

Agenda Item 8

Executive Member	Councillor Vivienne Michael
Strategic Management Team Lead Officer	Rachel O'Reilly
Author	Alison Wilks
Telephone	01306 870645
Email	Alison.wilks@molevalley.gov.uk
Date	19 January 2016

Ward (s) affected	All	Key Decision	Yes
--------------------------	-----	---------------------	-----

Subject	Suitability of Emergency Accommodation for Homeless Applicants
----------------	---

RECOMMENDATIONS

The Executive is asked to approve the policy on the Suitability of Emergency Accommodation for Homeless Applicants attached at Appendix 1.

CORPORATE PRIORITY OUTCOMES

COMMUNITY WELLBEING - Active communities and support for those who need it

- Support individuals and families who find themselves unintentionally homeless so that education and employment are not put at risk.

The policy on the Suitability of Emergency Accommodation for Homeless Applicants attached at Appendix 1 specifically supports the above priority. It seeks to ensure that those households that apply to the Council under the homelessness legislation are provided with emergency accommodation that is suitable, affordable and well located to prevent hardship where possible. Importantly the policy reflects the legal background, including that bed and breakfast accommodation with shared facilities is not regarded as suitable accommodation and where no other accommodation is available families with children should not exceed a stay in this type of accommodation for more than six weeks.

The numbers of households with and without children living in bed and breakfast and the number of families who may exceed a stay of more than six weeks are monitored weekly and reported corporately monthly.

The Executive has the authority to determine the recommendations as set out in the Part 3 of the Council's Constitution.

1.0 Policy on the Suitability of Emergency Accommodation for Homeless Applicants

1.1 The Supreme Court Judgement *Nzolameso v City of Westminster* April 2015, on the suitability and location of emergency accommodation for homeless applicants recommended that each local authority should have an up to date publically available policy on emergency accommodation to meet anticipated demand and reflect its obligations under the Housing Act 1996 and the Children Act 2004. 'It should also have a policy for the allocation of those units to individual homeless households, to which reference would be made in explaining any decisions to accommodate a household out of the area. This way decisions will be properly evidenced and explained, and can be challenged if required.'

1.2 In response to the Supreme Court judgement the policy attached at Appendix 1 has been developed on emergency accommodation and reflects the requirements of the judgement. The policy covers:

- the legislative background
- the supply of all forms of emergency accommodation
- affordability
- property standards
- location of emergency accommodation
- written advice to applicants
- allocation of the Council's emergency accommodation
- details on the Council's stock of emergency accommodation

1.3 The policy brings together procedural best practice already implemented and the opportunity to provide a comprehensive policy on standards and health and safety issues for emergency accommodation. Paragraphs 4.10 to 4.13 on bed and breakfast accommodation have been implemented.

1.4 The allocation of the Council's emergency accommodation is also explained and is based on the assessment of each homeless household's individual circumstances.

1.5 The policy will be reviewed annually and updated as appropriate. This will include updates required by legislative change.

2.0 Financial Implications

2.1 There are no financial implications to this report.

3.0 Legal Implications

- 3.1 The Supreme Court decision in *Nzolameso v City of Westminster* (April 2015) does not wholly prevent Mole Valley District Council (MVDC) from housing individuals outside its district, however a decision to do so, which is subsequently challenged, may be subject to severe scrutiny by the courts unless MVDC is able to clearly demonstrate why it is doing so and the basis for its decision. Having a policy which is publicly available sets out the factors that are likely to be relevant to any decision which is made by MVDC in discharging its obligations under the Housing Act 1996 and has discharged its obligations under section 11 of the Children Act 2004 (the need to safeguard and promote the welfare of children).
- 3.2 The policy has regard to the relevant legislation, codes of guidance and case law. Publication of the policy and adherence to it through monitoring will ensure that the Council is compliant. As well as updating the policy, correspondence with applicants must demonstrate how the policy has been applied in their case, particularly where notifying applicants that the Council considers that its Housing Act 1996 duties have come to an end.

4.0 OPTIONS

- 4.1 There are two options the Executive are asked to consider.

Option 1

Approve the policy on the Suitability of Emergency Accommodation for Homeless Applicants attached at Appendix 1.

