

## **Kirklees Council Housing Solutions Service Temporary Accommodation Placement Policy 2024**

### **1. Summary**

- 1.1 This document sets out Kirklees Council's policy for how homeless households will be prioritised for temporary accommodation, both inside and outside of the district once a determination has been made that the applicant is eligible. The policy covers both interim placements made under Section 188 of the Housing Act 1996 (HA96), while enquiries are made into a customer's homeless application and longer-term temporary accommodation placements for customers owed the main housing duty under Section 193 of the HA96.
- 1.2 The purpose of this policy is to ensure that the Council prioritises customers who have the greatest need to be in or close to a particular location or need to move away from a particular location for safety reasons. Consideration will be given to the size and composition of the household and the type of temporary accommodation available at the time.

### **2. Introduction**

- 2.1 Local authorities have a statutory duty to provide temporary accommodation in their own area "so far as is reasonably practicable". Statutory guidance requires local authorities "where possible" to try and secure accommodation as close as possible to where an applicant was previously living (HA96, Part vii, Section 208(1)), although local authorities are not constrained by the preference of the applicant. The average length of time a household spends in all forms of temporary accommodation can be up to 24 months, dependant on the household circumstances. Households may need to consider making alternative arrangements for education or employment during their stay in temporary accommodation before a longer-term solution can be provided.
- 2.2 The Council acknowledges that with a growth in homeless applications and acceptances, there are pressures on providing sufficient suitable accommodation in the district to households owed a statutory duty. The Council currently may use the following types of temporary accommodation:
- Managed accommodation – self-contained within our own stock
  - Nightly paid accommodation, Bed and breakfast hotels, both inside and outside of the district
  - Self-contained and shared (HMO) accommodation in partnership with private suppliers – either nightly paid or privately leased properties
  - Commissioned and non-commissioned supported housing managed by third party providers.

### **3. Legal Framework**

- 3.1 This policy has been developed in accordance with the relevant sections of the following legal and statutory guidance material:
- S188 Housing Act 1996 - [Housing Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/52/section/188)

- S193 Housing Act 1996 - [Housing Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/193)
- S208 Housing Act 1996 - [Housing Act 1996 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1996/208)
- Homeless (Suitability of Accommodation) Order 2012 - [The Homelessness \(Suitability of Accommodation\) \(England\) Order 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2012/1000)
- Localism Act 2011 - [Localism Act 2011 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2011/22)
- S11 Children Act 2004 - [Children Act 2004 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2004/31)
- Equality Act 2010 - [Equality Act 2010 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2010/15)
- Homelessness Code of Guidance for Local Authorities (Department for Communities and Local Government, 2018) - [Homelessness code of guidance for local authorities - Guidance - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities)
- Associated Case Law

3.2 Supplementary guidance to the homelessness changes in the Localism Act 2011 and the Homeless (Suitability of Accommodation) Order 2012 states the following:

*“Where it is not possible to secure accommodation within the district, and an authority has secured accommodation outside their district, the authority is required to take account of 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 unlikely to be suitable unless the authority has a justifiable reason or the applicant has expressed a preference.”*

3.3 **Nzolameso v Westminster City Council [2015]**– the Supreme Court Judgement included a set of requirements that local authorities need to consider when allocating temporary accommodation to homeless households. These include:

- A requirement that local authorities need to explain their decisions as to the location of the properties offered.
- Each local authority should have, and keep up to date, a policy for allocating temporary accommodation to homeless households.
- The policy should reflect the authority’s statutory obligations under both the Housing Act 1996 and the Children’s Act 2004.
- Where there is an anticipated shortfall of accommodation in the District, the policy should explain the factors to be taken into account when making decisions on where a household is placed.

3.4 **Birmingham City Council v Ali, Moran v Manchester City Council [2009]**, the court observed that ‘what is regarded as suitable for discharging the interim duty may be rather different from what is regarded as suitable for discharging the more open-ended duty in section 193(2).’ This confirms the Code of Guidance’s approach that, accommodation that would not be suitable in the long term may be suitable in the short term.

3.5 In exercising these functions, the Authority will have due regard to S149 Equality Act 2010 to:

- eliminate any form of unlawful discrimination.
- advance equality of opportunity for people with protected characteristics.

- adopt good relations between people with protected characteristics and those who do not.

