

	ACTION TAKEN UNDER DELEGATED POWERS BY OFFICER May 2019
Title	AMENDMENTS TO THE TEMPORARY ACCOMMODATION PLACEMENT POLICY
Report of	Cllr Gabriel Rozenberg
Wards	All
Status	Public
Enclosures	<i>Appendix 1: Temporary Accommodation Placement Policy</i>
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Summary

On the 15th April 2019, the Ministry of Housing, Communities and Local Government (MHCLG) published an updated version of the Homelessness Code of Guidance for local authorities that introduced and amended Chapter 17 suitability of accommodation. In addition, provisions regarding the suitability of temporary accommodation under the Housing Act 1996 have been considered by the Courts in recent cases. These developments necessitate that we amend Barnet Council's Temporary Accommodation Placements Policy.

The suggested minor amendments to the policy do the following:

- Amend the provisions of the Temporary Accommodation Placements Policy that relate to the question of locality, in response to the changes made to Chapter 17: suitability of accommodation in the Homelessness Code of Guidance;
- Add the consideration of 'reasonable practicality' as the starting point for the consideration of out of borough placements;
- Clarify when short-term and emergency accommodation will be offered and when long-term accommodation will be offered;
- Give greater weight to the needs of disabled persons to be placed in a particular locality.

Decisions

1. That the proposed minor changes to the Temporary Accommodation Placements Policy be approved.

1. WHY THIS REPORT IS NEEDED

- 1.1 On the 15th April 2019, the Ministry of Housing, Communities and Local Government (MHCLG) published an updated version of the Homelessness Code of Guidance for local authorities. In addition, the provisions regarding the suitability of temporary accommodation under the Housing Act 1996 have been considered by the Courts in recent cases¹. These developments necessitate that we amend Barnet Council's Temporary Accommodation Placements Policy in accordance with the key principles of allocating suitable temporary accommodation to applicants.
- 1.2 The new guidance requires the Council to clarify how it considers the suitability of temporary accommodation to applicants. While the Council already operates the scheme in accordance with the guidance, the policy requires an update to reference this guidance.
- 1.3 It is good practice for the Council to review its Placements Policy regularly to ensure that the policy remains fair, accessible, and legally compliant.

2. REASONS FOR RECOMMENDATIONS

- 2.1 Following recent caselaw surrounding the 'suitability' of temporary accommodation provisions of the Housing Act 1996, improvements to Barnet Council's Temporary Accommodation Placements Policy have been drafted to reduce the likelihood of successful legal challenge from applicants whom have been placed into temporary accommodation.
- 2.2 Legal advice states that the policy should be amended as follows:
 - officers should consider what is 'reasonably practicable' when accommodating applicants within a given area. When understanding 'reasonable practicality' to accommodate in borough, officers must generally, and where possible, try to place the applicant's household as close as possible to where they were previously living.
 - the policy should clearly distinguish between the allocation of 'short-term accommodation' and 'long-term accommodation'. Here, short-term accommodation refers to accommodation managed by a private company and paid for on a nightly basis. Long-term accommodation is accommodation provided or managed by the Council, a Registered Provider or private company on behalf of the Council.

¹ See *Lomax v Gosport BC* [2018] EWCA Civ 1846; and *Alibkhiat v Brent LBC and Adam v City of Westminster* [2018] EWCA Civ 2742

- to ensure that we meet the Equality Act 2010, applicants with disabilities should be given greater consideration when being placed in a particular locality, for their medical and support needs to be met.

2.3 Further clarity has been given about reviewing the offer of suitability of short-term accommodation and placements outside of Barnet. If an applicant is provided short-term interim temporary accommodation under Section 188 of the Housing Act 1996, the offer is not reviewable because the case is not an accepted main duty. A suitability review is available under Section 202 if an applicant is an accepted case and they reside in long term temporary accommodation

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

3.1 The alternative, not recommended option is to continue with the existing policy, which is out of date.

4. POST DECISION IMPLEMENTATION

4.1 If this report is approved, the revised TA Placement Policy will be published on The Barnet Group's website.

4.2 Barnet Council will ensure that all staff dealing with housing applications are made aware of the changes, and are able to apply them when considering housing applications.