Option 2

Do not approve the policy on the Suitability of Emergency Accommodation for Homeless Applicants attached at Appendix 1 and request further work to be undertaken.

5.0 CORPORATE IMPLICATIONS

5.1 Monitoring Officer Commentary

The Monitoring Officer is satisfied that all relevant legal implications have been taken into account in the report and the accompanying policy.

5.2 S151 Officer Commentary

The s151 Officer confirms that all relevant financial issues and risks have been taken into account.

5.3 Risk Implications

The risks are that the Council does not comply with the policy and could be legally challenged and that all forms of emergency accommodation used by the Council are not maintained to an adequate standard putting the residents at risk.

The risk on compliance is mitigated by ensuring that the Housing Options Officers are aware of the policy, have received training and have the appropriate procedures and documentation to follow and use. The Housing Options Manager is responsible for their supervision. The use of bed and breakfast accommodation is regularly monitored as mentioned in this report and in the policy and from time to time this may necessitate the need for the Council to review the amount of emergency accommodation it provides.

The risks relating to the maintenance of emergency accommodation are mitigated by the Council's maintenance and regular inspections of its own accommodation in accordance with corporate property procedures and by collecting risk assessment information from other providers and undertaking spot checks of the accommodation.

5.4 Equalities Implications

The Equalities Impact Assessment is attached at Appendix 2.

5.5 Employment Issues

There are no employment implications to this report.

5.6 Sustainability Issues

There are no sustainability implications to this report.

5.7 Consultation

The Scrutiny Committee has been consulted on this report and their comments will be reported to the Executive.

5.8 Communications

The approved policy will be placed on the Council's website. Information on this policy has been incorporated into the press release on the report also on this agenda on the acquisition of additional emergency accommodation.

6.0 BACKGROUND PAPERS

- Housing Act 1985
- Housing Act 1996
- Homelessness (Suitability of Accommodation) (England) Order 2003

- Housing Act 2004
- Homelessness Code of Guidance for Local Authorities 2006
- Article 2 Homelessness (Suitability of Accommodation) (England) Order 2012 (2012 Order)
- Child Support Act 1991
- Children Act 2004
- Localism Act 2011
- Care Act 2014
- Mole Valley District Council Safeguarding Children Policy 2014
- Supreme Court Judgement in *Nzolameso v City of Westminster* (April 2015)

Appendix 1

Policy on the Suitability of Emergency Accommodation for Homeless Applicants

S188 and S193 (2) of the Housing Act 1996

January 2016

1.0 Introduction

- 1.1 The policy has been developed in the light of the good practice stated in the Supreme Court Judgement in *Nzolameso v City of Westminster*, April 2015. It explains the Council's responsibilities on providing suitable emergency accommodation and its policy on location.

2.0 Legal Background

- 2.1 Where the Council in its capacity as the local housing authority is satisfied that an applicant is owed the full housing duty (also known as the 'main homelessness duty') under section 193(2) of the Housing Act 1996, then unless the Council can refer the applicant to another local authority under the local connection provisions of section 198 Housing Act 1996, the Council has a statutory duty to secure that accommodation is available for that person and that accommodation must be suitable for the applicant and for the applicant's household (section 206 Housing Act 1996). The Council has a statutory duty to provide accommodation in its own area 'so far as reasonably practicable' (section 208 (1) Housing Act 1996).
- 2.2 Determining suitability will involve the consideration of a number of statutory and non-statutory factors including:

Affordability Homelessness (Suitability of Accommodation) (England) Order 2003

- a. the financial resources available to the applicant
- b. the costs of the accommodation
- c. maintenance payments to a spouse/former spouse under a court order and child support payments under a court order or under the Child Support Act 1991

- d. the applicant's other reasonable living expenses

The standard of the accommodation Housing Act 1985 Parts 9 and 10 (slum clearance and overcrowding) and Parts 1 to 4 of the Housing Act 2004 (fitness for habitation and licencing of Houses in Multiple Occupation (HMOs))

Location Article 2 Homelessness (Suitability of Accommodation) (England) Order 2012 (2012 Order)

- a. distance from the Council's district, where the accommodation is situated outside the Council's district
- b. the level of disruption likely to be caused by the location of the accommodation to the employment, caring responsibilities, or education of the applicant or members of the applicant's household
- c. proximity and accessibility of the accommodation to medical facilities and other support currently used by or provided to the applicant or members of the applicant's household which are essential to their wellbeing
- d. proximity and accessibility to the accommodation to local services, amenities and transport

