

Statutory Deputy City Mayor & Lead Member for Housing Briefing

Dear Member,

You are invited to attend the meeting of the Statutory Deputy City Mayor & Lead Member for Housing Briefing to be held as follows for the transaction of the business indicated.

Tom Stannard
Chief Executive

An audio broadcast of this meeting will be live-streamed.

Should you wish to raise a question or comment on any of the items listed, which will be presented at the meeting on your behalf, you can do so in writing, by sending an email to the address at the bottom of this agenda. Please do this by 4.30pm on the day before the meeting is due to take place.

DATE: Thursday, 15 September 2022

TIME: 9.00 am

VENUE: Microsoft Teams Meeting – the live audio broadcast of the meeting can be accessed via the link below.

AGENDA

THE LIVE AUDIO BROADCAST CAN BE ACCESSED VIA THE LINK BELOW:

This link will work if you are using a Microsoft device. If you are using an Apple or android based device, you will need to download the Microsoft Teams app in order to view the meeting via this link.

[Lead Member Briefing for Housing - 15 September 2022](#)

- 1 **Apologies for absence.**
- 2 **Declarations of interest.**
- 3 **Item for Decision (Part 1 - Open to the Public):**
- 3a Salford's Temporary Accommodation Allocations and Commissioning Policy. (Pages 1 - 22)
- 4 **Exclusion of the Public.**
- 5 **Items for Decision (Part 2 - Closed to the Public):**

No items.

Contact Officer: Claire Edwards
Tel No: 0161 793 2602
E-Mail: decisionmakingandscrutiny@salford.gov.uk

Part 1: Open to the Public

REPORT OF THE STRATEGIC DIRECTORS OF PEOPLE AND PLACE

TO LEAD MEMBER BRIEFING FOR HOUSING

ON 15th September 2022

TITLE: Salford's temporary accommodation allocations and commissioning policy

RECOMMENDATIONS:

1. That the Statutory Deputy City Mayor/Lead Member Housing, Property and Regeneration approves the temporary accommodation allocations and commissioning policy
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EXECUTIVE SUMMARY:

A temporary accommodation allocations and commissioning policy is not a legal requirement, but during a supreme court case local authorities were told that they should have policies for procuring and allocating temporary accommodation.

The production of the policy has been informed by key legislation and guidance – which can be found in appendix 1 of the policy.

The policy sets out how decisions around allocations will be made and how cases will be prioritised for these.

In addition, key considerations when commissioning temporary accommodation are described.

BACKGROUND DOCUMENTS: N/A

KEY DECISION: NO

DETAILS:

1.1 Policy aims and objectives

- 1.1.1 There is no legal requirement for a temporary accommodation allocation and procurement policy. However, in April 2015 the Supreme Court in the case of *Nzolameso and Westminster Council* [2015] UKSC 22 said that local authorities should have policies for procuring and allocating Temporary Accommodation.
- 1.1.2 This is good practice, and the approach will enable homeless people, and the local agencies which advise them, to understand what to expect and what factors will be relevant to the decision.
- 1.1.3 The production of the policy has taken into consideration the requirements and guidance found within:
- Part VII, Housing Act 1996
 - The Homelessness code of guidance for local authorities
 - The Homelessness (Suitability of Accommodation)(England) Order 2012
 - Section 11, Children Act 2004.
 - The Equality Act 2010
 - Public Sector Equality Duty (pursuant to section 149 Equality Act 2010)
 - Disability Discrimination Act 2005.

1.2 Interim and temporary accommodation allocations

- 1.2.1 Decisions about who should be provided with interim¹ or temporary² accommodation are made by:
- The Housing Options Service, who are responsible for ensuring that applicants meet relevant legislative requirements to qualify, or
 - S.202 reviewing officers, who are responsible for ensuring that the necessary tests have been applied to each case in order to ensure decisions about temporary accommodation pending review are consistent and in line with relevant case law.
- 1.2.2 On-the-day, emergency allocations are made into accommodation that is available on the day, while safeguarding applicants by first considering any areas they may be at risk in or any physical disability needs (such as ground floor accommodation). The temporary accommodation team will, where

¹ Accommodation provided to those where there is reason to believe an applicant may be homeless, eligible for assistance and have a priority need, is known as interim accommodation.

² When an applicant is found to be eligible for assistance, homeless, in priority need and not intentionally homeless, this tends to be known as temporary accommodation.

possible, consider vicinity to schools and work locations. However, due to the current housing crisis allocation close to these may not be possible, at this point.

