

# Crawley Borough Council

## Report to Cabinet 25 September 2019

### Temporary Accommodation Placement Policy

Report of the Head of Strategic Housing – SHAP/79

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#### 1. Purpose

- 1.1 To request approval for the adoption of the proposed Temporary Accommodation Placement Policy.

#### 2. Recommendations

- 2.1 To the Cabinet

The Cabinet is recommended to:

- a) Approve the Temporary Accommodation Placement Policy (Appendix A) for adoption and subsequent publication.
- b) Delegate authority to the Head of Strategic Housing, in consultation with the Cabinet Member for Housing, to review and make minor amendments to the Temporary Accommodation Placement Policy as further changes to legislation and statutory guidance are introduced. (*Generic Delegation 7 will be used to enact this recommendation*).

#### 3. Reasons for the Recommendations

- 3.1 To fulfil the Council's legal duty to publish a policy regarding the allocation of temporary accommodation.

#### 4. Background

- 4.1 Chapter 17 Suitability of Accommodation paragraph 17.49 of version 0.5 of the 'Homelessness Code of Guidance' (published by the Ministry for Housing, Communities and Local Government (MHCLG) on 12<sup>th</sup> April 2019) states:

*"Where it is not reasonably practicable to secure accommodation within district and an authority has secured accommodation outside their district, the housing authority is required to take into account the distance of that accommodation from the district of the authority. Where accommodation which is otherwise suitable and affordable is available nearer to the authority's district than the accommodation which it has secured, the accommodation which it has secured is not likely to be suitable unless the applicant has specified a preference, or the accommodation has been offered in accordance with a published policy which provides for fair and reasonable allocation of accommodation that is or may become available to applicants."*

- 4.2 Prior to version 0.5 of the Code of Guidance (published on 12<sup>th</sup> April 2019), local authorities were only *advised* to have a policy in place regarding the placement of households into temporary accommodation. Version 0.5 of the guidance states that out of borough placements are not likely to be suitable unless the applicant has specified a preference or the placement was made in accordance with a published policy.

## **5. Description of Issue to be resolved**

- 5.1 The Council currently does not have a policy regarding the placement of households into temporary accommodation.
- 5.2 The draft Temporary Accommodation Placement Policy, if adopted, will apply to all wards and all service users in Crawley.
- 5.3 The Allocations Policy will be amended to incorporate out of borough placements where necessary and appropriate.

## **6. Information & Analysis Supporting Recommendation**

- 6.1 In practice the placement of households outside of the borough is very low (on average one per month over the last year), and is mostly to access supported temporary accommodation in Mid-Sussex, or it not being advisable to place the household within the Borough for reasons of the applicants safety.

## **7. Implications**

- 7.1 Staffing – There are no direct staffing implications associated with implementing the Temporary Accommodation Placement Policy.
- 7.2 Financial – There are no direct financial implications associated with implementing the Temporary Accommodation Placement Policy.
- 7.3 Legal - Adoption of the Temporary Accommodation Placement Policy fulfils the Council’s duty to have such a policy in place.
- 7.4 The Homelessness Code of Guidance for Local Authorities issued by the Ministry for Housing, Communities and Local Government (MHCLG) provides statutory guidance on how to interpret and apply Homelessness legislation and contains details of good practice that local authorities should adopt. Whilst it is not legally binding Local authorities are required to have regard to it. Failure to have regard to the current Code can be used as a basis for a judicial review challenge.
- 7.5 Part VII of the Housing Act 1996 (“the Act”) imposes duties on the Council as a local housing authority to secure suitable temporary accommodation for the homeless while investigations are made into their entitlements and, subsequently if certain conditions are met.
- 7.6 The Homelessness (Suitability of Accommodation) (England) Order 2012 (“the 2012 Order”) and the accompanying Supplementary Guidance issued by the Secretary of State, confirms that the location of the accommodation – including, *“where the accommodation is out of the borough, its distance from the borough - is relevant to suitability of the accommodation secured”*. The 2012 Order also identifies a series of other matters related to location to which the authority must have regard in considering suitability of accommodation.
- 7.7 By s208 of the Act the Council must, so far as practicable, secure temporary accommodation within its district.
- 7.8 The Supreme Court decision in the case of Nzolameso v Westminster City Council (“Nzolameso”) reiterates the need for local authorities to have proper regard to its statutory duties under ss206 and 208 of the Act. It emphasises that where “in-borough” accommodation cannot be secured, a local housing authority must secure accommodation as close to the borough as reasonably practicable (which may include considerations of cost to the authority), and be prepared to explain in any

individual case why the specific accommodation that was offered was considered suitable having regard to the statutory duties

- 7.9 Equalities - In formulating the Temporary Accommodation Placement Policy the Council has had regard to its public sector equality duty under the Equality Act 2010, which requires it to have due regard to:
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - advance equality of opportunity between people who share a “protected characteristic” and people who do not;
  - foster good relations between people who share a relevant “protected characteristic” and people who do not.
- 7.10 The “protected characteristics” are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex (formerly gender) and sexual orientation.
- 7.11 An Equalities Impact Assessment (EIA) has therefore been completed for the Temporary Accommodation Placements Policy and is attached as Appendix B to this report. Cabinet is asked to pay specific regard to its public sector equality duty (including the EIA) in considering whether or not to approve the Policy. The assessment does not identify any action that needs to be taken as a result of introducing this Policy.

## **8. Background Papers**

[Homelessness Code of Guidance](#)

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