

## Appendix A HOMELESSNESS ACCOMMODATION PLACEMENT POLICY

<b>Homelessness Accommodation Placement Policy</b>			
<b>Author:</b>	Abul Kalam, Service Manager, Housing Management & Procurement		
<b>Authorised by:</b>	Karen Swift, Director of Housing		
<b>Owned by (Team/Dept):</b>	Housing Options Service		
<b>Effective from</b>		<b>Next Review date</b>	
<b>Consultation Required?</b>	No	<b>EqIA Required?</b>	Yes

### 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(as amended), s11 of the Children Act (2004) and the Equality Act 2010 including;
  - Interim accommodation (s188)
  - Accommodation in lieu of discharge of s193 main duty
  - Accommodation in lieu of s190 (intentionally homeless)
  - Private rented sector offers in discharge of s195(prevention duty), s189B (relief duty)
  
- 1.2. Whilst the Borough will have regard to this Policy when allocating temporary accommodation to applicants, it retains its discretion to take into account particular personal circumstances of the applicant or the household when allocating accommodation.
  
- 1.3. Tower Hamlets Council is committed to securing suitable accommodation for homeless households however, we are only able to do this subject to the supply of suitable and affordable accommodation within the Borough.
  
- 1.4. There has been a significant increase in the demand for homelessness assistance. Running alongside this increased demand, the Council is experiencing difficulty in acquiring accommodation. There are several reasons as to why demand has increased and why supply is limited, for example,
  - **Increase in homelessness** – welfare reforms, benefit cap, properties becoming unaffordable, friends/family evictions, domestic abuse etc

- **Reduction in supply** – significant increases in rent, landlords selling, more stringent mortgage application criteria, general shortage of properties to buy and rent
- 1.5. The Council will always look to secure accommodation within its own borough or neighboring boroughs; however, it needs to manage the costs and resources in doing so and in doing so, needs to ensure that any accommodation procured to use as temporary accommodation is offered to a homeless household at an affordable rent level. The Council is not able to build enough homes to meet demand and therefore, the Council looks to the private sector for affordable homes. Whilst the council will not use the burden of costs in securing accommodation, it needs to be mindful in terms of the costs incurred in procuring temporary accommodation. This policy will have regards to the cases of *EIKundi v Birmingham* and *Imam v Croydon Council*, but will adapt as and when there are legislative changes to ensure that the policy meets the needs of homeless households in the area.
- 1.6. Our policy is to provide accommodation within the Borough of Tower Hamlets wherever reasonably practicable, except in cases where there is a specific reason why the household should not be accommodated within the borough, for example, those at risk of violence in Tower Hamlets.
- 1.7. The Council does not have sufficient units of temporary accommodation within its own stock, and as a result, we rely on a supply of privately owned properties to meet our statutory obligations. Changes to the Local Housing Allowance, the introduction of the “Benefit Cap” and a number of other factors have reduced the number of properties in Tower Hamlets that can be obtained for this purpose due to limited availability. As a result, there will be an increasing need to use accommodation that may be at a distance from the borough. This Policy is intended to ensure that we prioritise those who have the greatest need to be in or close to a particular location. Where a household needs to be moved away from a particular location for safety reasons, this will always be taken into account when deciding on temporary accommodation allocation.

## **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, as amended by the Homelessness Reduction Act 2017
- Homelessness Code of Guidance for Local Authorities, particularly 'Chapter 17: Suitability of Accommodation'.
- The Homelessness (Suitability of Accommodation) (England) Order 2012.
- The Equality Act 2010
- Localism Act 2011
- Childrens Act 2004
- Homelessness (Suitability of Accommodation) Order 1996
- Homelessness (Suitability of Accommodation) (England) Order 2003
- Homelessness (Suitability of Accommodation) Order 1996
- Domestic Abuse Act 2021
- 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)* and *Nzolameso v City of Westminster*
- *Also as previously mentioned, the cases of Elkundi v Birmingham and Imam v Croydon.*
- Travel to school for children of compulsory age 'Department for Education Statutory Guidance for Local Authorities'

2.3 In assessing the suitability of any property as temporary accommodation for a homeless household, the Council will consider whether the applicant can afford their housing without being deprived of basic essentials such as food, clothing, heating, transport, and other essentials.,.

