
Approval to Consult on the Draft Temporary Accommodation Policy – Supporting Information

1. Introduction/Background

- 1.1 The case of *Nzolameso v Westminster City Council* [2015] WLR(D) 165, [2015] PTSR 549, [2015] UKSC 22 at the Court of Appeal, held that there is a statutory duty for local authorities to accommodate homeless households within the district, where reasonably practicable, failing which they should try to place households as close as possible to where they were previously living. In addition, the Court of Appeal stated that “*The question of whether the accommodation offered is “suitable” for the applicant and each member of her household clearly requires the local authority to have regard to the need to safeguard and promote the welfare of any children in her household*” (Para.27).
- 1.2 The Court of Appeal went on to say that “*Ideally, each local authority should have, and keep up to date, a policy for procuring sufficient units of temporary accommodation to meet the anticipated demand during the coming year. That policy should, of course, reflect the authority’s statutory obligations under both the 1996 Act and the Children Act 2004. It should be approved by the democratically accountable members of the council and, ideally, it should be made publicly available. Secondly, each local authority should have, and keep up to date, a policy for allocating those units to individual homeless households. Where there was an anticipated shortfall of “in borough” units, that policy would explain the factors which would be taken into account in offering households those units, the factors which would be taken into account in offering units close to home, and if there was a shortage of such units, the factors which would make it suitable to accommodate a household further away. That policy too should be made publicly available*” (Para. 39).

2. Supporting Information

- 2.1 This Policy has been developed to meet the requirements set out by the Court of Appeal. In summary, it provides:
- (1) The strategy for procuring new temporary accommodation to meet demands should include leasing properties from Registered Providers, securing new properties via planning obligations, purchasing back shares in DIYSO (do-it-yourself shared-ownership) properties as and when they become available, buying properties on the open market and reviewing existing temporary accommodation stock to ensure that its use is maximised.
- (2) That when allocating units of temporary accommodation to individual households, the Housing Service will take account of the full circumstances of the household in relation to the financial, social and medical needs of the household and will prioritize families with the highest overall level of need for local placements, using the following cascade:

- (a) Homeless households with dependent children in school years 11,12 and 13 who are preparing for, or who are in the process of, taking examinations.
- (b) Homeless households who have at least one household member in employment within the district.
- (c) All other homeless households with school age children.
- (d) All other homeless households

2.2 A copy of the draft Temporary Accommodation Policy is attached at Appendix Three.

3. Options for Consideration

3.1 The Council could decide not to implement a Temporary Accommodation Policy. This could give rise to legal challenge if households are not allocated suitable accommodation under statutory homelessness duties.

4. Proposals

4.1 It is proposed that the draft Temporary accommodation Policy be published for a 6-week consultation. The draft policy will be published on the Council's website for all members of the public to comment on. In addition, all residents currently in temporary accommodation will be contacted, in writing or by e-mail, asking them for their views, as will all statutory and voluntary stakeholders who have an interest in, or work with households affected by, homelessness.

5. Conclusion

5.1 It is recommended that the Executive approve the publication of the draft Temporary Accommodation Strategy for consultation.

Background Papers:

Housing Act 1996 (as amended)

Homelessness strategy 2013-2018

Housing Strategy 2010-2015

Subject to Call-In:

Yes: No:

- The item is due to be referred to Council for final approval
- Delays in implementation could have serious financial implications for the Council
- Delays in implementation could compromise the Council's position
- Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months
- Item is Urgent Key Decision
- Report is to note only

Strategic Aims and Priorities Supported:

The proposals will help achieve the following Council Strategy aim:

P&S – Protect and support those who need it

The proposals contained in this report will help to achieve the above Council Strategy aim by ensuring that vulnerable homeless households are provided with appropriate temporary accommodation, in line with statutory duties.

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Appendix B

Equality Impact Assessment - Stage One

We need to ensure that our strategies, policies, functions and services, current and proposed have given due regard to equality and diversity.

Please complete the following questions to determine whether a Stage Two, Equality Impact Assessment is required.

