

## PART A

**Report to:** Cabinet  
**Date of meeting:** 7 March 2016  
**Report of:** Housing Project Manager  
**Title:** Temporary Accommodation Placement Policy

### 1.0 **SUMMARY**

- 1.1 Legislation and statutory guidance set out by the government requires that Councils should place homeless households in their own district wherever possible. The guidance states that the circumstances of the whole family must be considered, especially where a placement is made out-of-district. The Guidance also sets out the factors that Councils should take into account when considering out-of-district placements, such as: distance from employment, caring responsibilities; social care, welfare, and medical requirements
- 1.2 The Council's draft Temporary Accommodation Placement Policy attached at Appendix 1 sets out how the Council will assess, prioritise and manage the placement of eligible Watford homeless applicants into temporary accommodation.
- 1.3 The recent Supreme Court Judgment in the case of Westminster City Council vs Nzolameso has established a legal precedent which re-emphasises the importance of an appropriate policy.

### 2.0 **RECOMMENDATIONS**

- 2.1 That Cabinet approves the Temporary Accommodation Placement Policy set out in Appendix A
- 2.2 Cabinet delegates to the Head of Community and Customer Services in consultation with the Portfolio Holder for Housing authority for agreeing the detailed implementation plan and precise implementation date.
- 2.3 That Cabinet notes that minor changes to the Policy may be deemed necessary during implementation and that the Council's Constitution delegates authority for these to be made by the Head of Community and Customer Services in consultation with the Portfolio Holder for Housing

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**Report approved by:** Alan Gough  
Head of Community & Customer Services  
Watford Borough Council

### 3.0 DETAILED PROPOSAL

- 3.1 Clear legislative and statutory guidance has been set out by central government which requires that councils have in place a policy which sets out how they assess, manage and prioritise temporary accommodation placement for homeless applicants. The Temporary Accommodation Placement Policy attached at Appendix 1 represents Watford's proposed policy
- 3.2 The starting point for the Statutory Guidance and the legislation is that accommodation should be sought to accommodate homeless persons to whom a duty is owed to house temporarily within their own local authority area. It is however recognised that this is not always going to be possible, the Statutory guidance therefore sets out the factors and criteria that councils should take into account when considering out-of-district placements-

*Where it is not possible to secure accommodation within district and an authority has secured accommodation outside their district, the authority is required to take into account the distance of that accommodation from the district of the authority.  
Where accommodation which is otherwise suitable and affordable is available nearer to the authority's district than the accommodation which it has secured, the accommodation which it has secured is not likely to be suitable unless the authority has a justifiable reason or the applicant has specified a preference.*

*Generally, where possible, authorities should try to secure accommodation that is as close as possible to where an applicant was previously living. Securing accommodation for an applicant in a different location can cause difficulties for some applicants. Local authorities are required to take into account the significance of any disruption with specific regard to employment, caring responsibilities or education of the applicant or members of their household. Where possible the authority should seek to retain established links with schools, doctors, social workers and other key services and support. Authorities should also take into account the need to minimise disruption to the education of young people, particularly at critical points in time such as leading up to taking GCSE (or their equivalent) examinations. DCLG, 2012<sup>1</sup>*

- 3.3 The recent Supreme Court judgment on the case of *Nzolameso v City of Westminster*<sup>2</sup> has now established a legal precedent which requires that councils develop and maintain a policy for procuring sufficient units of temporary accommodation to meet

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<sup>1</sup>[https://www.Supplementary\\_Guidance\\_on\\_the\\_Homelessness\\_changes\\_in\\_the\\_Localism\\_Act\\_2011and\\_on\\_the\\_Homelessness\\_Order\\_2012](https://www.Supplementary_Guidance_on_the_Homelessness_changes_in_the_Localism_Act_2011and_on_the_Homelessness_Order_2012)

<sup>2</sup> <https://www.supremecourt.uk/cases/uksc-2014-0275.html>

the anticipated demand in the coming year and how applicants are prioritised for accommodation. This should reflect statutory responsibilities in terms of the Housing Act 1996 and the Children Act 2004 where applicable.

