

## **Policy on the Suitability of Emergency Accommodation for Homeless Applicants**

**S188 and S193 (2) of the Housing Act 1996**

**January 2016 Updated December 2018**

### **1.0 Introduction**

- 1.1 The policy has been developed in the light of the good practice stated in the Supreme Court Judgement *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.

- 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 33 units of emergency accommodation within Mole Valley District. This comprises of 22 units which are owned by the Council and the balance being either leased from 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 owned, leased 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. Only two buildings in the Council's ownership have communal hallways, which is Poplar Road, Leatherhead. Each block has two storeys and four flats with the fire risk assessments undertaken once every five years and updated annually.
- 4.8 Risk and fire risk assessments will be requested annually for self contained accommodation located within blocks of flats from the owners of property either leased by the 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.
- 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.

## **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; formal and informal support networks; and whether the applicant has their 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 and is not an exhaustive list: 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 allocate these 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. The 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, 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.

## **Details on the Council's Stock of Emergency Accommodation**

4.16 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"> <li>• Single person</li> <li>• Couple</li> <li>• Single person or couple and pregnant (with more than six weeks before the expected delivery date)</li> <li>• Single person or couple with one child</li> <li>• Single person with two children</li> <li>• Two adults not in a relationship</li> </ul>
1 bedroom flats	7	Dorking	<ul style="list-style-type: none"> <li>• Single person or couple and pregnant (with more than six weeks before the expected delivery date)</li> <li>• Single person or couple with one to four children</li> <li>• Two adults not in a relationship</li> </ul>

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