Bed and breakfast accommodation with shared facilities (shared WC, bathroom and kitchen) Homelessness (Suitability of Accommodation) (England) Order 2003. Bed and breakfast accommodation is not regarded as suitable for any household with children under 18 or expecting a child and where there is no other accommodation available the household should not stay for a period, or total of periods, which exceed 6 weeks. The Secretary of State for the DCLG announced in 2010, that 16 and 17 year olds should only be accommodated in bed and breakfast in cases of emergency. Through joint working and an agreed protocol with Surrey County Council, 16 and 17 year olds are not placed in bed and breakfast accommodation in Mole Valley.

- 2.3 The Council must also have regard to the Homelessness Code of Guidance for Local Authorities (2006), issued by Department of Communities and Local Government (DCLG) under section 182 of the Housing Act 1996, when discharging its statutory duties as a local housing authority. Whilst the 2003 Order does not prevent or prohibit out of district placements where they are unavoidable nor where they are the choice of the applicant, the DCLG has issued Supplementary Guidance (November 2012) (paras 47- 58) following changes in the Localism Act 2011.
- 2.4 In addition, when exercising its local housing authority functions, the Council must make arrangements to ensure that it has regard to the need to

safeguard and promote the welfare of children (section 11(2) Children Act 2004). Whilst welfare is not defined, the welfare of a child has been given a broad meaning under family law proceedings, and section 10 of the Children Act 2004, provides a statutory framework for co-operation between the Council and relevant agencies with a view to improving the 'well-being' of children in the area which is also very broadly defined. Where there are safeguarding issues the procedures detailed in Council's Safeguarding Children Policy 2014 will be followed.

- 2.5 Under the Care Act 2014, the Council has a responsibility to safeguard vulnerable adults and to work with relevant agencies in this regard. The Council will develop an Adult Safeguarding Policy during 2016. In the meantime any adult safeguarding concerns must be reported to the Council's designated safeguarding lead and to Surrey County Council's Adult Social Care Team following their referral procedures.

3.0 Mole Valley District Council Corporate Priority 2015 to 2018

- 3.1 This policy supports the Council's corporate Community Wellbeing priority to support individuals and families who find themselves unintentionally homeless so that education and employment are not put at risk.

4.0 The Policy

Supply of Emergency Accommodation

- 4.1 The Council has a stock of 29 units of emergency accommodation within Mole Valley District. This comprises of 19 units which are owned by the Council and the balance being either on long leases or owned by housing associations or charities. The use of the stock is monitored on an on-going basis and where opportunities arise to procure additional units of accommodation through short term lets from housing associations (i.e. on short life properties) these are considered subject to the current service demand.
- 4.2 Where long term trends indicate the need to increase or decrease the Council's stock of emergency accommodation the Council will carry out a review and take appropriate action to either increase or decrease the supply.
- 4.3 When the Council's emergency accommodation within the district is fully occupied, it will be the priority of the Council to procure nightly stay self contained emergency accommodation as close to its district as possible and until such time self-contained emergency accommodation is available within the district. Such procurement will be booked on a day-to-day basis rather than in advance to ensure value for money. The Council intends in

2016 to develop a four year framework of approved accommodation suppliers.

- 4.4 It may sometimes occur that self contained emergency accommodation is located further afield and emergency accommodation with shared facilities (typically known as bed and breakfast accommodation) may be closer to the district. This accommodation will also come under the Council's intended four year framework of approved accommodation suppliers.

Affordability of Emergency Accommodation

- 4.5 When allocating emergency accommodation the weekly household income of homeless applicants, including their welfare benefits, will be assessed against their weekly expenditure taking into account travel to work and school costs and other essential household expenditure. Where appropriate advice will be given to help households maximise their weekly income and will include advice on claiming welfare benefits and accessing work.
- 4.6 Where the only emergency accommodation available is allocated to a homeless household who may suffer financial hardship because of the cost, despite advice given to maximise their income, they will be moved to an affordable alternative, subject to the availability of appropriate emergency accommodation.

