Choice team.

In considering the individual circumstances of each household, when deciding if to make a PSO, officers will consider the following guidance:

- We would not usually make a PSO if the applicant requires supported accommodation, or is considered unlikely to be able to adequately sustain a private rented tenancy.
- We will carefully consider whether a property meets the needs of any disabled household member. We would not usually make a PSO if the applicant or a member of their household requires significant disabled adaptations to make the property suitable.
- We will also consider the affordability of the accommodation, having regard to Local Housing Allowance (LHA) rates and the overall Benefit Cap that could be applied to the household. An applicant's income is also an important consideration.

Where accommodation is secured that would be suitable for more than one household, the first offer will be made to the applicant first accepted as homeless.

Where accommodation has been secured within the Council area, or very close to it, a priority will normally be afforded for homeless applicants who need to live in the City Council area. (One example would be where a child needs to remain at the same school, but the Council will always consider all the circumstances of each applicant.)

With regard to the 'suitability' of accommodation, the right hand column of the following table lists the action that Oxford City Council will take, if Housing Options Officers find it appropriate to make a PSO.

For applicants who arrived in the UK within the last 2 years, and who previously did not have a right to occupy accommodation for 6 months within the previous 3 years, the aspects relating to employment and education will not be taken into account. This is due to a change in regulations, lasting until 31 May 2024.

Statutory Requirement	Oxford City Council Approach
Suitable Location	
If outside district, the distance from it.	Oxford City Council will always seek to offer private sector accommodation within the district, except: ▪ When it considers it beneficial to move applicant/household out of area, for example, to reduce the risk of domestic violence, other violence, or harassment; or to assist persons in breaking away from detrimental situations, such as drug or alcohol abuse, or ▪ When the applicant consents to move away from Oxford, or The private sector market in Oxford is no longer able to produce sufficient and suitable accommodation at LHA rates. This also impacts on the Council's ability to provide sufficient temporary accommodation. Although all the circumstances of each case will be considered, particular regard will be placed on the following considerations (as set out below) that where suitable accommodation is not available within Oxford, private sector offers will be made in the next nearest location. Ideally, this will be within Oxfordshire, but may be in towns beyond that which have reasonable facilities and transport links. However, this is not an exclusive list, and the Council will consider all the circumstances of any particular case, including the need to safeguard and promote the welfare of children.

The significance of any disruption caused by the location from **employment, caring responsibilities, or education** of the household.

In determining whether a location is suitable, Oxford City Council will consider:

- If the applicant (or their partner) is in employment (usually taken to be at least 16 hours per week for a single applicant and a combined 24 hours for a couple. (For those on zero hour contracts, an average hours worked will be taken over a 3 month period.) If they are, then the location must be within a reasonable travel to work area of that employment, and have transport links frequent enough to enable this. For employment in Oxford, the 'travel to work' area will include all of Oxfordshire, but could be determined to be further given the high level of commuting into Oxford. If an applicant or partner is a 'hybrid' worker, commuting to their place of work on a limited number of occasions, a longer commute time would be considered acceptable.
- If the applicant is verified as the carer for another person, who cannot readily withdraw this care without serious detriment to the well-being of the other party, then the location will need to be of sufficient proximity to enable this, although this may require public transport. Although sometimes inconvenient, it is usually considered reasonable to rely on public transport.
- If any members of the household are of school age, the likely disruption to their education and other support networks will be considered. It is considered that any children of secondary school age are more likely to need to remain in their current school, with this need becoming increasingly important as the child approaches GCSE or other externally assessed examinations.

The proximity & accessibility to medical facilities & other support which are used by, or essential to the well-being, of the household.	If the applicant or any member of the household requires specialist medical treatment or support, which can only be provided in Oxford, then the location will need to be near enough to enable this, although it may require public transport. Oxford City Council will also have regard to other medical treatment or support required by the applicant or any member of the household, and where health professionals consider that it will be disruptive or detrimental to change provider or location.
The proximity & accessibility to local services, amenities & transport.	Regardless of location, Oxford City Council will seek to offer accommodation that is reasonably accessible to local services and amenities, especially for persons on low incomes, and those with a need to rely on public transport.

Accommodation not suitable?	
Where the local housing authority are of the view that the accommodation is not in a reasonable physical condition.	Oxford City Council officers will either: physically inspect all PRS accommodation before it is offered, or ▪ require a letting agent or surveyor to physically inspect a property (usually requiring that agent to be a member of a suitable trade body, such as ARLA), or ▪ request another local authority, agent to undertake an inspection on its behalf (usually for an out-of-area property) Inspections will be documented to record condition (using broadly similar categories to the Housing Health and Safety Rating System (HHSRS) approach) and to ensure consistent quality. They will usually be undertaken by Housing staff, but where possible HHSRS category 1 or 2 hazards are identified, then a further inspection by qualified HHSRS assessors will be required (usually from Environmental Health).

Where the local housing authority are of the view that any electrical equipment does not meet the requirements of the Electrical Equipment (Safety) Regulations 1994.	All landlords/ agents will be asked to supply a satisfactory Electrical Safety Certificate from within the last five years. Any moveable electrical items in the property will require a Portable Appliance Test (PAT) within the last year, with a suitable indication of this usually expected to be identifiable on the inspection on the appliances plug. The physical inspection of the property will seek to identify any broken fittings or obvious electrical defects, such as loose wiring, or electrical faults.
Where the local housing authority are of the view that the landlord has not taken reasonable fire safety precautions.	The physical inspection of the property will check that it is fire safe. Working smoke detectors are expected to be provided (battery or mains) in all accommodation. Should additional fire safety provisions be expected, for example, where a building has common parts, then a copy of the Fire Risk Assessment will be required from the Landlord. If required, expert assistance will be sought from Environmental Health. All furniture and furnishings supplied by the Landlord must also be shown to comply with the Furniture and Furnishings (Fire Safety) Regulations 1988 (as amended).

Where the local housing authority are of the view that the landlord has not taken reasonable precautions to prevent carbon monoxide poisoning .	If the property has an active gas supply (for heating or cooking) then should a recent carbon monoxide detector not be provided by the landlord, Oxford City Council will provide a detector and appropriate advice and assistance to ensure it is properly fitted.
That there is not a current gas safety record for the property.	If the property has a gas supply, then all landlords/ agents will be asked to supply a current Gas Safety Certificate. Lettings will not be started until the Council has receipt of a copy of this.
That the accommodation does not have a valid Energy Performance Certificate (EPC) .	All landlords/ agents will be asked to supply a valid EPC Certificate of at least an E rating for the property.
Where the local housing authority are of the view that the landlord is not a fit and proper person to be a landlord.	Environmental Health will be contacted to check that any landlord or agent used is deemed to be a 'fit and proper' landlord, from the records that they hold. Landlords will be required to confirm in writing they have not had any unspent convictions.
That the accommodation is an HMO (including subject to additional licensing) and is not licensed.	Where HMO properties are used, Environmental Health will be contacted to ensure that the property is properly licensed and compliant.

If you would like a **large print version**, a translation of, or any other information about this document you should contact the **Housing Needs** team at Oxford City Council



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