

Allocations and Lettings (Supported Housing Extra Care)

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Policy author/holder: Head of Supported Housing

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1 Introduction

We own and manage a range of accommodation specifically for customers with diverse strengths, support needs and aspirations across the Southwest of England. We know that there are more vulnerable people in need of supported accommodation than we have available. Our ability to offer supported accommodation to vulnerable people is limited by the number of vacancies that become available and the size, type and location of these properties and schemes.

We have other policies which apply to our general rented, Market and Intermediate Rented Housing and, Home Ownership homes (including leasehold, retirement leasehold and Shared Ownership)

Through this policy we aim to:

- Provide access to good quality accommodation for people with a diverse range of support needs and strengths.
- Encourage, empower, self-sufficient and resilient customers.
- Allocate our accommodation in a fair and transparent way which is easy for our customers to access and understand.
- Make the best use of our supported housing schemes and services.
- Contribute to achieving sustainable communities and sustained tenures including the use of short-term excluded licence agreements.
- Be efficient to minimise the amount of time our properties are empty.
- Assist Local Authorities, statutory and voluntary agencies with their strategic housing responsibilities and to meet local housing needs.
- Meet our legislative, regulatory, commissioned, and contracted requirements
- Let homes in line with our charitable status.

1.1 Mental capacity to enter a contract

We provide supported accommodation and services for a wide range of customers with a variety of needs, strengths and aspirations. This includes prospective customers who may be lacking mental capacity to understand and be obligated by the terms of the occupancy agreement.

Therefore, we aim to make sure:

- All appropriate action is taken to assist our customer when their mental capacity is uncertain.
- Occupancy agreements duly signed by appropriate persons so that all legal requirements can be met.

2 Scope and definitions

This policy applies to applications and referrals to LiveWest's supported housing, extra care accommodation and support services.

It applies to all customers and colleagues regardless of their age, race, religion/belief, gender, gender reassignment, sexuality or disability.

Definitions

Supported housing exists to ensure those going through difficult life transitions or require long term assistance are supported to lead healthy and fulfilling lives within their own home and community. While the services range widely, they all play a crucial role in providing a safe and secure home with support for people to live independently.

Extra Care Housing is housing designed with varying levels of care and support available on site to meet the needs of older people who need more than traditional sheltered housing can offer.

3 About this policy

3.1 Supported housing and extra care accommodation

Schemes and services are funded in a variety of ways, and this will affect the way that we manage referral routes and allocations. Due to the differing customer needs and funding routes our referrals come from several routes such as health and social care commissioners, statutory/voluntary agencies, self-referral and joint referrals.

All our schemes have an assessment process which ensures we can:

- Accommodate the referral
- Affectively support the referral (where applicable)
- Manage support and risks
- Provide a duty of care

LiveWest will have ultimate control over who is housed in each scheme and nomination agreements are normally time limited and subject to review.

3.2 Waiting lists

- Waiting lists may be held by each supported housing scheme where no other arrangements are in place.
- Waiting lists should be managed to ensure that there are sufficient applicants to fill voids when they arise, whilst offering a realistic chance of being housed or accepted for support services.
- Each scheme will need to take a view on the level of applicants to be held on a list, which in turn will be informed by the level or turnover within a project.
- Each scheme/service should ensure that it facilitates access from relevant minority groups in accordance with LiveWest's equality, diversity and inclusion policy.

3.3 Eligibility

If you apply for supported housing, you will need to demonstrate to us that you meet our eligibility criteria – eligibility differs from service to service however you must:

- Be in housing need and meet our criteria for specific supported housing services.
- Demonstrate that you are ready and willing to fulfil the obligations of the occupancy agreement unless deemed lacking mental capacity (whereby you will have an advocate that has been granted legal rights to act specifically for property and affairs).
- Afford the rent and any service charges where applicable, provide the necessary documentation and work with colleagues to apply for the necessary benefits.
- Be willing to accept and engage with the support services offered.

Homeowners:

If you own a home either by yourself or jointly with others, you will only be eligible for our rented housing where you can demonstrate that you can no longer sustain home ownership for financial or health reasons or where your age or disability means that you require a particular type of housing or support which is not available in the private sector. If this applies, you will be expected to be actively selling your existing home.