Standards of Emergency Accommodation

- 4.7 The standard of the self contained emergency accommodation located in the district and either owned or on long leases and managed by the Council will be monitored weekly by the Temporary Accommodation Officer and repairs, including health and safety issues, will be ordered in accordance with the Council's corporate procedures for property maintenance. Planned maintenance will be agreed by the Housing Team and Property Team subject to the Council's budget planning process. All the units with gas boilers are on the Council's corporate register for annual gas safety inspections. Only two buildings in the Council's ownership have communal hallways, which is Poplar Road, Leatherhead. Each block has two storeys and four flats and the fire risk assessments are undertaken once every five years and updated annually.
- 4.8 Gas safety certificates will be requested annually for self contained units where the Council makes direct referrals to self contained accommodation, that it does not manage or own it. Risk and fire risk assessments will be requested annually for self contained accommodation located within blocks of flats from the owners of property either on long leases Council or where direct referrals to the accommodation are made.

- 4.8 The Council's Environmental Health Team will inspect emergency accommodation located in the district that is self contained or with shared facilities let on a nightly basis (typically bed and breakfast) annually and owners will be required to provide their risk and fire risk assessments. The Housing Team will also make spot checks throughout the year. Where there are gas boilers in the self contained units gas safety certificates will be requested annually.
- 4.9 Where the accommodation is located outside the district the Housing Team will make spot checks throughout the year. The Environmental Health Team and Building Control Team of the relevant local authority will be contacted annually for confirmation that owners of the accommodation are compliant with health and safety regulations. The owners will be asked to provide their risk and fire risk assessments. Where there are gas boilers in the self contained units gas safety certificates will be requested annually.

Location of Emergency Accommodation

- 4.10 When assessing the suitability of the location of emergency accommodation either within or outside the district, the Council will investigate and assess the impact on the applicant. Investigations will include discussions with the applicant about: their access to employment; schooling; childcare arrangements or vulnerable adult care arrangements (including caring responsibilities for adult relatives); formal and informal support networks; and whether the applicant has its own transport or will be reliant on public transport. Primary consideration will be given to safeguard and promote the welfare of any children and vulnerable adults in the applicant's household.
- 4.11 Where there is no available accommodation within the district and the applicant must be accommodated outside the district the Council will ensure that all relevant statutory parties are informed and these include but are not limited to: Children Services, South East Surrey Family Support Programme, Health Visitor service, schools and nurseries, Adult Social Care and mental health services as applicable. The location of the accommodation will be given so that these agencies can continue their service to the applicant or arrange for a level of continuity or replacement services and support networks until the applicant is relocated in the district.
- 4.12 It will be explained to applicants why there is no accommodation available for them within the district at the time they need it. They will be asked for their preference of accommodation options available outside of the district at that time. Applicants will be clearly advised that their stay in accommodation with shared facilities (bed and breakfast) should be for no more than six

weeks and the Council reserves the right to move the applicant to nightly stay self contained accommodation outside of the district. The Council's explanation will be confirmed in writing and applicants will be asked to sign a disclaimer to confirm their out of district preferences and understanding of the Council's policy.

- 4.13 The numbers of households with and without children living in bed and breakfast and the number of families who may exceed a stay of more than six weeks are monitored weekly and reported corporately monthly.

Allocation of the Council's Emergency Accommodation

- 4.14 Where units of accommodation become available within the district the Council's Housing Options Officers will consider the individual circumstances of each homeless household and will allocate the units based upon the size of the units and the size of the applicant's household, who are currently living in emergency accommodation both inside and outside the district, regardless of whether the households' current accommodation is self contained or shared. Priority will then be given to the households of the correct size who are owed a full housing duty (under S193 Housing Act 1996) or are accommodated on an interim duty (under S188 Housing Act 1996). The factors which will be taken into account when deciding which household will be allocated the property will include the following, although this list is not exhaustive:

- the length of time that has lapsed since they submitted a homelessness application;
- where there is a two bedroom property or larger, consideration will be given as to whether there are any larger households who may need to be given preference for the property even where there are other households who have submitted applications with an earlier date;
- educational needs of those in the household aged under 18;
- support network requirements;
- medical and welfare needs;
- where a household requires a specific type of accommodation (i.e. a household who need ground floor accommodation, or have a specific health need and/or disability, which would prioritise them for a move within the area above a household who has waited longer);

- 4.15 Where there are no households who qualify for the accommodation size which is available, a smaller household will be considered for the property

and the rent level reduced to prevent financial hardship on the family that may be caused by the higher rent for a larger property.