Name of policy, strategy or function:	Draft Temporary Accommodation Strategy
Version and release date of item (if applicable):	V1.0, June 2016
Owner of item being assessed:	Mel Brain
Name of assessor:	Mel Brain
Date of assessment:	28 June 2016

Is this a:		Is this:	
Policy	<u>Yes/No</u>	New or proposed	<u>Yes/No</u>
Strategy	<u>Yes/No</u>	Already exists and is being reviewed	<u>Yes/No</u>
Function	<u>Yes/No</u>	Is changing	<u>Yes/No</u>
Service	<u>Yes/No</u>		

1. What are the main aims, objectives and intended outcomes of the policy, strategy function or service and who is likely to benefit from it?	
Aims:	To set out a strategy for procurement of temporary accommodation to meet demand and to set out the policy for allocating units of temporary accommodation to individual households.
Objectives:	To ensure transparency, accountability and fairness in the allocation of temporary accommodation to homeless households.
Outcomes:	To ensure that the Council is able to fulfil its statutory duties under the Housing Act 1996 (as amended) and to ensure that homeless households are allocated appropriate temporary accommodation in a fair, transparent and accountable way.
Benefits:	Case law requires that the Council should implement such a policy and keep it up to date – by adopting such a policy, the Council should reduce the likelihood of legal challenge, whilst also ensuring that it has a transparent and accountable way of allocating a limited

	resource.
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2. Note which groups may be affected by the policy, strategy, function or service. Consider how they may be affected, whether it is positively or negatively and what sources of information have been used to determine this.

(Please demonstrate consideration of all strands – Age, Disability, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex and Sexual Orientation.)

Group Affected	What might be the effect?	Information to support this
Age	Homeless households are disproportionately from younger age groups, with the majority having a head of household who is under-25. This means that younger households, with children, are more likely to be placed in B&B outside of the district when applying as homeless. The proposed policy provides a clear framework for determining which households are placed in temporary accommodation within the district, as and when it becomes available.	P1E returns
Disability	The Council has two units of disabled-adapted temporary accommodation and will seek to prioritise households in need of such adaptations when making allocations of temporary accommodation.	
Gender Reassignment, Marriage & Civil Partnership	This policy should have no impact on this strand.	
Pregnancy and Maternity	Households with dependent children or with a member who is pregnant are automatically conveyed priority need and are therefore highly likely to be owed at least an interim accommodation duty. Due to high demand and limited temporary accommodation	Housing Act 1996 P1E returns

	stock, households with children or pregnant members, are more likely to be placed in B&B outside of the district when applying as homeless. The proposed policy provides a clear framework for determining which households are placed in temporary accommodation within the district, as and when it becomes available.	
Race, Religion or Belief	This policy should have no impact on this strand.	
Sex and sexual orientation	Homeless households disproportionately have female members as their lead household member. This means that households with women as the lead member, especially those with responsibility for caring for children, are more likely to be placed in B&B outside of the district when applying as homeless. The proposed policy provides a clear framework for determining which households are placed in temporary accommodation within the district, as and when it becomes available.	P1E Returns

Further Comments relating to the item:

The Council has insufficient temporary accommodation stock to meet demands and has to resort to placements outside of the district. It is recognised that this is not ideal, as it takes vulnerable households away from their support networks, schools, employment and medical care. Whilst the Policy is unlikely to resolve this situation, it does provide a framework by which to make clear, accountable and transparent decisions when allocating limited resources.

3. Result

Are there any aspects of the policy, strategy, function or service, including how it is delivered or accessed, that could contribute to inequality?

Yes/No

Please provide an explanation for your answer:

The way in which homelessness legislation is drafted means that certain households are given priority need, and those households may fall within some of the strands to be considered under the Equalities Act (primarily age, pregnancy and maternity, and Sex and sexual orientation). Whilst the Policy is unlikely to resolve this situation, it

does provide a framework by which to make clear, accountable and transparent decisions when allocating limited resources.	
Will the policy, strategy, function or service have an adverse impact upon the lives of people, including employees and service users?	Yes/No
<p>Please provide an explanation for your answer:</p> <p>The Policy is designed to provide a transparent and accountable framework by which to make decisions when allocating temporary accommodation and will therefore improve the way in which the function is delivered.</p>	

If your answers to question 2 have identified potential adverse impacts and you have answered ‘yes’ to either of the sections at question 3, or you are unsure about the impact, then you should carry out a Stage 2 Equality Impact Assessment.

If a Stage Two Equality Impact Assessment is required, before proceeding you should discuss the scope of the Assessment with service managers in your area. You will also need to refer to the Equality Impact Assessment guidance and Stage Two template.