- 1.2.3 Following this, the temporary accommodation team will then seek to move people on from that initial placement to more suitable interim/temporary accommodation, whenever possible. Further consideration will be given to applicants' individual needs including areas of risk, physical and mental health, access to education and work, medical and support appointments and support needs.
- 1.2.4 For all applicants, support needs, risk and physical disability needs are considered against what vacancies are due to become available, with no placements of those fleeing domestic abuse into mixed sex supported provision.
- 1.2.5 High rents in high support needs schemes can be a barrier to single applicants who are working. However, these are independently run schemes and the rents are often established to ensure viability of the scheme. More-over, those who are working are unlikely to require this level of support anyway.
- 1.2.6 Those with a history of perpetrating various offences i.e., sex offences, arson, some violent offences, may also be unsuitable for some mixed / high support needs schemes.
- 1.2.7 In addition, previously failed placements may indicate that some options aren't suitable or available for individuals.
- 1.2.8 Similarly, pets may also mean that some options aren't suitable. Attempts will always be made to accommodate households with established pets, and this can influence which placements are made. When it is not possible to accommodate established pets, we will assist the applicant to find/secure alternative accommodation for the pet(s). However, the authority will not necessarily pay for boarding, and it may be necessary for the applicant to pay a reasonable charge based on an affordability assessment.
- 1.2.9 We will accommodate applicants within Salford so far as this is reasonably practicable. When prioritising applicants for in area placements: work, education and support needs take priority.
- 1.2.10 Needs around distance from school for family with secondary school aged children who can potentially travel on buses alone may not be the same as that of younger children where the parent has to accompany them on their journey to school.
- 1.2.11 There will be instances where it is not suitable to place someone within the borough and where there are clear benefits to placing the household outside

of the district i.e., in some cases of domestic abuse or exploitation, for example.

1.2.12 We reserve the right to move clients to different placements, in order to make best use of the limited temporary accommodation available to us and to facilitate individuals' needs where possible. However, we will aim to try to avoid unnecessary moves whenever feasible.

1.3 Procuring temporary accommodation

1.3.1 Salford will ensure that there is sufficient interim/temporary accommodation available to allow us to fulfil our duties under Part VII, Housing Act 1996.

1.3.2 Under section 208(1) Housing Act 1996, local authorities have a statutory duty to provide accommodation in their own area "so far as reasonably practicable", and Salford will endeavour to procure sufficient accommodation within the borough.

1.3.3 Within the district we have access to a range of accommodation, including supported accommodation for single adults with high support needs, houses of multiple occupation, with shared living facilities and private bedrooms, and self-contained dispersed accommodation. In addition, the city is home to an independently run domestic abuse refuge.

1.3.4 We will only place families with children in shared emergency bed and breakfast accommodation for a maximum of six weeks, when there is no other accommodation available, and we will work to secure more suitable accommodation for families as soon as possible.

1.3.5 We will make every effort to engage with providers of interim/temporary accommodation who are either able to secure exempt status under housing benefit rules, or who are able to provide rents within the amounts that housing benefit would not lose subsidy, to minimise housing benefit subsidy loss to the authority.

1.3.6 We will work to provide a range of accommodation across the City ensuring the minimisation of large clusters of temporary accommodation in order to support sustainable communities.

1.3.7 When commissioning temporary accommodation, we will be mindful of, and seek to mitigate, the impact of temporary accommodation procurement on the local housing market, so that we do not contribute further to the severe housing crisis experienced within the city. We will work to secure additional government funding whenever possible to promote the development of new schemes.

1.5 Recommendations

- 1.5.1 That Deputy City Mayor/Lead Member Housing, Property and Regeneration approves the temporary accommodation allocations and commissioning policy
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KEY COUNCIL POLICIES: NA

EQUALITY IMPACT ASSESSMENT AND IMPLICATIONS: EIA completed.

Consideration was given to each of the protected characteristics and how they could be impacted on by the policy.

Firstly, it should be noted that out of borough placements are not a consequence of this policy but due to a limited financial envelope and as a result of the national housing crisis.

- Access to children's existing education is taken into consideration, as far as this is possible, given the severe housing crisis nationally and limited funding available, when assessing households for TA.
- Some households who have or are going through gender reassignment may require a short period in emergency accommodation with shared facilities. However, move-on to self-contained accommodation (when this is available) can be considered for those who require it.
- We will accommodate applicants within Salford so far as this is reasonably practicable. When prioritising applicants for in area placements: work, education and support needs take priority
- Out of borough placements may impact on those from low socio-economic backgrounds due to additional travel costs. In cases of hardship, cases can be referred to Salford Assist. Each case is also considered on a case-by-case basis, considering requests for short to medium term assistance with transport for scenarios where not doing so, would as a reasonable consequence, likely lead to reduced attendance at school, increased costs to hospital, to provide care or difficulties accessing employment and/or training
- The temporary accommodation team will seek to move people on from that initial placement to more suitable interim/temporary accommodation, whenever possible. Further consideration will be given to applicants' individual needs including areas of risk, physical and mental health, accessing education and work, accessing medical and support appointments and support needs.

