

## Rother District Council

<b>Report to:</b>	Cabinet
<b>Date:</b>	31 October 2022
<b>Title:</b>	East Sussex Temporary Accommodation Policy
<b>Report of:</b>	Joe Powell – Head of Housing and Community
<b>Cabinet Member:</b>	Councillor Byrne
<b>Ward(s):</b>	All
<b>Purpose of Report:</b>	To consider the recommendation arising from the Overview and Scrutiny Committee meeting held on 17 October 2022, regarding the proposed East Sussex Temporary Accommodation Policy. The report and recommendations arising are reproduced below and the Minutes of that meeting (Appendix B) should be read in conjunction with this report.
<b>Decision Type:</b>	Non-Key
<b>Overview and Scrutiny Recommendation(s):</b>	<b>Recommendation to COUNCIL:</b> That the East Sussex Temporary Accommodation Policy be approved and adopted.

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### Introduction

1. All Councils in East Sussex aim to work with households to prevent homelessness occurring wherever possible; however, in some cases households will become homeless and require temporary accommodation (TA).
2. The East Sussex Temporary Accommodation Policy was written by the operational housing managers across all five districts and boroughs. The Policy outlines the standards applied to the size and location of TA as well as the processes and procedures we will follow. The Policy applies both within district or borough, and outside of the placement authority area. The Policy is appended at Appendix A.
3. The Policy covers both interim placements made under Section 188 Housing Act 1996 (as amended), during the relief duty and while homelessness enquiries are undertaken, and longer-term TA placements for households accepted as homeless under Section 193 of the Act.
4. The East Sussex Housing Officers Group (ESHOG) has identified that a more consistent approach to the placement of households in TA is needed across East Sussex. The new policy will lead to a more efficient process and procedure for making placements between local authorities and the various private providers of TA within East Sussex.

5. The Policy does not cover the standard of TA used, with these standards being dictated by the national Housing Health and Safety Rating System (HHSRS) overseen by the different local authority housing teams. In the Rother area, we conduct routine inspections against these standards as demanded by the Housing Services' risk assessments. The operational housing managers within East Sussex are working on aligning the application of the HHSRS standards across East Sussex presently.

## **The Policy**

6. The Policy is relatively limited in its scope, focussing on the suitability standards for the size and location of TA, as well as the processes and procedures local authorities will follow when placing households in TA. The main areas of the Policy are:
  - What local authorities agree constitutes suitable TA, in terms of its size and location, enabling us to better manage the expectations of the customer.
  - To provide a more consistent approach to the amount of money households that are working are expected to contribute, if they are not eligible for full housing benefit.
  - That the districts and boroughs do not accommodate pets in TA and how breaches of licence conditions will be addressed.

## **Conclusion**

7. There are many different private providers of TA that local authorities use and it is beneficial for the Council, accommodation providers and the customer to have a consistent approach to making placements across the East Sussex area.
8. It is recommended that the Council adopt the East Sussex Temporary Accommodation Policy. The proposed Policy will enable the Council to work in partnership with the other district and boroughs to ensure a consistent approach across East Sussex.

## **Financial Implications**

9. Historically, the Council would meet more of the cost of TA if a household is working. The Policy will lead to working households making more of a contribution towards the full cost of their placement.

## **Legal Implications**

10. While not a legislative requirement, a Temporary Accommodation Policy will support the Council and its statutory duty to provide interim, temporary, accommodation.

## **Equalities and Diversity**

11. An equalities impact assessment has been completed to accompany the Policy.

Other Implications	Applies?	Other Implications	Applies?
Human Rights	No	Equalities and Diversity	Yes
Crime and Disorder	No	External Consultation	No
Environmental	No	Access to Information	No
Risk Management	No	Exempt from publication	No

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Appendices:	Appendix A - East Sussex Temporary Accommodation Policy Appendix B – OSC Minute Extract – 17 October 2022
Relevant previous Minutes:	None
Background Papers:	None
Reference Documents:	None

## **East Sussex Temporary Accommodation Policy**

### **1. Introduction**

- 1.1 All Councils in East Sussex aim to work with households to prevent homelessness occurring wherever possible. However, in some instances this will not be possible and as a result some households will require temporary accommodation.
- 1.2 This policy sets out the five East Sussex councils' policy for the placement of homeless households in emergency and temporary accommodation, both within District or Borough, and outside of the placement authority area.
- 1.3 This Policy covers both interim placements made under Section 188 Housing Act 1996, during the relief duty and while homelessness enquires are undertaken, and longer-term temporary accommodation placements for households accepted as homeless under Section 193 of the Housing Act 1996. Within this document placements under both of these duties will be referred to as temporary accommodation placements.