4. Identify next steps as appropriate:	
Stage Two required	Yes
Owner of Stage Two assessment:	Mel Brain
Timescale for Stage Two assessment:	To be considered after consultation has closed and prior to adoption of the Temporary Accommodation Strategy.
Stage Two not required:	

Name: Mel Brain

Date: 28 June 2016

Please now forward this completed form to Rachel Craggs, the Principal Policy Officer (Equality and Diversity) for publication on the WBC website.

Draft Temporary Accommodation Strategy

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1. Purpose

- 1.1 The purpose of this policy and procedure is to set out how West Berkshire Council will decide on allocations of temporary accommodation in order to meet its S188 duty to provide interim accommodation to homeless households and its S193 duty to provide temporary accommodation.
- 1.2 The policy and procedure will also explain what steps will be taken by West Berkshire Council to secure additional units of temporary accommodation in order to meet the needs of homeless households.

2. Applicability

- 2.1 The policy and procedure is applicable to all households who are owed an S188 or S193 duty to provide interim or temporary accommodation by West Berkshire Council.

3. Roles and Responsibilities

- 3.1 The Head of Care Commissioning, Housing and Safeguarding has overall responsibility for ensuring that West Berkshire Council's temporary accommodation is managed appropriately in accordance with these agreed standards.
- 3.2 The Service Manager (Housing Strategy and Operations) is responsible for:
 - Directing and reviewing this standard.
 - Ensuring that there is effective consultation and communication on Temporary Accommodation related matters in terms of allocations and procurement.
 - Publishing & Promoting the adoption of this standard to Housing staff.
 - Ensuring compliance with published standards, procedures, working practices and technology changes in relation to housing services relevant to this policy and procedure.
- 3.3 The Service Manager and the Housing Options Team Leader are responsible for the day-to-day management of temporary accommodation allocations, including ensuring implementation of this standard.
- 3.4 All Housing Operations staff are responsible for familiarising themselves with, and ensuring that they comply with this standard.

4. Background

- 4.1 The case of *Nzolameso v Westminster City Council* [2015] WLR(D) 165, [2015] PTSR 549, [2015] UKSC 22 at the Court of Appeal, held that there is a statutory duty for local authorities to accommodate homeless households within the district, where reasonably practicable, failing which they should try to place households as close as possible to where they were previously living. In addition, the Court of Appeal stated that "*The question of whether the accommodation offered is "suitable" for the applicant and each member of her household clearly requires the local authority to have regard to the need to safeguard and promote the welfare of any children in her household*" (Para.27).

- 4.2 The Court of Appeal went on to say that *“Ideally, each local authority should have, and keep up to date, a policy for procuring sufficient units of temporary accommodation to meet the anticipated demand during the coming year. That policy should, of course, reflect the authority’s statutory obligations under both the 1996 Act and the Children Act 2004. It should be approved by the democratically accountable members of the council and, ideally, it should be made publicly available. Secondly, each local authority should have, and keep up to date, a policy for allocating those units to individual homeless households. Where there was an anticipated shortfall of “in borough” units, that policy would explain the factors which would be taken into account in offering households those units, the factors which would be taken into account in offering units close to home, and if there was a shortage of such units, the factors which would make it suitable to accommodate a household further away. That policy too should be made publicly available”* (Para. 39).
- 4.3 This Policy has been developed to meet the requirements set out by the Court of Appeal.

5. Temporary Accommodation Stock

- 5.1 West Berkshire Council currently have 22 units of self-contained temporary accommodation, one shared house with four bedrooms for shared occupation and 16 units of self-contained accommodation which are leased from Sovereign Housing Association for use by homeless households and all of which are situated within West Berkshire. All units of accommodation are unfurnished; however some units offer fridges and cookers.
- 5.2 West Berkshire Council has one unit of self-contained accommodation which is situated out of area in Basingstoke and Deane local authority area, which is located just over the border.
- 5.3 West Berkshire Council is able to offer emergency beds at Two Saints Hostel in Newbury for single homeless households in shared rooms on a ‘bed only’ basis which can be accessed between 9pm and 8am.
- 5.4 For single homeless households in crisis full privileges may be offered at Two Saints Hostel so that the applicant can remain at the Hostel during the day and on a full-board basis. Any offer of full privileges must be agreed by the Service Manager (Housing Strategy and Operations), Housing Options Team Leader or Senior Housing Options Officer.
- 5.5 Where no suitable unit of temporary accommodation is available with which to carry out West Berkshire Council’s S188 duty to a homeless household, a Bed and Breakfast placement, which may be out of area, will be sought in the first instance until a suitable unit of temporary accommodation becomes available or whilst a suitable unit of temporary accommodation is procured. The Homelessness Code of Guidance for Local Authorities states that Bed and Breakfast accommodation must only be used for homeless households with children when no other accommodation is available for their occupation and that it must be for no longer than six weeks in duration.