5.0 Review of the Policy

The policy will be reviewed annually and updated as appropriate. This will include updates required by legislative change.

Details on the Council's Stock of Emergency Accommodation

6.0 The Council's self contained emergency accommodation, which is within the district provided for full and interim housing duties under s188 and s193 of the Housing Act 1996 is listed below. It shows the size of the accommodation and the make up of households that will be considered for these units.

Property type and size	Number	Location	Household size considered
Studio flats	8	Leatherhead	<ul style="list-style-type: none"> • Single person • Couple • Single person or couple and pregnant (with more than six weeks before the expected delivery date) • Single person or couple with one child • Single person with two children • Two adults not in a relationship
1 bedroom flats	8	Dorking	<ul style="list-style-type: none"> • Single person or couple and pregnant (with more than six weeks before the expected delivery date) • Single person or couple

			<p>with one to four children</p> <ul style="list-style-type: none"> • Two adults not in a relationship
2 bedroom flats	6	<p>2 x Dorking</p> <p>2 x Leatherhead</p> <p>2 x Bookham</p>	<ul style="list-style-type: none"> • Single person or couple and pregnant (with more than six weeks before the expected delivery date) • Single person or couple with one to five children • Two adults not in a relationship
2 bedroom houses	2	2 x Dorking	<ul style="list-style-type: none"> • Single person or couple and pregnant (with more than six weeks before the expected delivery date) • Single person or couple with one to five children • Two adults not in a relationship
3 bedroom houses	3	<p>1 x Leatherhead</p> <p>2 x Dorking</p>	<ul style="list-style-type: none"> • Single person or couple with two to eight children
3 bedroom bungalows	2	1 x Leatherhead;	<ul style="list-style-type: none"> • Single person or couple with two to eight children. These units are suitable for wheelchair users

		1 x Ashtead	subject to an assessment of their needs
--	--	-------------	---

DRAFT

Equality Impact Assessment

**Policy on the Suitability of Emergency Accommodation for Homeless
Applicants January 2016**

Appendix 2

leValley

What is being assessed?	Policy on the Suitability of Emergency Accommodation for Homeless Applicants
Department	Housing
Name of assessor	Alison Wilks
Strategic Management Lead	Rachel O'Reilly
Date of assessment	1 December 2016
Is this a new or existing function or policy?	New

Please note that guidance (revised in March 2014) for completing this template is available on the intranet. This template was also revised in March 2014.

Section 1: Introduction and background (see p.10 of the guidance)

Please describe your service or function. This should include:

- The aims and scope
- The main beneficiaries or users
- The main equality, accessibility, social exclusion issues and barriers, and the 'protected characteristics'¹ they relate to (not all assessments will encounter issues relating to every protected characteristic)

If this EIA is part of a project it is important to focus on the service or policy the project aims to review or improve.

The Supreme Court Judgement in *Nzolameso v City of Westminster* (April 2015), on the suitability and location of emergency accommodation for homeless applicants recommended that each local authority should have an up to date publically available policy on emergency accommodation to meet anticipated demand and reflect its obligations under the Housing Act 1996 and the Children Act 2004. 'It should also have a policy for the allocation of those units to individual homeless households, to which reference would be made in explaining any decisions to accommodate a household out of the area. This way decisions will be properly evidenced and explained, and can be challenged if required.'

The policy has been developed in the light of the good practice stated in the Supreme Court Judgement in *Nzolameso v City of Westminster* (April 2015). It explains the Council's responsibilities on providing suitable emergency accommodation and its policy on location and applies to all applicants that apply to the Council as homeless.

¹ More information and definition of protected characteristics can be found [here](#)

Now describe how this fits into the Council’s Corporate Priorities, Sustainable Community Strategy or other local, regional or national plans and priorities.

Mole Valley District Council Corporate Priority

COMMUNITY WELLBEING - Active communities and support for those who need it

- ✓ Support individuals and families who find themselves unintentionally homeless so that education and employment are not put at risk.