### **2. Securing Temporary Accommodation resources available in East Sussex**

- 2.1 All Councils will, where possible, try to secure suitable emergency and temporary accommodation within their own District or Borough to allow a household to maintain their existing networks, such as employment, schooling, medical care and family and social support. However, due to the very limited supply of temporary accommodation, this may not always be possible.

### **3. Cost of Temporary Accommodation**

- 3.1 Households placed in temporary accommodation will usually have to make a financial contribution towards their housing costs. This contribution can include:
  - responsibility for utility bills and rent in self-contained temporary accommodation (the rental element may be covered by housing benefit if the client is eligible),
  - 'personal contribution' or 'service charge' recoverable by the Council which usually covers non-eligible accommodation charges and /or management costs.
- 3.2 In cases where a homeless household does not receive full housing benefit due to eligibility, income or savings, the applicant will be responsible for meeting the cost of the difference between their maximum housing benefit entitlement and what they received in housing benefit. For example, if the cost of placement is £350 per week and the maximum HB award £150 per week, the client is responsible for this element. The local authority will cover the difference of £200. If the client's HB award is then £100 per week, then they have to pay an additional £50 per week (to make their contribution up to the maximum HB award) as well as their personal contribution/service charge and / or utility bills.

#### **4. Making an accommodation placement**

- 4.1 Homeless households who are accommodated under an interim duty (s.188 Housing Act 1996) will normally be offered bed and breakfast or short term self-contained accommodation while the Council fulfils their relief duty and enquiries are carried out.
- 4.2 The Council will seek to avoid placing families with children, pregnant women into bed and breakfast accommodation with shared facilities. In the unusual event that such a placement cannot be avoided, the household will be moved to self-contained emergency accommodation as soon as possible and within six weeks of initial placement.
- 4.3 In the case of any 16-17 year-olds that are homeless and approach the Council, they will be referred to East Sussex County Council Children's Services so that appropriate accommodation and support can be provided as per their obligations under Section 17 of the Children Act 1989.
- 4.4 Homeless households placed in accommodation under an interim duty (s.188) are not protected under the Protection from Eviction Act 1977 and do not have security of tenure. Where the Council decides it does not owe the household a main housing duty, they will be notified and given a reasonable timescale to vacate, as detailed in their homelessness decision letter.
- 4.5 Homeless households who are placed in accommodation outside the placing authority's own area, the placing Council will notify the area in which placement is made under s.208 of the Housing Act 1996. In addition, in relevant cases, they will notify the Violent and Sex Offender Register (VISOR) or equivalent in order to ensure public protection obligations are fulfilled. Consent to disclose relevant risk information to emergency or temporary accommodation providers will be obtained from Police or Probation or other relevant agency prior to placement, as appropriate.
- 4.6 Where emergency accommodation within the placing District or Borough is available, the Council will prioritise cases in accordance with Section 7 of this policy for this accommodation.
- 4.7 Where accommodation is not available within the placing District or Borough's own area, the Council will look to neighbouring Council areas within East Sussex, and following this, into Kent or further afield.
- 4.8 As assessment of housing and support needs is carried out for all applicants which will identify any support needs and risks that the household presents with that may need to be taken into account in any temporary accommodation placement.
- 4.9 Households will be provided with information on how to access services and support in the area of placement.
- 4.10 Households assessed with known risks to themselves or others, such as history of offending, licence conditions, drug and alcohol use, mental or physical health may be placed outside of District or Borough due to the shortage of accommodation able to accommodate their needs.