6. Allocations

- 6.1 Chapter 17 of The Homelessness Code of Guidance for Local Authorities requires that local authorities give regard to the fact that ‘the accommodation [under S188] must be suitable in relation to the applicant and to all members of his or her household who normally reside with him or her, or who might reasonably be expected to reside with him or her’. Therefore all homeless households will require an assessment of needs to determine the minimum size of accommodation and bedroom requirements and applicants will then be matched to available properties.
- 6.2 The Council always seeks to place homeless households in temporary accommodation within the district but as a non-stockholding authority this is not always possible. The following paragraphs indicate how we will priorities between families requiring temporary accommodation when deciding to whom to make an offer.
- 6.3 Where there is more than one homeless household requiring a specific size of temporary accommodation within the district, West Berkshire Council will prioritize households as follows:
- (1) Homeless households with dependent children in school years 11,12 and 13 who are preparing for, or who are in the process of, taking examinations.
 - (2) Homeless households who have at least one household member in employment within the district.
 - (3) All other homeless households with school age children.
 - (4) All other homeless households.
- 6.4 This is in-line with the ‘Think Family’ approach and aims to minimize the disruption to homeless families and to minimize the impact on the children of such households.
- 6.5 Section 17.41 of the Homelessness Code of Guidance for Local Authorities states that
- ‘Housing authorities should avoid placing applicants in isolated accommodation away from public transport, shops and other facilities, and, wherever possible, secure accommodation that is as close as possible to where they were previously living, so they can retain established links with schools, doctors, social workers and other key services and support essential to the well-being of the household.’*
- 6.6 Therefore, the Council will take a holistic approach at the time of placement and will take account of the full circumstances of the household in relation to the financial, social and medical needs of the household and will prioritize families with the highest overall level of need for local placements.
- 6.7 Section 17.42 of the Homelessness Code of Guidance for Local Authorities states that

‘Housing authorities will need to be sensitive to the importance of pets to some applicants, particularly elderly people and rough sleepers who may rely on pets for companionship. Although it will not always be possible to make provision for pets, the Secretary of State recommends that housing authorities give careful consideration to this aspect when making provision for applicants who wish to retain their pet.’

- 6.8 Due to the shortage of available properties within the district, it is not always possible to accommodate larger pets with homeless households, though the Council will endeavour to allocate properties where pets are allowed to households in need of such a property.
- 6.9 Homeless households requiring disabled facilities will be prioritized over all other applicants for an allocation of disabled adapted temporary accommodation.
- 6.10 In accordance with section 16.6 of the Homelessness Code of Guidance, where there is concern that a household may be at risk, due to violence or threat of violence, including domestic abuse, the Council may determine that an out-of-area placement is needed in order to minimize risk to that household.

7. Procurement

- 7.1 West Berkshire Council will seek to procure additional units of temporary accommodation as necessary, via the following means:
- Additional units of temporary accommodation will be sought from local Registered Providers on a rolling lease basis.
 - Consideration will be given to whether additional units of temporary accommodation can be secured through the enabling of new developments.
 - Review of our own temporary accommodation stock to consider whether the properties could be better utilized by making adaptations to current arrangements.
 - Purchasing back shares in DIYSO properties when current owners wish to relinquish ownership.
 - Purchasing properties on the open market in order to fulfil the Council’s duty to provide temporary accommodation and where this duty cannot be met through alternative means.
- 7.2 When a household may benefit from accommodation within another local authority area, or has expressed a desire to relocate to another local authority area, the Council may offer a reciprocal arrangement to the receiving local authority if this would be mutually beneficial. A reciprocal arrangement may also be sought when a household is fleeing violence and when the Council has already accepted a full housing duty.