For all applicants, support needs, risk and physical disability needs are considered against what vacancies are due to become available, with no placements of those fleeing domestic abuse into mixed sex supported provision.

The team aims to secure a range of TA to meet diverse needs, wherever possible.

ASSESSMENT OF RISK: Medium- this policy is not a legal requirement but has been informed by supreme case law.

LEGAL IMPLICATIONS Supplied by: Frances McBride, Shared Legal Service

Whilst a policy in relation to the procurement of temporary accommodation is not a legal requirement, the proposed policy reflects the authority's statutory obligations, statutory guidance, current case law and good housing management practice.

FINANCIAL IMPLICATIONS Supplied by: N/A

There are no direct implications resulting from the Policy. Commissioning of TA will either be within existing financial constraints or proposed additional spend will be assessed and reported on an individual basis as and when items from the action plan are planned/implemented.

PROCUREMENT IMPLICATIONS Supplied by: N/A

There are no direct implications resulting from the Policy. Commissioning of TA will be reported on an individual basis as and when appropriate through the procurement board,

HR IMPLICATIONS Supplied by: N/A

CLIMATE CHANGE IMPLICATIONS Supplied by: N/A

OTHER DIRECTORATES CONSULTED: People

CONTACT OFFICER: Julie Craik TEL NO: 0161 793 2143

WARDS TO WHICH REPORT RELATES: All

Appendix A:

Salford City Council

Temporary Accommodation Allocations and
Commissioning Policy

Version Number 1 – August 2022

Office responsible: Julie Craik Housing Strategy Service

Authorisation by: Lead Member Housing/Deputy City Mayor

Authorisation date:

History of policy changes;

Date	Page	Change	Origin of change i.e. change in legislation

1.1. POLICY AIMS AND OBJECTIVES

1.1.4 There is no legal requirement for a temporary accommodation allocation and procurement policy. However, in April 2015 the Supreme Court in the case of *Nzolameso and Westminster Council* [2015] UKSC 22 said that local authorities should have policies for procuring and allocating Temporary Accommodation.

1.1.5 This is good practice, and the approach will enable homeless people, and the local agencies which advise them, to understand what to expect and what factors will be relevant to the decision.

1.1.6 Policy is informed by and aligns with the requirements of:

- Part VII, Housing Act 1996
- The Homelessness code of guidance for local authorities
- The Homelessness (Suitability of Accommodation) (England) Order 2012
- Section 11, Children Act 2004.
- The Equality Act 2010 and the Public Sector Equality Duty (pursuant to section 149 Equality Act 2010)

- Disability Discrimination Act 2005.

More information can be found about these requirements in Appendix 1.

1.4 Interim and temporary accommodation allocations

- 1.4.1 Decisions about who should be provided with interim³ or temporary⁴ accommodation are made by:
- The Housing Options Service, who are responsible for ensuring that applicants meet relevant legislative requirements to qualify, or
 - S.202 reviewing officers, who are responsible for ensuring that the necessary tests have been applied to each case in order to ensure decisions about temporary accommodation pending review are consistent and in line with relevant case law.
- 1.4.2 On-the-day, emergency allocations are made into accommodation that is available on the day, while safeguarding applicants by first considering any areas they may be at risk in or any physical disability needs (such as ground floor accommodation). The temporary accommodation team will, where possible, consider vicinity to schools and work locations. However, due to the current housing crisis allocation close to these may not be possible, at this point.
- 1.4.3 Following this, the temporary accommodation team will then seek to move people on from that initial placement to more suitable interim/temporary accommodation, whenever possible. Further consideration will be given to applicants' individual needs including areas of risk, physical and mental health, access to education and work, medical and support appointments and support needs.
- 1.4.4 For all applicants, support needs, risk and physical disability needs are considered against what vacancies are due to become available, with no placements of those fleeing domestic abuse into mixed sex supported provision.
- 1.4.5 High rents in high support needs schemes can be a barrier to single applicants who are working. However, these are independently run schemes and the rents are often established to ensure viability of the scheme. More-over, those who are working are unlikely to require this level of support anyway.
- 1.4.6 Those with a history of perpetrating various offences i.e., sex offences, arson, some violent offences, may also be unsuitable for some mixed / high support needs schemes.

³ Accommodation provided to those where there is reason to believe an applicant may be homeless, eligible for assistance and have a priority need, is known as interim accommodation.

