

Report of: Executive Member for Housing and Development

Meeting of:	Date	Ward(s)
Executive	19 May 2016	All

Delete as appropriate	Exempt	Non-exempt
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SUBJECT: Temporary Accommodation Location Policy**1. Synopsis**

- 1.1 This report seeks approval for the proposed Temporary Accommodation Location Policy as detailed in Appendix 1.
- 1.2 The council is required to have in place a policy for the procurement of suitable and affordable temporary accommodation for homeless households. When placing homeless households the council is required to pay due regard to the location of the accommodation in relation to distance away from Islington.

2. Recommendation

- 2.1 To approve the proposed Temporary Accommodation Location Policy, and agree its immediate implementation.

3. Background

- 3.1 Part 7 of the Housing Act 1996, as amended, governs the provision by local housing authorities of assistance to homeless persons. Where the authority decides that a person is eligible for assistance, homeless, in priority need and not homeless intentionally (section 193(1)), they have a duty to secure that accommodation is made available for their occupation (unless they refer the applicant to another authority under the local connection provisions of Pt 7, 1996 Act).

Any accommodation secured in discharge of a duty under section 193 must be suitable: section 206(1). Case law has established that the location of accommodation is relevant to suitability.

When discharging their housing duties under Pt 7, an authority must, so far as reasonably practicable, secure that accommodation is available for the applicant's occupation in their own district: section 208(1).

The Homelessness (Suitability of Accommodation) (England) Order 2012 (SI 2012/2601). Article 2, provides that authorities must, where the accommodation is situated outside of their district, take into account the distance of the accommodation from the authority's district.

Generally, where possible, authorities should try to secure accommodation that is as close as possible to where an applicant was previously living. Securing accommodation for an applicant in a different location can cause difficulties for some applicants. Local authorities are required to take into account the significance of any disruption with specific regard to employment, caring responsibilities or education of the applicant or members of their household. Where possible the authority should seek to retain established links with schools, doctors, social workers and other key services and support."

Local authorities in England are also under a duty to make arrangements to ensure that they have regard "to the need to safeguard and promote the welfare of children" when discharging their functions: Children Act 2004, section 11.

3.2 Landmark Supreme Court Decision

In May 2015 The Supreme Court looked at the suitability of 'out of borough' temporary accommodation, in the case of *Nzolameso v Westminster CC* [2015] UKSC 22.

The court found that there was insufficient evidence that serious consideration was given by the local authority to its obligations before the decision was taken to offer the client a property a considerable distance away from Westminster. The court upheld the appeal in favour of the appellant.

The court recognised that 'out of borough' placements by London boroughs have become increasingly common in recent years. However, local authorities have a statutory duty to provide accommodation in their own area "so far as reasonably practicable". And if that is not practicable, statutory guidance requires them "where possible" to try to secure accommodation as close as possible to where the applicant was previously living.

The authority should also have regard to the need to safeguard and promote the welfare of the children in the household. The decision-maker should identify the principal needs of the children, both individually and collectively, and have regard to the need to safeguard and promote them when making the decision.

Decisions as to the suitability of temporary accommodation offered should be explained to the homeless client and it must be clear from the decision that proper consideration has been given to the relevant matters required by the Act and the Guidance.

3.3 Implications for Islington council

The Supreme Court indicated 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. The policy should be approved by Members and be made publicly available.

The court also provided guidance that each local authority should have, and keep up to date, a

policy for allocating units to individual homeless households. Where there was an anticipated shortfall of 'in borough' units, the policy would explain the factors which should be taken into account in offering households the units, the factors that 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. This policy should also be approved by Members and be made publicly available.

3.4 The proposed Islington policy

Executive is asked to approve the Temporary Accommodation Location Policy, attached as Appendix 1.

The two requirements mentioned under 3.3 above are combined in one policy; it covers the procurement of sufficient units of temporary accommodation as well as guidance for allocating suitable accommodation to meet households' needs.

Checklists will be used to assess how practicable it would be for the applicant and his/her family to move out of Islington.