3.4 Extra care schemes

To be eligible for our extra care schemes, you will need to have a needs assessment by Adult Social Care and be placed onto a waiting list. The scheme manager at the scheme will advise the Care Manager of the vacancy and arrange a viewing and initial meeting with the potential customer.

3.5 Refusals

If your application for accommodation is unsuccessful you and your referrer where applicable will be informed of the decision, dependant on the application route. We want all our customers to have a successful occupancy with us. Most of our supported housing schemes are subject to a customers' age, specific needs and length of stay. This will be explained to you during your application process.

3.6 Appeals

We are committed to treating everyone equally and we allocate our properties to individuals whose needs we can meet. If we are unable to offer housing to you at this particular time, we will tell you and look to recommend other kinds of support that may be more helpful to you.

If you feel you would like to appeal against a decision that has been made with regards to your application, please let us know. You can appeal against our decision by contacting us.

- There is a five working day time limit for making an appeal.
- If you find reading and writing difficult you can ask someone you know to help you with this.
- We need to know your reasons for not understanding or agreeing with our decision.
- A manager will review your application and assessment notes. We may also contact other professionals already working with you to gather further information.
- As a result, we may decide to meet with you again to discuss your appeal.
- You can choose to have someone with you for support if we ask to meet with you again.

We will not hold the property during any appeal process however, if your appeal is upheld then you will be given priority for the next suitable vacancy. We will inform you of our decision in writing within seven days.

3.7 Mental capacity

Where there is a question regarding a prospective customer's mental capacity, we will first determine whether they do in fact have capacity to enter into an occupancy agreement. See appendix 1 for definitions within the Mental Capacity Act.

There are 4 key questions in determining whether someone has capacity (and therefore needs referral):

- Does the person understand the relevant information?
- Can the person retain the relevant information?
- Can the person use or weigh the information relevant to this decision?
- Can the person communicate their decision in any way?

If a mental capacity assessment is required, we will contact the referrer and or adult/children's social care.

We need to determine these factors because an occupancy agreement is a contract and where a person lacks understanding, they may not have the legal capacity to enter into a contract – therefore it may not be possible to enforce the terms of the occupancy agreement against someone who lacks capacity.

When considering an individual's mental capacity, we will apply the five key principles of the Mental Capacity Act:

- A presumption of capacity - every adult has the right to make his or her own decisions and must be assumed to have capacity to do so unless it is proved otherwise.
- The right for individuals to be supported to make their own decisions - people must be given all appropriate help before anyone concludes that they cannot make their own decisions.

- That individuals must retain the right to make what might be seen as eccentric or unwise decisions.
- Best interests – anything done for or on behalf of people without capacity must be in their best interests.
- Least restrictive intervention – anything done for or on behalf of people without capacity should be the least restrictive of their basic rights and freedoms.

Under the Mental Capacity Act 2005, there is a duty to take all practicable steps to assist a person to deal with the matter themselves. This includes supporting the person to make their own decisions by giving all practical help.

Efforts should be made by LiveWest to ensure that the prospective/customer understands as fully as possible their rights and obligations as a tenant. This could include the following:

- Using appropriate language to explain the terms of the tenancy or the relevant notice.
- Having a simple written or pictorial explanation of the terms.
- Ensuring that the prospective tenant is accompanied by a family member or other advocate at the sign up.
- Ensuring that the existing tenant is accompanied by a family member or other advocate at the point of or following the service or receipt of notice to end the tenancy.

Where the position remains uncertain, we will explore whether the individual has a power of attorney or appointeeship or other appointed person to assist with the matter.

We will not allow a prospective resident to authorise a legal document if the Officer carrying out the sign up has concerns that prospective resident does not have the ability to understand it.

If a Best Interest decision concludes that someone without capacity needs to move into our property LiveWest will accept someone taking a tenancy as long as:

- LiveWest receives details of the best interest decision
- A court of protection application has been made
- An Assured Shorthold Tenancy is issued

3.8 Signature to enter into an agreement or contract

It is not valid for someone else to sign a tenancy or licence agreement on the prospective customer's behalf, except in the following circumstances:

- They have been granted "enduring power of attorney" (specifically for Property and affairs)
- Where the Court of Protection authorises someone to sign the tenancy on the prospective customer's behalf.