⁴ When an applicant is found to be eligible for assistance, homeless, in priority need and not intentionally homeless, this tends to be known as temporary accommodation.

- 1.4.7 In addition, previously failed placements may indicate that some options aren't suitable or available for individuals.
- 1.4.8 Similarly, pets may also mean that some options aren't suitable. Attempts will always be made to accommodate households with established pets, and this can influence which placements are made. When it is not possible to accommodate established pets, we will assist the applicant to find/secure alternative accommodation for the pet(s). However, the authority will not necessarily pay for boarding, and it may be necessary for the applicant to pay a reasonable charge based on an affordability assessment.
- 1.4.9 We will accommodate applicants within Salford so far as this is reasonably practicable. When prioritising applicants for in area placements: work, education and support needs take priority.
- 1.4.10 Needs around distance from school for family with secondary school aged children who can potentially travel on buses alone may not be the same as that of younger children where the parent has to accompany them on their journey to school.
- 1.4.11 There will be instances where it is not suitable to place someone within the borough and where there are clear benefits to placing the household outside of the district i.e., in some cases of domestic abuse or exploitation, for example.
- 1.4.12 We reserve the right to move clients to different placements, in order to make best use of the limited temporary accommodation available to us and to facilitate individuals' needs where possible. However, we will aim to try to avoid unnecessary moves whenever feasible.

1.5 Procuring temporary accommodation

- 1.5.1 Salford will ensure that there is sufficient interim/temporary accommodation available to allow us to fulfil our duties under Part VII, Housing Act 1996.
- 1.5.2 Under section 208(1) Housing Act 1996, local authorities have a statutory duty to provide accommodation in their own area "so far as reasonably practicable", and Salford will endeavour to procure sufficient accommodation within the borough.
- 1.5.3 Within the district we have access to a range of accommodation, including supported accommodation for single adults with high support needs, houses of multiple occupation, with shared living facilities and private bedrooms, and self-contained dispersed accommodation. In addition, the city is home to an independently run domestic abuse refuge.

- 1.5.4 We will only place families with children in shared emergency bed and breakfast accommodation for a maximum of six weeks, when there is no other accommodation available, and we will work to secure more suitable accommodation for families as soon as possible.
- 1.5.5 We will make every effort to engage with providers of interim/temporary accommodation who are either able to secure exempt status under housing benefit rules, or who are able to provide rents within the amounts that housing benefit would not lose subsidy, to minimise housing benefit subsidy loss to the authority.
- 1.5.6 We will work to provide a range of accommodation across the City ensuring the minimisation of large clusters of temporary accommodation in order to support sustainable communities.
- 1.5.7 When commissioning temporary accommodation, we will be mindful of, and seek to mitigate, the impact of temporary accommodation procurement on the local housing market, so that we do not contribute further to the severe housing crisis experienced within the city. We will work to secure additional government funding whenever possible to promote the development of new schemes.

1.6 s.202 review

- 1.6.1 The applicant does not have the right to ask for a statutory review under section 202 of the housing authority's decision as to the suitability of interim accommodation (for those with a relief duty), but the decision could be subject to judicial review.
- 1.6.2 The applicant does have the right to ask for a statutory review under section 202 of the housing authority's decision as to the suitability of temporary accommodation (for those with a main statutory housing duty – S.193).
- 1.6.3 Requests for reviews can be submitted by a representative of the applicant on their behalf, with their authority.
- 1.6.4 The reviewing officer will be independent and senior to the officer who assessed the offered temporary accommodation as being suitable.
- 1.6.5 The applicant has 21 days, from the date of the offer of accommodation or from the date that a decision is made that the temporary accommodation is suitable, within which to request the review.

- 1.6.6 The reviewing officer has up to 56 days to complete their review, unless a mutually agreed extension is negotiated with the applicant, although this will always be completed as quickly as possible.
- 1.6.7 The applicant will be notified in advance of the decision that the reviewing officer is minded to decide, to enable them the opportunity to comment on that proposed decision and to challenge any of the facts and conclusions drawn on the case.
- 1.6.8 The applicant will be notified of the review decision in writing.

1.7 COMPLAINTS

- 1.7.1 If an applicant is not happy with the service (as opposed to the outcome of their placement) that they have received in relation to the allocation of temporary accommodation they should first complain to the temporary accommodation service tempacom@salford.gov.uk
- 1.7.2 If the applicant is not satisfied with the outcome of their complaint or with how their complaint has been handled then they can make a complaint to the Authority on the [Comments, compliments and complaints webpage](#), and an independent investigation into their complaint will be conducted.
- 1.7.3 If the applicant is not satisfied with the outcome of the complaint, then they can contact the Local Government Ombudsman:

By telephone: on 0300 061 0614 for help making a complaint
Text 'call back' to 0762 481 1595 - use a textphone via the Next Generation Text Service (formerly known as Text Relay and Typetalk)

Lines are open:

Monday 8.30am to 12 noon.

