

HOMELESSNESS ACCOMMODATION PLACEMENT POLICY¹

Homelessness Accommodation Placement Policy			
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Owned by (Team/Dept):	Housing Options		
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Consultation Required?	No	EqlA Required?	No

1. Purpose

- 1.1. This document sets out how the council will allocate accommodation to meet its statutory obligations to the homeless under both the Housing Act (1996) and the Children Act (2004), including the discharge of its duties under the Homelessness Reduction Act (2017).

2. Background

- 2.1 The council currently provides accommodation to meet a range of housing needs:

- Temporary accommodation for homeless households or those waiting for a homelessness decision.
- Accommodation to prevent or relieve homelessness.
- Accommodation in the private rented sector to end the council's main homelessness duty under the Localism Act 2011.
- Social housing allocated via the housing allocations policy, with reasonable preference given to homeless households as required by law.
- Council-commissioned homelessness supported accommodation for rough sleepers and single homeless people with support needs.

- 2.2 Legislation and caselaw relevant to accommodation provision to which the policy has regard:

- Housing Act (1996), Part 7.
- Homelessness Reduction Act (2017).

¹ This document replaces the Council's 2015 'Policy For Determining The Suitability of Temporary Accommodation/Private Rented Sector Offers'

- Homelessness Code of Guidance for local authorities, particularly 'Chapter 17: Suitability of Accommodation'.
- The Homelessness (Suitability of Accommodation) (England) Order (2012).
- Relevant case law relating to affordability of accommodation in relation to suitability– notably, but not exclusively, the judgement of the Supreme Court in the case of *Samuels v Birmingham City Council* (2019).

How we will allocate accommodation?

3. Location of the accommodation Provided

- 3.1 Section 208(1) of the 1996 Act requires the local authority to provide accommodation in its own area 'so far as reasonably practicable.' The clear intention is that local authorities should not simply decant homeless persons into areas for which other authorities are responsible. In areas of acute affordable housing shortage, a local authority may decide that it is not reasonably practicable to accommodate people in its own area.
- 3.2 Unless the applicant is in fear of violence in a particular part of the borough, or there is an overwhelming social, medical or welfare reason for specifying a particular area, any location within Tower Hamlets is normally to be deemed suitable. The borough covers a small geographical area; all parts of the borough are well served and connected by public transport. Most journeys by public transport to any part of the borough can be concluded within 40 minutes. Individual circumstances will be taken into account when determining the suitability of a particular location, in the context of the foregoing.
- 3.3 In determining whether a property outside the borough is suitable the requirements set out in the law and statutory guidance need to be taken into account. It is essential that the question of disruption is specifically addressed, and recorded on notes. While individual circumstances must be taken into account the following should be used as a guide:
- It is reasonable to assume that someone could normally travel up to 90 minutes to get to work. It would be necessary to take account of the cost of travel in the affordability assessment
 - It is reasonable to assume that a child in years 10-13 could travel for up to an hour to get to school.
 - It is reasonable to assume that children under year 10 could transfer to a local school and that this would not constitute a significant disruption to their education.
 - If children are in a special school or have a Statement of Special Educational Needs it would be necessary to assess whether a

transfer to a location out of the borough would represent a significant disruption to their education. This may involve making enquiries of the potential host authority to see if those needs could be met in a local school. Ideally out of Borough Placements for families with a child in a special school should be avoided unless there is no suitable in-borough property available or in the pipeline at the point the need arises.