There isn't a legal requirement for the policy to be in place, but such policy would enable homeless applicants and the local agencies which advise them to understand what to expect and what factors will be relevant to the decision. And it would enable reviewing officers to review the decisions made in individual cases by reference to the published policies.

3.5 Implementation of the policy will involve a more detailed assessment by staff when assessing a homeless application.

The council currently houses 63% of its homeless households within Islington (an increase of 10% compared with the previous year). The policy is to be implemented for placements into temporary accommodation out of borough as appropriate.

4. Implications

4.1 Financial implications

The current annual spend on temporary accommodation is £11.7m

There are no financial implications as a direct result of this report although the proposed Temporary Accommodation location policy will result in increased officer time. We are also at risk of further challenge and there is a possibility that this may lead on to legal expense.

Any pressures arising as a result of this report should be managed within existing resources.

4.2 Legal Implications

Sections 206 and 208 of the Housing Act 1996 and the Homelessness Code of Guidance for Local Authorities 2006 oblige local authorities to provide homeless applicants with "in-borough" accommodation so far as reasonably practicable. The Supplementary Guidance on the homelessness changes in the Localism Act 2011 and the Homelessness (Suitability of Accommodation) (England) Order 2012 provide that the location of the temporary accommodation offered is relevant to its suitability.

In the case of *Nzolameso v Westminster City Council* (2015) the Supreme Court held that local

authorities are entitled to take account of the resources available to them, the difficulties of procuring sufficient temporary accommodation at affordable prices in their area, and the practicalities of procuring accommodation in nearby authorities.

In giving judgement, Lady Hale provided the following guidance – “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. This approach would have many advantages. It would enable homeless people, and the local agencies which advise them, to understand what to expect and what factors will be relevant to the decision”.

4.3 Environmental Implications

Housing in the UK accounts for around 25% of the country's carbon emissions, more than either transport or industry, which is primarily due to the energy used for heating, hot water and household appliances. As a result any accommodation utilised by the council will have an environmental impact, which should be considered during the procurement process for temporary accommodation.

4.4 Resident Impact Assessment

The council must, in the exercise of its functions, have due regard to the need to eliminate discrimination, harassment and victimisation, and to advance equality of opportunity, and foster good relations, between those who share a relevant protected characteristic and those who do not share it (section 149 Equality Act 2010). The council has a duty to have due regard to the need to remove or minimise disadvantages, take steps to meet needs, in particular steps to take account of disabled persons' disabilities, and encourage people to participate in public life. The council must have due regard to the need to tackle prejudice and promote understanding.

A Resident Impact Assessment was completed out on 4th April 2016. It is attached as Appendix 2, and a summary is included below;

It is unavoidable that the placement of homeless households outside the borough will have some negative impact on clients, especially on women as they make up 67% of households in temporary accommodation (due to the fact that the single largest client group is lone parent households headed by women).

Households on low incomes, and those affected by welfare reform and housing policy changes may be unable to afford accommodation in Islington. The council may have no option but to find secure, suitable and affordable accommodation outside of the borough.

This may have some negative impacts on those having to move away from existing community and support networks.

However, the policy is expected to benefit residents in the greatest need of accommodation.

The council will attempt to mitigate negative impacts by seeking accommodation as near to Islington as possible, in locations with good transport links and easy access to Islington. Accommodation will be sought in areas with relevant services and facilities to meet clients' needs.

Floating Support services such as Families First and Single Homeless Project are set up to provide services to clients in temporary accommodation out of borough.

Disabled clients attending regular medical appointments in Islington will be prioritised for an offer of accommodation within the borough, as will families with a child protection plan.

The council is also diversifying its temporary accommodation portfolio by making use of own council stock, to create more affordable supply within borough. 63% of all temporary accommodation is now within Islington.

5. Reasons for the recommendations

- 5.1 Local authorities have a duty to provide suitable and affordable temporary accommodation for homeless households. The proposed Temporary Accommodation Policy is designed to help the council carry out robust and detailed assessments to ensure that the accommodation offered meets household needs.

Appendices

- Appendix 1: Temporary Accommodation Location Policy
- Appendix 2: Resident Impact Assessment

Finance report clearance

Signed by:



4 May 2016

Executive Member for Housing and Development

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