3.9 Employees, Board Members and their relatives

All applicants are asked to declare if they have a significant personal relationship with, are related to, or are a LiveWest Board member or employee.

We may provide accommodation to you if you have a significant personal relationship with, are related to, or are a LiveWest Board member or employee, where:

- You are in housing need and meet the allocations criteria.
- You applied for accommodation through the relevant referral route for the supported housing scheme according to its nature.
- You receive the same consideration as any other applicant.
- You or they have no involvement or influence over the allocation decision.

Close scrutiny will apply to all potential allocations and any allocations will require impartial review and Director level approval.

4. Service standards, monitoring and review

LiveWest monitors and reports on lettings performance and customer satisfaction levels.

This policy will be reviewed on a three yearly basis or in response to changes in legislation, regulatory guidance, good practice or changes in other relevant LiveWest policies.

5. Legal considerations

- Homelessness Act 2002
- Housing Act 1985, 1988, 1996 & 2002
- Data Protection Acts 1989 & 2018
- Equality Act 2010
- Human Rights Act 1988
- Children's Act 1989
- Care Act 2014
- Mental Health Capacity Act 2005

6. Linked/associated policies and other references

Policies & Procedures

- Allocations and lettings policy (general needs)
- Tenure Policy
- Tenancy management policy/procedures
- Neighbourhood management policy/procedures
- Compliments, complaints and feedback policy
- GDPR compliance policy
- Support/action planning and risk assessing policy/procedures
- Safeguarding children and adults at risk policy/procedures

7. Version control

Version ref	Date of change	By whom	Reason
1.1	April 2020	Policy Officer on behalf of Head of OP & LD Services	Additional information of eligibility for homeowners in line with the general needs policy.
2	June 2024	Supported Housing management team	Updates
3	June 2025	Head of Supported Housing	Full Review

Mental Capacity

The Mental Capacity Act 2005

Applies to England and Wales and provides a framework to empower and protect people who may lack capacity to make certain decisions for themselves.

The Court of Protection

The specialist court for all issues relating to people who lack capacity to make specific decisions. The Court can make decisions and appoint deputies to make decisions about someone's property and financial affairs or their healthcare and personal welfare.

The Office of the Public Guardian

Responsible for supervising deputies appointed by the Court of Protection; keeping registers of deputies, LPAs and EPAs; and investigating any complaints about attorneys or deputies.

Attorney

Someone appointed under either a Lasting Power of Attorney (LPA) or an Enduring Power of Attorney (EPA) who has the legal right to make decisions within the scope of their authority on behalf of the person (the Donor) who made the Power of Attorney.

Best interests

Any decisions made or anything done for a person who lacks capacity to make specific decisions must be in the person's best interests. There are standard minimum steps to follow when working out someone's best interests.

Capacity

A person's capacity (or lack of capacity) refers specifically to their capacity to make a particular decision at the time it needs to be made.

Deputy

Someone appointed by the Court with on-going legal authority as prescribed by the Court to make decisions on behalf of a person who lacks capacity to make particular decisions.

Enduring power of Attorney (EPA)

An Attorney to deal with the Donor's property and financial affairs. Existing EPAs will continue to operate. However, these are no longer available since 2007.

Lasting power of attorney (LPA)

The Mental Capacity Act allows a person to appoint an attorney to act on their behalf if they should lose capacity in the future. This is similar to the current Enduring Power of Attorney but as well as property and personal affairs it includes health and well-being decisions. Before it can be used an LPA must be registered with the Office of the Public Guardian.

Independent Mental Capacity Advocate (IMCA)

IMCAs are primarily intended to be a safeguard for people who do not have family or friends who can represent them. The MCA identifies this as having no-one other than paid staff with whom "it would be appropriate to consult". The IMCA makes representations about the person's wishes, feelings, beliefs and values and can challenge the decision-maker on behalf of the person lacking capacity.

IMCAs can only work with an individual once they have been instructed by an appropriate person/body. For accommodation decisions and care reviews this is likely to be the local authority responsible for the arrangements. For serious medical treatment decisions this will be a medical practitioner who has responsibility for the person's treatment. For adult protection cases this will be the local authority coordinating the adult protection proceedings. For the IMCA roles in DOLS this will be the Supervisory Body.