#### 4. Key Principles

- 4.1 The Council will wherever possible offer temporary accommodation within the Kirklees district. However, this is likely to depend on availability of accommodation in Kirklees.
- 4.2 There are occasions when demand for temporary accommodation exceeds the number of available commissioned units, or there are other constraints in finding suitable commissioned accommodation. In these circumstances, if there is a duty to accommodate a household, the Council will as a last resort place a household in bed and breakfast/hotel/guesthouse accommodation until more suitable temporary accommodation becomes available.
- 4.3 Any accommodation provided to 16/17-year-old must be suitable. The Secretary of State considers that bed and breakfast is never suitable under any circumstances for this category of applicants.
- 4.4 The Council will take account of all relevant need factors when assessing the suitability of location for temporary accommodation. These factors are listed in Section 5 below.
- 4.5 When assessing the suitability of location for temporary accommodation, the Council will take account of need but will not always be able to accommodate the applicant's preference.
- 4.6 If it is not possible to provide temporary accommodation within the District, the Council will offer accommodation in another district, considering the distance of that accommodation from the Kirklees District.
- If this should prove necessary, the Council will endeavour to provide accommodation with good transport links.
- 4.7 Households who are accommodated under the Council's interim duty pursuant to Section 188 HA96 may initially be placed in emergency accommodation, including bed and breakfast and short-term shared or self-contained accommodation, while enquiries are carried out. This accommodation may be outside of the district. If the Council decides it has a duty to house a customer, the Council will move them to longer-term self-contained accommodation as soon as suitable accommodation becomes available.
- 4.8 Households placed into temporary accommodation will be responsible for paying the relevant costs associated with the accommodation they have been provided. This may include, rent, service charges, utility costs, council tax liability. If households require assistance to pay the rent costs, they are responsible for making a housing benefit claim if they are eligible. In cases where they do not qualify or the benefit does not meet the full cost, the household will be responsible for covering the costs.

- 4.9 Where the Council decides that households housed under Section 188 HA96 are not owed the main housing duty, they will be required to leave the accommodation. The household will be given reasonable notice dependant on the household's individual circumstances.
- 4.10 Households will be given one offer of interim or longer-term temporary accommodation, and they will be asked to accept it straight away. Households may also be expected to move from one temporary accommodation to another at short notice. There is no obligation on the Council to allow households to view the accommodation prior to accepting an offer. The individual circumstances of a household will be considered when making an offer of temporary accommodation.
- 4.11 If a household rejects an offer, they will be asked to provide their reasons for refusal. This applies to households to whom the Council has an interim duty to accommodate under Section 188 HA96 and those to whom the Council has accepted the main housing duty under Section 193 HA96. The Council will consider the reasons given and undertake further enquiries as necessary. If the Council accepts the reasons for refusal and agrees the offer is unsuitable, the offer will be withdrawn and a further offer will be made.
- 4.12 Where a household refuses suitable interim (Section 188 HA96) accommodation, which may include out of district placements and the reasons for refusal are not appropriate, no further accommodation will be offered. This would result in the Council's interim duty being discharged and the household will be required to make their own arrangements. There is no right of review against the suitability of accommodation offered to households under Section 188 HA96 (interim duty) although they can apply for judicial review through the courts. Households to whom the Council has accepted the main housing duty under Section 193 HA96, (S193 duty) have a right to request a review of the suitability of accommodation, pursuant to Section 202 HA96.
- 4.13 If a household is entitled to and exercises their right to a review of the Council's offer of temporary accommodation but did not move into the accommodation, they will only be accommodated during the review period in exceptional circumstances. This is a discretionary decision. Each case will be considered on an individual basis; considering the overall merits of the review request, any new information or evidence that may alter the original decision, the personal circumstances of the household and the potential impact of the loss of accommodation.

Should the outcome of the review determine that the original offer was suitable, and the household did not move into the accommodation offered, the S193 duty will be discharged. If the household moved into the accommodation and requested a review but the outcome determined that the original offer was suitable, the S193 duty will remain. If discretion was granted and the household is accommodated in other accommodation or they are already in longer-term temporary accommodation, they will be required to vacate the property. This will be within 28 days of receiving the review decision letter and advised that no further assistance will be provided.

Should the outcome determine that the original offer was unsuitable, then

alternative temporary accommodation will be offered and the S193 duty will remain. This process is summarised in the diagram at [Appendix A](#).