Tuesday to Friday: 8.30am to 5pm

Online: If you have a complaint, please use the [complaint form](#) supplied by the Local Government Ombudsman

Appendix – Legislative Context

1.8 Part VII, Housing Act 1996

- 1.8.1 The 1996 Housing Act provides 4 circumstances in which a housing authority must secure accommodation on an interim basis until a decision or other event occurs:
- 1.8.2 Section 188(1) (interim duty to accommodate): requires housing authorities to secure that accommodation is available for an applicant (and their household) if they have reason to believe that the applicant may be homeless, eligible for assistance and have a priority need.
- 1.8.3 The threshold for triggering the section 188(1) duty is low as the housing authority only has to have a reason to believe (rather than being satisfied) that the applicant may be homeless, eligible for assistance and have a priority need.
- 1.8.4 The section 188(1) interim accommodation duty applies even where the housing authority considers the applicant may not have a local connection with their district and may have one with the district of another housing authority giving rise to the possibility of referral (section 188(2)).
- 1.8.5 Ending the section 188 interim duty: A housing authority may bring the section 188(1) interim accommodation duty to an end within the 56-day period (the relief stage) by issuing a section 184 decision that the applicant does not have priority need; or by issuing a notification that the relief duty is not owed or has been brought to an end. If neither of these notifications is issued within the 56-day period, the section 188(1) interim accommodation duty will be brought to an end by notification of what further duties are owed, if any, under section 193 or section 190.
- 1.8.6 However, in the event that the relief duty is brought to an end following refusal of a final accommodation or Part 6 offer, and the applicant 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 applicant.
- 1.8.7 In circumstances where an applicant is found not to be eligible for assistance, the housing authority must provide, or secure the provision of, information and advice as set out in section 179. If (section 188) interim accommodation has been provided, notice periods should take account of the needs of the applicant and the time required for them to access assistance.
- 1.8.8 For households including children or particularly vulnerable adults who are owed duties under the Children Act 1989 or Care Act 2014, housing advisors within the Housing Options Service will put arrangements in place to manage

a transition in responsibilities, so that there is no break in the provision of accommodation for applicants who cease to be eligible for support under the 1996 Act.

1.8.9 Section 190(2) Duty to provide accommodation to applicants who are intentionally homeless: On reaching a decision that an applicant has priority need and is intentionally homeless, the housing authority must secure accommodation for a period of time that will provide a reasonable opportunity for them to find their own accommodation.

1.8.10 In determining the period of time for which accommodation will be secured under section 190(2) housing authorities must consider each case on its merits. A few weeks may provide the applicant with a reasonable opportunity to secure accommodation for themselves. However, some applicants might require longer and others, particularly where the housing authority provides pro-active and effective assistance, might require less time.

1.8.11 Housing authorities will need to take into account:

- the particular needs and circumstances of the applicant and the resources available to them to secure accommodation, including health or support needs that make it more difficult for the applicant to find and secure accommodation, as well as the support available from their family or social network.
- the housing circumstances in the local area, and the length of time it might reasonably take to secure accommodation. In assessing this the housing authority might reflect on the efforts previously made by both the housing authority and the applicant to relieve their homelessness, and why these had not proved successful.
- arrangements that have already been made by the applicant which are likely to be successful within a reasonable timescale. For example, if the applicant has secured accommodation that is not yet available to occupy or can demonstrate that accommodation will be so secured, the housing authority should consider providing section 190(2) accommodation until the applicant is able to take up the accommodation.

1.8.12 Section 199A(2) and section 200(1): duties to accommodate applicants with no local connection pending outcome of referral: If the housing authority has notified an applicant that it proposes to refer the case to another housing authority, the notifying authority has a duty under section 199A(2) (if referral is in the relief stage of an applicant who the authority has reason to believe may have a priority need) or section 200(1) (if referral is in the section 193 main housing duty stage of an applicant who has a priority need and is unintentionally homeless) to secure that accommodation is available for the applicant until they are notified of the decision whether the conditions for referral are met. At this point the duty under section 199A(2) or 200(1) will

come to an end and a duty under section 189B or section 193(2) will be owed by either the notified housing authority or the notifying housing authority.