### 3. Prioritisation of cases for in-borough placements

3.1 At least one of the following criteria will be generally 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):

- 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 of secondary school education
- Employment within the borough and/or where a placement outside the borough would result in the applicant being unable to

continue in employment

- 3.2 Where a household is given highest priority for accommodation within or close to the borough (or close to their place of employment/medical facilities/place of education as appropriate) in accordance with paragraph 431 above but there is no accommodation immediately available within or close to the borough (or close to their place of employment/medical facilities/place of education as appropriate), a homeless household can be placed on an emergency basis in temporary accommodation at the nearest location, which is otherwise suitable where there is availability on that day. The household will be given priority to be transferred to alternative temporary accommodation as soon as a unit is available that would be more suitable in the longer term
- 3.3 Where the service is notified of changes to the circumstances of household members after they have been placed into temporary accommodation, these circumstances will be considered, and a decision will be taken as to whether or not the household needs to be moved to more suitable temporary accommodation
- 3.4 Households in receipt of welfare benefits may be subject to restrictions on the amount of benefit they can receive, which may affect their ability to pay rent. Placements in Tower Hamlets or nearby boroughs is subject to suitable accommodation being available and the applicant being able to afford accommodation in these areas
- 3.5 Before an offer of temporary accommodation is made, the Council will take into account the support and relocation need of the household, making such inquiries as are reasonably necessary to be satisfied that those needs will be met.

### **How will we allocate accommodation?**

#### **4. Location of the accommodation provided.**

- 4.1 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.
- 4.2 Unless the applicant is at risk 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.

- 4.3 In determining whether a property outside of the borough, including outside of London 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-
- 4.4 As a general aim, placements will be made into areas which are accessible by public transport, however, the ongoing and changing supply and availability of properties may mean that there are or will be times when this aim cannot always be met.
- 4.5 For the purposes of making an allocation, all units of temporary accommodation acquired will be categorised into Zones. These Zones are as follows.
- Zone A – located in the borough of Tower Hamlets
  - Zone B – located in Greater London
  - Zone C – located outside Zones A and B but in the neighboring counties and districts of Essex, Hertfordshire, Kent, Surrey, Berkshire, and Buckinghamshire
  - Zone D – located outside of Zones A, B and C
- 4.6 As a general approach, available accommodation is allocated on the day that it becomes available but where appropriate, may be held back in anticipation of particular needs.
- 4.7 While individual circumstances must be taken into account the following should be used as a guide:
- All households will be placed in accommodation in Zone A if suitable accommodation is available. If no suitable accommodation is available in Zone A, then they will be placed into Zone B. If there is no suitable accommodation in Zone B, then they will be placed into suitable accommodation in Zone C. If there is no suitable accommodation in Zones A, B or C, then they will be placed into Zone D
  - Relevant facts regarding a household's circumstances will be gathered by officers in the course of their enquiries, including but not limited to, their accommodation needs and affordability
  - Where it is not reasonably practicable to provide temporary accommodation within the borough for all households requiring it, a series of decisions must be made about how available accommodation will be allocated. These decisions will be made with reference to the circumstances of each household and on the relevant characteristics of the properties available to the service for the use as temporary accommodation.
  - All homeless or potentially homeless households are individually assessed prior to placement to determine the type and location of

temporary accommodation that should be offered. Before any offer of temporary accommodation is made, a matching exercise will be carried out taking into account the requirements of the household and the nature and location of the individual property; the results of this matching exercise will be recorded in full on the applicant's file.