- Generally, the council will aim to avoid placing households who are engaged with social services out of the borough. This is subject to the availability of suitable accommodation at the point of need. The duty to notify the receiving borough must be met, as must checks with the Council's Children's Services to ensure any safeguarding concerns are properly considered prior to placement.
- In considering disruption to care & support arrangements – it is necessary to consider the frequency and duration of such support; the extent to which those needs can be met by someone else, or by another method and to consider the likelihood and extent of disruption to the continuity of that care and support. Generally, travel of up to an hour to deliver care or support would be considered reasonable, but individual circumstances will be taken into account.
- If specialist medical care is being provided – the extent of the disruption & the capacity for that support to be transferred to a local hospital/medical facility needs to be assessed, along with an assessment of how disruptive that transfer is likely to be to the continuity of care provided. Generally, travel of up to an hour to specialist medical care is considered reasonable – although individual circumstances will need to be taken into account.
- Distance from the borough needs to be noted; the extent to which the distance is likely to be disruptive needs to be assessed in light of the foregoing. The Town Hall as the reference point for measuring distance to the borough may be used.
- Transport, local services and amenities should generally be within a 30-minute walk (1.5 miles) of the accommodation.

4. Prioritisation of cases for in-borough placements

- 4.1 At least one of the following criteria will be required to be met for a household to be allocated an in-borough property (unless there is no-one at all that fits any of the criteria awaiting a placement for whom the property would be suitable):

- Property is affordable for the household.
 - Household with at least 1 child in special school or with statement of Special Educational needs.
 - Largest household that can legally fit the property (refer part X 1985 Housing Act) .
 - Other pressing social/welfare/medical need that means the household needs to stay in the borough.
 - Where the transfer is in the Council's interest, including but not restricted to: deadline for commencement of capital work; to avoid legal action being taken against the Council; risk to the Council's reputation or finances.
 - Household with at least 1 child in years 11 or 13.
 - Family with dependent children in B&B.
 - Employment within the borough and/or where a placement outside the Borough would result in the applicant being unable to continue in employment.
- 4.2 Where more than one household meets the prioritisation criteria then those with the greatest need (i.e. multiple priorities) will be allocated the property. All things being equal, allocations will otherwise be in date order with those who have waited longest having the highest priority.

5. Affordability

- 5.1 The property must be affordable. An affordability assessment will be carried out to identify how much disposable income a household has after assessing all essential expenditure and the amount of rent they will have to pay. The assessment will consider whether the applicant can afford the housing costs without being deprived of basic essentials such as food, clothing, heating, transport and other essentials specific to their circumstances. The property will not be regarded as affordable if the household would be left with a residual income that is insufficient to meet these essential needs. Universal Credit standard allowances may be used as a guide when assessing the income that an applicant will require to meet essential needs aside from housing costs. Wishes, needs and circumstances of the applicant and their household should also be taken into account.
- 5.2 When expenditure on essential items is higher than might be expected the wider context of the applicant's particular circumstances will be considered. The Code of Guidance gives the example of an applicant with a disabled child having higher travel costs to ensure that the child is able to access additional support or education that they require and so this should be taken into account when assessing their essential needs, and the income that they have available for accommodation costs.

6. Other matters affecting suitability

- The property must be large enough for the household (see Part X 1985 Housing Act)
- The property must be in a reasonable condition (reference to our TA property standards), and free from Category 1 hazards, taking into account local housing conditions. The Council are required to take reasonable steps to satisfy itself of this – either through property inspection, or evidence provided by the owner/agent (e.g. photographs), along with production of all statutory certificates
- It must be available for the household to occupy, and reasonable for them to do so.
- The Council must be satisfied that the landlord is a fit & proper person by ensuring the necessary checks are undertaken.
- There are a range of health & safety matters covered in the suitability regulations – and which are captured in the Council's property standards.
- If the accommodation is an HMO/ B&B it must be compliant with licensing standards (this will be established by council officers).