- 1.8.13 Suitability of accommodation: Section 206(1) provides that all accommodation provided under Part 7 of the 1996 Act must be suitable for the applicant and their household, and the suitability requirements under section 210 apply. Housing authorities may take into account the interim nature of a placement when assessing whether or not it is suitable as accommodation may be suitable for a few days or weeks that would not be suitable for a longer-term placement.
- 1.8.14 The applicant does not have the right to ask for a statutory review under section 202 of the housing authority's decision as to the suitability of interim accommodation, but the decision could be subject to judicial review.
- 1.8.15 Ending interim accommodation arrangements: When a housing authority is satisfied that they are under no further duty to secure interim accommodation or where this duty has ended, the housing authority will need to terminate the applicant's right of occupation. In the first instance, a housing authority should look to the terms of the licence or tenancy under which interim accommodation has been provided to establish the length of the notice period required.
- 1.8.16 Interim accommodation is usually provided under licences excluded from the requirement to issue 4 weeks written notice provided by the Protection from Eviction Act 1977. The courts have applied this principle in cases where the accommodation provided was B&B accommodation in a hotel, and where it was a self-contained flat. Consequently, housing authorities are required only to provide an applicant with reasonable notice to vacate the accommodation, and do not need to apply for a possession order from the court. However, housing authorities are public bodies and so must act reasonably by giving the applicant at least some opportunity to find alternative accommodation before the interim accommodation is terminated. What is considered 'reasonable notice' would depend on the facts of the case, taking into account the circumstances of the applicant and allowing time for them to consider whether to request a review of the decision.
- 1.8.17 In cases involving applicants who have children under 18 where the housing authority have reason to believe that the applicant may be ineligible for assistance or may be homeless intentionally, the housing authority must, subject to the applicant's consent, alert the children's services authority to the case. A referral to the children's services authority may also be made without the applicant's consent where there are safeguarding concerns, in accordance with local procedures.
- 1.8.18 Refusal or loss of interim accommodation: Where an applicant rejects an offer of interim accommodation (or accepts and moves into the interim

accommodation and then later rejects it), this will bring the housing authority's interim accommodation duty to an end – unless it is reactivated by any change of circumstances. Note, however, that an applicant's rejection of interim accommodation does not end other duties that the housing authority may owe under Part 7.

1.8.19 Discretionary powers to secure accommodation: Housing authorities have powers to secure accommodation for certain applicants who request a review of certain decisions on their case, and to certain applicants requesting accommodation pending determination of a county court appeal.

1.8.20 The fact that a housing authority has decided that an applicant is not eligible for housing assistance under Part 7 does not preclude it from exercising its powers to secure accommodation pending a review or appeal. However, housing authorities should note that section 54 of, and schedule 3 to, the Nationality, Immigration and Asylum Act 2002 prevent them from exercising their powers to accommodate an applicant pending a review or appeal to the county court, where the applicant is a person who falls within one of a number of classes of person specified in schedule 3 unless there would otherwise be a breach of the person's rights under the European Court of Human Rights or rights under EU Treaties.

1.8.21 Powers to accommodate pending a review: Under section 202, applicants have the right to ask for a review of a housing authority's decision on a number of issues relating to their case, and may also request that accommodation is secured for them pending a decision on the review. Housing authorities have powers to accommodate applicants pending a decision on reviews under section 188(3), section 199A(6) and section 200(5) of the 1996 Act.

1.8.22 In considering whether to secure accommodation pending review housing authorities will need to balance the objective of maintaining fairness between homeless persons in circumstances where they have decided that no duty is owed to them, against proper consideration of the possibility that the applicant might be right. Housing authorities should consider the following, along with any other relevant factors:

- the merits of the applicant's case that the original decision was flawed and the extent to which it can properly be said that the decision was one which was either contrary to the apparent merits or was one which involved a very fine balance of judgment,
- whether any new material, information or argument has been put to them which could alter the original decision; and,
- the personal circumstances of the applicant and the consequences to them of a decision not to exercise the discretion to accommodate.