- As a general guide, the maximum journey time for a child of primary school age should be 45 minutes each way, and 75 minutes each way for a child of secondary school age, including any time taken to walk to a pick-up point, but there will be circumstances in which this is not possible, for example, where a child needs to travel a long way to the school named in their Education, Health and Care Plan (EHCP), or when journey times are extended by traffic or public transport delays. Wherever possible, a child should not be expected to make several changes on public transport.
- 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 an Education, Health, and Care Plan (EHCP) 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 still 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, 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, 160 Whitechapel Road E1 1BJ as the reference point for measuring distance to the borough may be used but not limited to this, and the households' individual circumstances will be considered
- Transport, local services, and amenities should generally be within a 30-minute walk (1.5 miles) of the accommodation.
- It should be noted that the above categories and priorities are for guidance only and the individual circumstances of each household, including the time likely to be spent in the accommodation, must always be taken into account when determining the suitability of an offer of temporary accommodation.
- Given the shortage of available properties, it is likely that officers will need to make decisions to prioritise the allocation of particular properties not only between households who fall into one or more of the categories described in 3.1 - 3.5, but also between households who do not fall into any of the categories.

4.8 When prioritising between households, the following circumstances will also be taken into account.

- Level of need relating to the welfare and safeguarding of any children in the household
- Level of educational needs
- Identified risks posed by living in a particular area
- Permanency/flexibility of employment
- Access to transport
- Level of need to be close to services and amenities
- Level of need to be close to health services
- Level of need to be close to support networks
- Impact on caring responsibilities
- Affordability of the accommodation
- Impact of the relocation and of occupying the accommodation on a continuing basis, and based on the wellbeing of household members
- Impact of the relocation and occupying the accommodation on a continuing basis, and on the wellbeing of any children in the household, having regard to the Council's duty under the Children Act 2004 to safeguard and promote their wellbeing

4.9 The impact of these and any other relevant circumstances will be considered both individually and cumulatively. Households that have a relatively low level of need when considering the above circumstances are more likely to

be offered accommodation in zones B, C and D. However, even if a household is considered to have a lower level of need than other applicants to be in or close to the borough, they will be allocated available units in Zone A or Zone B if these units are not required by higher priority households.

4.10 Accommodation placements for households or individuals who make a homeless application within two years of arriving in the UK, hereinafter referred to as 'new arrivals', the following criteria will be used;

- In pursuance of the Homelessness (Suitability of Accommodation) (England) (Amendment) Order 2024, ('2024 order') which has extended the Homelessness (Suitability of Accommodation) (Amendment) (England) Order 2022, ('2022 order') and follows an extension of the '2022 order' by the Homelessness (Suitability of Accommodation) (England) (Amendment) Order 2023, this authority reserves the right to use greater flexibilities when placing 'new arrivals' when placing them into accommodation.
- The operative justification for using greater flexibilities and considering accommodation in Zone D when placing 'new arrivals' reflects the need for pressures to be eased on local authorities, particularly in areas of high housing demand such as London, the South East and other metropolitan areas which was highlighted in the government's explanatory memorandum to the '2024 order' at paragraph 5.7 [The Homelessness \(Suitability of Accommodation\) \(England\) \(Amendment\) Order 2024 \(legislation.gov.uk\)](#) The effect of using these greater flexibilities when placing new arrivals in locations removes the need for us to giving mandatory consideration to disruption to education and employment when making placements and restricts mandatory consideration to the disruption caused by the location of accommodation for those with caring responsibilities of the person or persons household for persons with who there are family associations.