7. Priorities for private rented sector accommodation

- 7.1 The Council's homelessness prevention approach is aimed at reducing the need to place households in temporary accommodation and to support households into settled and sustainable accommodation to meet their housing need. This will often be in the private rented sector and, for households who find Tower Hamlets unaffordable, often in other areas outside the borough. The approach means that households should not require temporary accommodation, or only for the minimum necessary duration if unavoidably required and without needing to face repeated moves and ongoing disruption. This approach also minimises the amount of temporary accommodation the Council has to provide, which is costly.
- 7.2 The Homelessness Code of Guidance states: 'For many applicants, working with the housing authority to prevent or relieve their homelessness will provide an opportunity to explore what realistic options are available to them and consider what compromises they may wish to make in order to achieve the best option for them. The opportunity to consider more than one property can play an important part in this process. '(para 14.28)
- 7.3 To help homeless households to evaluate the pros and cons of often limited options, the Council aims to provide a maximum of 3 offers of private rented sector accommodation. This would go some way to ensuring households are given choice of a new home in the PRS.

- 7.4 Generally, households worked with upstream will receive a maximum of 2 offers to prevent their homelessness, and a further 1 offer to relieve homelessness should prevention fail. Households already at crisis stage are likely to receive 1 offer, reflecting the urgency of their situation. Homeless households in temporary accommodation owed the 'main homelessness duty' and whose cases were accepted post-Localism Act are entitled to 1 suitable PRS offer through the Localism Act PRSO power (Private Rented Sector Offer).
- 7.5 The approach does not guarantee an offer. The property needs of some households may be in short supply in the PRS stock – e.g. wheelchair adapted housing – and, for those in crisis, the statutory time frame - 56 days – may have expired without a suitable accommodation offer becoming available.

8. How private rented sector accommodation will be allocated

- 8.1 PRS property is sourced by the Council to meet homelessness duties both by the Council's in-house procurement team and externally by 'Capital Letters', a pan-London body, undertaking procurement, in which Council staff are seconded.
- 8.2 When a property is made available, suitable applicants will be identified. Allocating accommodation procured in the private sector is often time-critical, as landlords want to minimise lost rents due to void periods and the Council needs to limit the risk of the property being let elsewhere. In addition, there are also void charges the Council incurs for any properties sourced by Capital Letters for Tower Hamlet's households if lettings are delayed. Due to the short time frames involved in the allocation of private sector properties, potential applicants will be contacted directly by the Council to arrange a viewing. Where an applicant cannot be contacted another potential applicant will be contacted. The final decision to accept or reject a household will usually rest with the landlord. If the landlord refuses a nominated household, the offer will be withdrawn and a further offer will be made when a suitable property becomes available. If the refusal is due to behaviour of the applicant, this may result in them being withdrawn from further offers whilst we work with them to address any issues raised. Once both the applicant and landlord accept, an assured shorthold tenancy is issued generally for a minimum fixed term of 12 months.
- 8.3 For applicants owed the statutory homelessness prevention or relief duty and who are assessed as being able to sustain a tenancy, a maximum of three reasonable offers of affordable private rented housing will be made. Individual circumstances are considered in making these offers, including time scale, affordability, household preferences and needs. If a household is actively engaging with the Council but a choice of suitable offers has not been available but is

expected to be, the Council may consider extending the statutory relief casework period. An acceptance of any suitable offer will end the Council's statutory duty. Ultimately a final suitable offer will be made and the household will be notified in writing and the Council's statutory duty will be formally ended, whether the offer is accepted or refused. Where the Council have not been able to prevent or relieve homelessness, and a household is owed the main homeless duty, the Council will usually bring the duty to an end with one suitable offer of private sector accommodation.

- 8.4 Offers on in-borough accommodation will follow the prioritisation criteria set out above.
- 8.5 Where a household is claiming housing benefit or Universal Credit, properties will be offered that meet a household's bed need that are in areas where the LHA rent is affordable. In the current climate of rising rents and caps on benefits, such properties are likely to be out of borough, and increasingly out of London, particularly for larger properties. The Council will consider a household's income and their ability to meet any shortfall between the housing benefit paid and the rent to ensure that accommodation is affordable and sustainable.
- 8.6 Regard will be had to Homelessness Code of Guidance, Chapter 17 with respect to basic minimum standards, both physical property standards and management standards, and there will be compliance where applicable with Article 3, Homelessness (Suitability of Accommodation) (England) Order 2012.