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

5.1.1 The Council's Corporate Plan 2019 to 2024 is based on three main outcomes, one of which is "*residents live happy, healthy, independent lives with the most vulnerable protected.*" By making changes to how the Council makes an offer of suitable temporary accommodation, the Council is working to deliver reasonable housing solutions which meet the needs of the borough's most vulnerable adults and households.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 There no direct financial implications in making minor changes to the TA Placement Policy.

5.3 Social Value

5.3.1 Moving people who are homeless or at risk of homelessness into accommodation is of great social value. Households who are accommodated are more likely to benefit from economic, social and health initiatives. Furthermore, reducing homelessness reduces longer term costs to public services.

5.3.2 Temporary accommodation placements provide homeless households with a solution to immediate housing problems. The provision of suitable, affordable temporary accommodation may provide a foundation for applicants to pursue longer term goals that would enable them to live happier, healthier and independent lives.

5.4 **Legal and Constitutional References**

5.4.1 Under Article 9 .1(a) of the Constitution, the Chief Officers have delegated powers in respect of all matters which are not key decision (as defined in Article 2) and not reserved for decision by the Council or by a Committee of the Council to make decisions relating to their functions and the functions of their department

5.4.2 Legal advice has been obtained to ensure that the proposed changes are legally compliant.

5.5 **Risk Management**

5.5.1 From time to time the Council has to review the Temporary Accommodation Placements Policy in response to legislative changes and court judgements, and to continually ensure that the policy is as accessible and robust as possible. These changes ensure that the policy remains legally compliant.

5.6 **Equalities and Diversity**

5.6.1 The Equality Act 2010 outlines the provisions of the Public Sector Equality Duty which requires Public Bodies **to have due regard** to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010
- advance equality of opportunity between people who share a protected characteristic and those who do not share it; and
- foster good relations between people from who share a protected characteristic and people who do not share it.

5.6.2 The relevant protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation.

5.6.3 No update to the Equality Impact Assessment (EIA) was required because this did not represent a policy change. It represented a clarification of the existing scheme and a re-wording to ensure compliance with the new guidance.

5.7 **Corporate Parenting**

5.7.1 None.

5.8 **Consultation and Engagement**

5.8.1 The changes to Temporary Accommodation Placements Policy was brought about after legal consultation to better clarify and refine the policy to meet the statutory and regulatory changes to the suitability of temporary accommodation offers.

5.8 **Insight**

5.8.1 None.

6. BACKGROUND PAPERS

6.1 Relevant previous decisions are listed in the table below.

Item	Decision	Link
<p>Housing Committee 27.06.16 Item 9</p>	<p>RESOLVED that:</p> <p>(a) the introduction of the temporary accommodation placements policy as set out in Appendix 1 of this report be approved;</p> <p>(b) the introduction of the temporary accommodation procurement policy as set out in Appendix 2 of this report be approved;</p> <p>(c) the temporary accommodation placements policy should be published as a separate document from the Council's Housing Allocations Scheme;</p> <p>(d) the temporary accommodation procurement policy policies should be published as a separate document from the Council's Housing Allocations Scheme;</p> <p>(e) approval for any future minor amendments to these policies is delegated to the Commissioning Director for</p>	<p>https://barnet.moderngov.co.uk/ie/ListDocuments.aspx?CId=699&MIId=8628&Ver=4</p>

	Growth and Development and in consultation with the Chairman of the Housing Committee and Lead Opposition Spokesman for Housing.	
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7. DECISION TAKER'S STATEMENT

7.1 *I have the required powers to make the decision documented in this report. I am responsible for the report's content and am satisfied that all relevant advice has been sought in the preparation of this report and that it is compliant with the decision making framework of the organisation which includes Constitution, Scheme of Delegation, Budget and Policy Framework and Legal issues including Equalities obligations.*

Chairman: Cllr Rozenberg
Has been consulted

Signed:

Cath Shaw

Date: 13th June 2019

Chief Officer: Cath Shaw
Decision maker having taken into account the views of the Chairman



Signed:

Date: 13th June 2019