- 4.14 In circumstances when the customer has no right to a review, the interim duty will be discharged. If the customer is already resident in temporary accommodation, they will be required to vacate the property. Interim accommodation is usually provided under licences excluded from the Protection from Eviction Act 1977. Therefore, the Council will provide reasonable notice to the customer and do not need to apply for a possession order from the court. The customer will still be entitled to receive a decision on their homeless application and so the temporary accommodation duty could be reactivated if the main housing duty is later owed.
- 4.15 In accordance with the Homelessness Code of Guidance, customers in temporary accommodation under the interim duty (S188) are subject to the relief duty (Section 189B); this means that the Council should help customers to secure accommodation for themselves. In the event that the relief duty is ended following a customer refusing a final accommodation or Part 6 offer, and the customer requests a review as to the suitability of the accommodation offered, the section 188(1) duty will continue until a decision on the review has been notified to the customer.

## **5. Factors to be considered when making placements**

- 5.1 *Children's education*  
Whilst the Council will have due regard to where children are attending school, attendance at local schools may not be considered a reason to refuse accommodation, although some priority may be given to special educational needs for in-district placements. Households have the option to contact the local education authority to discuss whether they are entitled to any assistance with transport costs.
- 5.2 *Children's needs*  
In accordance with Section 11 of the Children Act 2004, we will consider the needs of all children in the household and any arrangements for safeguarding those needs. The key areas that will be considered are risks to health, safety, to enjoyment and achievement and economic wellbeing. Households with children at risk, on the Child Protection Register or significantly disadvantaged, will be prioritised for an offer of temporary accommodation within Kirklees district. In such cases Children's Services will be consulted about making a temporary accommodation placement outside of the Kirklees district.
- 5.3 *Health and support needs*  
Households which contain person(s) suffering from a terminal illness or having a severe disability and receiving regular treatment under the care of a Kirklees hospital will be prioritised for an offer of temporary accommodation within the Kirklees district. Any other specialist medical or support needs can be considered, including any existing health or support services provided. The Council can also consider whether moving the client's healthcare or support services would have a detrimental effect. Any need for accessible accommodation will be addressed.
- 5.4 *Risk*

Where a household is perceived to be at risk from others, or where there is a history of risk to others, the extent, nature, likelihood and gravity of the risk will be assessed and taken into consideration. Consideration will always be given if a customer needs to be moved to a particular location or cannot remain in a particular location because of a risk to safety.

5.5 *Transport links*

Where accommodation is sourced outside of the Kirklees district for temporary accommodation placements, the distance of the property from Kirklees together with services, amenities and transport links in the new area may be taken into account. The potential impact of the location on family members will be considered.

5.6 *The temporary accommodation available in the district*

Temporary accommodation will be offered in the district if suitable accommodation is available. This will allow a customer to maintain any established links with services or social/support networks. However, there may be circumstances when there is a lack of suitable temporary accommodation or there are higher priority customers awaiting accommodation in the district and out of district temporary accommodation will be used to meet the Council's duty.

5.7 *Size and condition of the property*

Temporary accommodation should provide adequate space and room standards for the customer and be fit to occupy. If self-contained accommodation is provided customers will typically be expected to use a living room as a bedroom. If there are any concerns raised regarding the condition of the temporary accommodation these will be raised with the accommodation provider to investigate and resolve. The quality of the decoration/furniture, the layout/type of accommodation, provision of parking and access to a garden are not ordinarily acceptable reasons for refusal. However, personal circumstances of the household can be considered.

5.8 *Equality Act 2010*

The Council will take into consideration the requirements of the Equality Act and associated legislation including the Public Sector Equality Duty when exercising its obligations.

5.9 *Any special circumstance*

The Council can consider any other circumstances described by the customer when making an offer of suitable temporary accommodation.

## **6. Monitoring and review**

6.1 The Council will keep records of what vacancies, or units are available and assess the best use of vacancies or units based on the needs of all households requiring accommodation.

6.2 A light-touch desktop review of this policy will be undertaken annually, considering patterns of demand for temporary accommodation and the availability of both commissioned and non-commissioned sources of temporary accommodation

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**Appendix A - Process for Suitable Accommodation Offer made under S193 HA96 (see para 4.13)**