- 3.4 This implies that the Council is required to carry out searches over an increasing radius, or in terms of travel time, to source accommodation. The emphasis is securing accommodation that is suitable and affordable and affordability applies both to the homeless applicant and to the placing Council.
- 3.5 Local authorities are increasingly placing households out-of-district due to pressures of increasing homelessness and inadequate supply of suitable accommodation in the local area. This was highlighted in the Supreme Court judgment of *Nzolameso v City of Westminster*<sup>2</sup>. Westminster had offered temporary accommodation to Ms Nzolameso and her 4 children in Bletchley, near Milton Keynes. Ms Nzolameso refused the accommodation. Westminster's decision was upheld through a statutory review, at the County Court and the Court of Appeal. However it was overturned by the Supreme Court unanimously hence creating a legal precedent.
- 3.6 Some of the defects that the Supreme Court highlighted in Westminster's decision were:
- The decision letter failed to indicate that proper consideration had been given to finding accommodation locally or in neighbouring boroughs; instead it referenced the general shortage of accommodation;
  - Adequate consideration was not given to the welfare of the children; and
  - The decision letter did not evidence or explain in sufficient detail the reasons of the Council.
- 3.7 Councils seeking to place homeless applicants out of district will need to properly evidence their decision, taking account of the circumstances of the whole family. This requires gathering more detailed information on the whole family.
- 3.8 The Supreme Court acknowledged that there will almost always be children affected by decisions about where to accommodate households to which the main homelessness duty is owed, and individual choices between them must sometimes be made, this points towards the need to explain the choices made, preferably by reference to published policies.
- 3.9 There was guidance on how local authorities were to explain their decisions as to the location of properties offered. The common ground established is that councils are entitled to take account of the resources available to them, the difficulties of procuring sufficient units of temporary accommodation at affordable prices in their area, and the practicalities of procuring accommodation in nearby authorities.
- 3.10 The guidance in developing an approach to placing households as set out by the referenced judgment has been incorporated into this policy. These involve-
1. Developing and maintaining a policy for procuring sufficient units of temporary accommodation to meet the anticipated demand in the coming year and this should be approved by Cabinet.

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<sup>2</sup> <https://www.supremecourt.uk/cases/uksc-2014-0275.html>

2. Developing and maintaining a policy for determining priority for units in borough and near by, again, subject to approval by Cabinet. The recommended policy is attached at Appendix 1.

3.11 The judgment acknowledges there is an established principle that local authorities can take in to account their available resources when procuring temporary accommodation. In terms of developing a policy for procuring a supply of temporary accommodation it is reasonable to assume that this will determine the number of properties to be procured locally and the numbers to be procured in more affordable areas.

3.12 Officers continue to focus on methods for preventing homelessness and finding alternative accommodation for homeless households in the private sector. The table below shows the numbers of households housed in temporary accommodation at the end of the last three financial years. Numbers have been extrapolated to the next two years. Given national policy changes that have been announced it is expected numbers of applicants requiring temporary accommodation will increase. The table below sets out our estimate of in-borough provision, and an estimate of provision we will need to secure in other districts.

**Temporary Accommodation Placements for Watford**

<b>Year</b>	<b>2012/13</b>	<b>2013/14</b>	<b>2014/15</b>	<b>2015/16*</b>	<b>2016/17*</b>
<b>Out of Area</b>	3	2	58	75	97
<b>In Area</b>	95	107	148	152	152
<b>% Out of Area</b>	3%	2%	28%	32%	39%
<b>Total</b>	<b>98</b>	<b>109</b>	<b>206</b>	<b>227</b>	<b>249</b>
<b>* Projection</b>					

3.13 In keeping with legislation and guidance the table above does not show the minimum we estimate we will need to accommodate in the district. It is an estimate of the maximum numbers of temporary accommodation we expect to be able to procure based on recent experience of the market. It is an estimate and will be kept under review.

3.14 We are also progressing innovative approaches to increase the supply of affordable temporary accommodation within the Borough, additional affordable homes and move on accommodation. These are all key in tackling the challenge. The Housing Company being established will play a key role.

#### 4.0 **IMPLICATIONS**

##### 4.1 **Financial**

4.1.1 The Shared Director of Finance comments that there is a risk that some homeless households may remain in temporary accommodation for longer while alternative properties are sourced. This will imply that there may be an increase in operational costs.

## 4.2 **Legal Issues** (Monitoring Officer)

- 4.2.1 The Head of Democracy and Governance comments that, in the light of the Supreme Court decision the Council will face increased legal challenge unless it implements a policy as set out in appendix 1.  
Whilst legal challenge is still likely regardless of the policy in individual cases the council will have a more robust response with the policy in place.

## 4.3 **Equalities**

- 4.3.1 An equality impact assessment has been carried out during the development of the Policy. Assessment carried out during development of the Policy indicated that there were no significant adverse impacts on clients with a particular protected characteristic which could not be mitigated or justified

## 4.4 **Potential Risks**

<b>Potential Risk</b>	<b>Likelihood</b>	<b>Impact</b>	<b>Overall score</b>
Lack of private sector properties for homeless applicants in the borough, more time in temporary accommodation and more supply needed.	4	4	16
Legal challenges	3	2	6
Complaints	3	2	6
Increase in aggression towards staff	4	2	8
In order to mitigate these risks, the approach to securing private sector properties is being reviewed and will help address this.			

## **Appendices**

Appendix A

Temporary Accommodation Placement Policy- Draft

Appendix B

Equality Impact Assessment Report

## **Background Papers**

- The following background papers were used in the preparation of this report:

The Homelessness (Suitability of Accommodation) (England) Order 2012

Supplementary Guidance on the homelessness changes in the Localism Act 2011 and on the Homelessness (Suitability of Accommodation) (England) Order 2012

Nzolameso v City of Westminster, Supreme Court, 2 April 2015

- If you wish to inspect or take copies of the background papers, please contact the officer named on the front page of the report.

## **File Reference**

- *None*