- 1.8.23 Where an applicant is refused accommodation pending a review, they may seek to challenge the decision through judicial review.
- 1.8.24 Power to accommodate pending an appeal to the county court: Where an applicant is dissatisfied with a housing authority's section 202 review decision or are not notified of the review decision within the proper time limits, an applicant has the right to appeal to the county court on a point of law arising from the review decision or original homelessness decision. Under section 204(4), housing authorities have the power to accommodate certain applicants:
- during the period for making an appeal against their decision; and,
 - if an appeal is brought, until it and any subsequent appeals are finally determined.
- 1.8.25 This power may be exercised where the housing authority was previously under a duty to secure accommodation for the applicant's occupation under section 188, section 190, section 199A or section 200; and may be exercised whether or not the housing authority has exercised its powers to accommodate the applicant pending review.
- 1.8.26 In deciding whether to exercise this power, housing authorities will need to adopt the same approach, and consider the same factors, as for a decision whether to exercise their power to accommodate pending a review.
- 1.8.27 Under section 204A, applicants have a right to appeal to the county court against decisions on the use of the section 204(4) power to accommodate. This enables an appeal against decisions not to secure accommodation for them pending their main appeal, or to stop securing accommodation, or to secure accommodation for only a limited period before final determination of the main appeal by the county court).
- 1.8.28 In deciding a section 204A appeal, if the court quashes the decision of the housing authority, it may order the authority to accommodate the applicant, but only where it is satisfied that failure to do so would substantially prejudice the applicant's ability to pursue the main appeal on the homelessness decision.
- 1.8.29 Powers to secure accommodation to prevent or relieve homelessness:
Housing authorities have duties to help prevent and relieve homelessness for eligible applicants who are threatened with becoming homeless within 56 days or are homeless. The section 195(2) prevention duty requires authorities to take reasonable steps to help the applicant to secure that accommodation does not cease to be available to them, and the relief duty requires housing authorities to take reasonable steps to help the applicant to secure that suitable accommodation becomes available to them for at least 6 months.

1.8.30 Section 205(3) of the 1996 Act enables housing authorities to discharge the section 189B(2) relief and/or section 195(2) prevention duties by securing accommodation for an applicant, where it decides to do so. The power to secure accommodation to applicants to prevent or relieve homelessness, regardless of priority need status, provides more flexibility to pursue appropriate housing options for applicants.

1.8.31 Housing authorities might use the section 205(3) power to deliver accommodation services for groups that are at higher risk of homelessness, for example young people with low incomes. The power might also be used to provide additional help to those least able to secure accommodation directly from a private landlord, such as people with an offending history or people with a mental health problem. Housing authorities will wish to consider local priorities, needs and resources when considering how the power might best be utilised in their district.

1.8.32 Section 193C(4): duty to accommodate applicants who have deliberately and unreasonably refused to co-operate pending final offer: Applicants who have priority need but are no longer owed a section 189B relief duty following service of a section 193B notice due to their deliberate and unreasonable refusal to co-operate will not be owed the section 193 main housing duty but

1.8.33 This section 193C(4) duty ends if the applicant accepts or refuses a final accommodation offer or a final Part 6 offer. A 'final accommodation offer' is an offer of an assured shorthold tenancy made by a private landlord with the approval of the housing authority, with a view to bringing the section 193C(4) duty to an end. The offer must be of a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988) of at least 6 months duration, and the accommodation must be suitable for the applicant. A 'final Part 6 offer' is a suitable housing allocation (under Part 6 of the 1996 Act) made in writing, and which states that it is a final offer for the purposes of this section. A housing authority must not approve a final accommodation offer or make a final Part 6 offer if the applicant has a contractual obligation in respect of their existing accommodation which they are unable to bring to an end before being required to take up the offer.

1.8.34 The section 193C(4) duty will also end if the applicant:

- ceases to be eligible for assistance,
- becomes homeless intentionally from the accommodation provided under section 193C(4),
- accepts an offer of an assured tenancy from a private landlord; or,
- voluntarily ceases to occupy as their only or principal home, the accommodation provided.

1.8.35 Duty to secure accommodation under the section 193(2) 'main housing duty'; Where an applicant is unintentionally homeless, eligible for assistance and has a priority need for accommodation, the housing authority has a duty under section 193(2) to secure that accommodation is available for their occupation (unless it refers the application to another housing authority under section 198). This is commonly known as 'the main housing duty'. However, the main housing duty will not be owed to an applicant who has turned down a suitable final accommodation offer or Part 6 offer made during the section 189B(2) relief stage, or has been given notice under section 193B(2) due to their deliberate and unreasonable refusal to co-operate.

1.8.36 The accommodation secured must be available for occupation by the applicant together with any other person who normally resides with them as a member of their family, or any other person who might reasonably be expected to reside with them. It must be suitable for their occupation.