The policy on the Suitability of Emergency Accommodation for Homeless Applicants attached at Appendix 1 specifically supports the above priority. It seeks to ensure that those households that apply to the Council under the homelessness legislation are provided with emergency accommodation that is suitable, affordable and well located to prevent hardship where possible. Importantly the policy reflects the legal background, including that bed and breakfast accommodation with shared facilities is not regarded as suitable accommodation and where no other accommodation is available families with children should not exceed a stay in this type of accommodation for more than six weeks.

The numbers of households with and without children living in bed and breakfast and the number of families who may exceed a stay of more than six weeks are monitored weekly and reported corporately monthly.

If you are not carrying out an equality impact assessment, briefly summarise reasons why you have reached this conclusion, the evidence for this and the nature of any stakeholder verification of your conclusion.

N/a

Section 2: Analysis and assessment (see pp. 10-13 of the guidance)

Given available information, what is the actual or likely impact on minority, disadvantaged, vulnerable and socially excluded groups?

Indicate for each ‘protected characteristics’ whether there may be a positive impact, negative impact , a mixture of both or no impact.

Protected characteristics	Positive	Negative	No impact	Reason
Age	✓			The policy states, in keeping with government regulations, that bed and breakfast accommodation is not regarded as suitable

				accommodation for families with children and those expecting a child. If this is the only available accommodation stays should not exceed more than six weeks. Use of this type of accommodation is monitored weekly and monthly.
Disability	✓			Households with disabilities will be assessed and appropriate emergency accommodation will be allocated. This may include occupying a property that is larger than they need. The Council's emergency accommodation stock includes two bungalows that can be used by wheelchair users subject to an assessment of their needs.
Gender reassignment			✓	
Marriage and civil partnership			✓	
Pregnancy and maternity	✓			The policy states, in keeping with government regulations, that bed and breakfast accommodation is not regarded as suitable accommodation for families with children and those expecting a child. If this is the only available accommodation stays should not exceed more than six weeks. Use of this type of accommodation is monitored weekly and monthly.
Race			✓	
Religion or belief			✓	
Sex			✓	
Sexual orientation			✓	
Other aspects to consider	Positive	Negative	No impact	Reason
Rural/urban issues			✓	
HR issues (how will staff with protected characteristics be affected?)			✓	

Carers	✓			The policy states that any decision will take into account the caring responsibilities of an applicant for adult relatives as well as for those with children or vulnerable adults
--------	---	--	--	--

What can be done to reduce the effects of any negative impacts? Where negative impact cannot be completely diminished, can this be justified, and is it lawful?

There are no negative impacts of the policy

Where there are positive impacts, what changes have been or will be made? Who are the beneficiaries? How have they benefited?

The Council will do its best to ensure that households that apply as homeless and are expecting a child are either not accommodated in bed and breakfast accommodation or if there is no alternative that they do not remain in bed and breakfast for more than six weeks.

Section 3: Evidence gathering and fact-finding (see p.14 of the guidance)

What evidence is available to support your views above? Please include:

- A summary of the available evidence
- Identification of where there are gaps in the evidence (this may identify a need for more evidence in the action plan)
- What information is currently captured with respect to usage and take up of services.
- What the current situation is in relation to equality and diversity monitoring (where relevant)

The corporate monthly monitoring shows that occasionally there may be one household with children or expecting a child who have remained for more than six months.

How have stakeholders been involved in this assessment? Who are they, and what is their view?

Stakeholders have not been involved in this assessment.

Recommendations

Please summarise the main recommendations arising from the assessment. NB If it is impossible to diminish negative impacts to an acceptable or even lawful level the recommendation should be that the proposal or the relevant part of it should not proceed.

There are no recommendations.

Section 4: Action Plan (see pp.15-16 of the guidance)

Actions needed to implement the EIA recommendations

Issue	Action	Expected outcome	Who	Deadline for action

Sign off

Who will be responsible for reviewing this EIA?	Alison Wilks
Review date(s) i.e. when will this EIA be reviewed – see p.9 of guidance	January 2017
Strategic Management Lead signed off	Rachel O'Reilly

- Signed off electronic version to be kept in your team for review
- Electronic copy to be forwarded to the Policy and Performance Team for publishing