## **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**

- 6.1 All households provided with temporary accommodation will be assessed at the point of placement in order to identify any support or resettlement needs arising from the location of the accommodation. These include but are not limited to, identifying those with mental or physical health issues or learning disabilities, those with substance misuse issues, care leavers, and older people
- 6.2 The Temporary Accommodation Team will also provide details of the incoming household to the receiving borough as required. Where a particular area outside the borough is used on a regular basis for the provision of temporary accommodation, an information pack will be provided to households being provided with temporary accommodation covering local services and facilities in that area.
- 6.3 For any household placed in temporary accommodation outside of the borough, information will be provided on how to access local services, amenities, and facilities in the local area. In particular they will be given an information sheet which has a range of useful information which includes:
  - Registering for local Council Tax Support
  - Registering with the local GP
  - What to do if they need emergency funds
  - How to apply for a school placement in the borough that they are going to reside in
- 6.4 When determining suitability, we will have regard to the Suitability of Accommodation Order (England) 2012 and including but not limited to, the Housing Health & Safety Rating System (HHSRS), Homes (Fitness for Human Habitation) Act 2018. The council will also ensure that it is managing its costs, although not using costs as a barrier to procure suitable accommodation, so that we are achieving value for money and discharging our duties as per legislation, as we have a fiduciary duty to the taxpayers in the borough
- 6.5 The Temporary Accommodation Team will provide the household with their Housing Officers details at the time of the placement so that there is early dialogue between the household and the Housing Officer. The Housing Officer will be able to provide a range of advice and assist the household with accessing support and/or other need

- 6.6 The Temporary Accommodation Team will endeavor to confirm the availability of school places, and develop links with schools' admissions services, in any areas outside Zones A and B.
- 6.7 This policy takes fully into account the requirements of the Homelessness (Suitability of Accommodation) (England) Order 2012. Applicants accommodated under this policy under section 193 of the Housing Act 1996 can request a statutory review of the suitability of any accommodation offered to them, in accordance with section 202 of the Act.

## **7. The right to view accommodation**

- 7.1. Whilst the Homelessness Code of Guidance recommends that applicants generally are given an opportunity to view accommodation provided on anything other than an interim or emergency basis and it also suggests that applicants be given a reasonable period to consider such offers the **Court of Appeal in R(Khatun) -v- Newham London Borough Council (2004) EWCA Civ 55** held that there is no inherent right afforded to applicants to view accommodation which is temporary before deciding whether to accept or reject it.
- 7.2. For operational reasons that are directly connected to the local authority's ability to procure accommodation which would see many opportunities in procuring accommodation lost, and significant revenues affected, the local authority justifies its position in refusing to allow routine viewings and giving extended periods of consideration before deciding whether to accept or reject temporary accommodation. To do otherwise would so adversely and disproportionately affect homeless households it does or may owe housing duties to because the supply and availability opportunities in procuring would be seriously and adversely affected in a climate where such accommodation is already in extremely short supply
- 7.3. The local authority may consider offering viewings in circumstances where there is an exceptional and compelling need for households or individuals to do so, and in exercising its discretion as to what is a reasonable period to accept or in giving an applicant an opportunity to view, there may occasionally be exceptional and compelling circumstances that warrant the need for a viewing of temporary accommodation related specifically to an applicants designated and specific disability needs connected to particular properties being offered
- 7.4. Viewings for Final Offers of Accommodation and Private Rented Sector Offers (FOA & PRSO will be accommodated for all households).

## **8. Priorities for private rented sector accommodation**

- 8.1 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. This approach means that where possible, households should not face repeated moves of 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

- 8.2 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 14.29)
- 8.3 To help homeless households to evaluate the pros and cons of often limited options, the Council aims to provide a maximum of 2 offers of private rented sector accommodation for households at the prevention stage of their application. This would go some way to ensuring households are given choice of a new home in the PRS.
- 8.4 The 2 offers at the prevention stage would be subject to supply. Given that the PRS market changes from time to time, it may not always be possible to make 2 offers. The current market is seeing less and less supply of PRS accommodation given that the private sector lets have significantly increased and landlords are achieving higher rents through private lets.
- 8.5 Where possible, the Council will use its best endeavors to make 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).
- 8.6 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.

## **9. How private rented sector accommodation will be allocated**

- 9.1. PRS property is sourced by the Council to meet homelessness duties by the Council's in-house procurement team.
- 9.2. 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. 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 within a reasonable period so that there is a risk of the property being let elsewhere, 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 where a main duty has been discharged or 6 months if the offer is made at the relief stage.

- 9.3. 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 (2 at prevention and 1 at relief, as per paragraph 8.4) 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.
- 9.4. Offers on in-borough accommodation will follow the prioritisation criteria set out above.
- 9.5. 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.
- 9.6. 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.