1.8.37 The housing authority will cease to be subject to the duty under section 193(2) (the main housing duty) in the following circumstances:

- the applicant accepts a suitable offer of accommodation under Part 6 (an allocation of social housing) (section 193(6)(c)). This would include an offer of an assured tenancy of a private registered provider property via the housing authority's allocation scheme
- the applicant accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord (section 193(6)(cc)). This could include an offer of an assured tenancy made by a private registered provider
- the applicant accepts or refuses a private rented sector offer - an offer of an assured shorthold tenancy of at least 12 months made by a private landlord (section 193(7AA)). For this to be the case the applicant must have been informed in writing of the possible consequences of refusing or accepting the offer, their right to request a review of the suitability of the accommodation, and the duties that would be owed to them on re-application if they became unintentionally homeless from the accommodation within 2 years of accepting the offer
- the applicant refuses a final offer of accommodation under Part 6 (an allocation of social housing). The main housing duty does not end unless the applicant is informed of the possible consequences of refusal and of their right to ask for a review of the suitability of the accommodation (section 193(7)), the offer is made in writing and states that it is a final offer (section 193(7A)), and the housing authority is satisfied that the accommodation is suitable and that it would be reasonable for the applicant to accept it (section 193(7F));
- the applicant refuses an offer of temporary accommodation which the housing authority is satisfied is suitable for the applicant (section 193(5)). For this to be the case the applicant must have been informed of the possible consequences of refusal and of their right to ask for a review of

the suitability of the accommodation and have been notified by the housing authority that it regards itself as having discharged its duty.

1.8.38 The main housing duty will also end if the applicant:

- ceases to be eligible for assistance as defined in section 185 of the 1996 Act
- becomes homeless intentionally from accommodation made available to them under section 193. For further guidance on intentional homelessness see Chapter 9
- voluntarily ceases to occupy as their principal home the accommodation made available under section 193.

1.8.39 Making suitable offers: The Secretary of State recommends that applicants are given the chance to view accommodation that is offered on anything other than an interim basis, before being required to decide whether they accept or refuse an offer, and before being required to sign any written agreement relating to the accommodation (e.g., a tenancy agreement).

1.8.40 Where housing authorities are making offers of accommodation outside their district, they should take particular care to ensure that applicants have sufficient information about the location of the accommodation and the services that would be available to them there and that applicants are given a reasonable amount of time to consider the offer made before reaching a decision. Under section 202(1A), an applicant who is offered accommodation can request a review of its suitability whether or not they have accepted the offer.

1.8.41 Where an applicant has contractual or other obligations in respect of their existing accommodation (e.g. a tenancy agreement or lease), the housing authority can only reasonably expect an offer to be taken up if the applicant is able to bring those obligations to an end before being required to take up the offer (section 193(8)).

1.6.40 Out-of-area placements:

- Under section 208(1) Housing Act 1996, local authorities have a statutory duty to provide accommodation in their own area "so far as reasonably practicable.
- If they secure that accommodation is available for the occupation of the applicant outside their district, they shall give notice to the local housing authority in whose district the accommodation is situated.
- The notice shall state—
 - the name of the applicant,
 - the number and description of other persons who normally reside with him as a member of his family or might reasonably be expected to reside with him,
 - the address of the accommodation,
 - the date on which the accommodation was made available to him, and

- which function under this Part the authority was discharging in securing that the accommodation is available for his occupation.
- The notice must be in writing and must be given before the end of the period of 14 days beginning with the day on which the accommodation was made available to the applicant.

1.9 [Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#)

1.7.1 Similarly, the Homelessness (Suitability of Accommodation) (England) Order 2012 strengthens the obligation to secure accommodation as close as possible to where the household has previously been living.

1.10 [Section 11 Children’s Act 2004](#)

1.8.1 In allocating and commissioning temporary accommodation Salford will ensure that the housing functions are discharged having regards to the need to safeguard and promote the welfare of children as required under Section 11 Children Act 2004.

1.11 [Equality Act 2010 and Public Sector Equality Duty](#)

1.11.1 Salford City Council is committed to providing quality housing and services to our customers. The council recognises its statutory duties under the Equality Act 2010 to ensure that no person will receive less favourable treatment than others because of age, disability, race, religion or belief, sex, marriage or civil partnership, pregnancy or maternity, sexual orientation or gender reassignment.

1.11.2 When allocating and commissioning temporary accommodation due regard will be paid to the Public Sector Equality Duty (pursuant to section 149 Equality Act 2010), including due regard to the need to —

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it
- meet the needs of disabled persons that are different from the needs of persons who are not disabled, taking account of disabled persons disabilities
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

1.11.3 Salford City Council has also taken into consideration the provisions of the Disability Discrimination Act 2005. This policy seeks to ensure that all disabled people are allocated housing in a fair and equitable way.

1.11.4 It is the aim of Salford City Council to ensure that our services are fair and equitable for all our customers who may utilise them and we want our services to be accessible to everyone. The council will not tolerate any unfair or unlawful discrimination that provides a lower standard of service to any group or individual.

1.11.5 An Equality Impact Assessment has been completed to ensure that this policy: does not discriminate against any equality groups but does enhance equality of opportunity.

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