## **5. Offers and refusals of accommodation**

- 5.1 Homeless households will be made one offer of suitable interim or longer term temporary accommodation and will be asked to accept it straight away. There is no opportunity for households to view the accommodation offered under s.188 or under the Council's discretionary powers, prior to acceptance.
- 5.2 In making any offer of temporary accommodation, the needs, requirements and circumstances of each homeless household member will be considered, taking into account the factors set out in section 6 of this policy. All offers of temporary accommodation have regard to the Public Sector Equality Duty.
- 5.3 Where a homeless applicant refuses an offer of suitable temporary accommodation, or fail to take up occupation of the property, they will be asked for their reasons for refusal or non-occupation. The Council will consider the reasons and undertake further enquiries if necessary.
- 5.4 If the Council accepts the reasons for refusal and agree the offer was unsuitable, a further offer will be made.
- 5.5 If the Council does not accept the reasons for refusal, no further offer of temporary accommodation will be made and the homeless household will need to make their own arrangements. There is no right of appeal against the suitability of offers made under s.188 Housing Act 1996 (although judicial review can be applied for). For homeless households where the Council has accepted a housing duty under s.193 they can exercise their right to review the suitability, under s.202 within 21 days of being notified that the offer is suitable; after that time the only remedy is judicial review.
- 5.6 Homeless households who question the suitability of the temporary accommodation are advised to accept the offer of accommodation and pursue a review of the suitability of the accommodation whilst in occupation.

## **6. Factors affecting suitability of accommodation**

- 6.1 The Council will take into account s.208 and s.210 of the Housing Act 1996, the Code of Guidance and relevant case law when determining the suitability of any offer of temporary accommodation. The accommodation must be suitable in relation to the homeless applicant and to all members of their household who normally reside with them, or who might reasonably be expected to reside with them. Through consideration of the following factors the Council will meet their obligations under the Equalities Act 2010 by showing due regard for an individual's medical condition and vulnerability.

In determining this, the following factors will be considered:-

- i. *Whether suitable accommodation is available within the District or Borough* – if accommodation is available, homeless households will be accommodated within the area subject to section 7. However, given the shortage of short-term, temporary accommodation, it is inevitable that accommodation outside the District, Borough or County may be used.
- ii. *Size of the accommodation* – accommodation must provide adequate space standards for the household to inhabit. However, given the short

term nature of the accommodation and lack of available housing at short notice, it is possible that a homeless household would be offered a placement with fewer bedrooms than a household would be entitled to on a permanent basis.

- iii. *Medical needs of the household/Physical needs* – consideration will be made in relation to the homeless applicant or resident member of the household's medical needs, such as ability to climb stairs, medical equipment required within the accommodation, care and support provided by other agencies and access to any specialist treatment only available locally. If the homeless applicant, or a member of the resident household identifies medical needs as an issue with any potential offer of temporary accommodation that were not identified at the point of initial application, the homeless applicant must provide medical evidence in support of this within 24 hours. The test applied by the Council with regards to medical needs is whether the condition makes the offer unsuitable.
- iv. *Education* – consideration will be given to the impact on schooling and travelling distance to the school. However, it is not considered unreasonable that children enrol in a school closer to the temporary accommodation. Pupils who are close to taking public examinations or those with specialist educational provision that is only available in a particular school, will be considered for temporary accommodation within or closest to the District (see section 7 below).
- v. *Care and Support*- consideration will be made in relation to the homeless applicant or any resident member of the household who is receiving care and support provided by other agencies and who made need to access local support/care services.
- vi. *Age and vulnerability* – consideration will be given to the age of the homeless applicant and their resident household members as well as any vulnerability (also see medical, care and support needs and risk of violence or harassment).
- vii. *Employment* – consideration will be given to the needs of applicants in paid employment who need to reach their place of work from any temporary accommodation within a reasonable commuting distance of less than 60 minutes.
- viii. *Proximity to services* – consideration will be made of the proximity to a school, public transport, primary care and other local services, to avoid isolation of the household. This does not extend to providing temporary accommodation in the applicants' chosen area to access preferred services.
- ix. *Affordability* - In determining whether accommodation is suitable, the Council will take into account affordability and will consider:
  - financial resources available to the homeless applicant; including salary, benefits, pensions and savings
  - costs in respect of the accommodation; including rent, mortgage costs, service charges, council tax, any deposit and payments to an accommodation agency
  - maintenance and child support payments

- reasonable living expenses.
- x. *Risk of violence or harassment* - the Council will take into account any social considerations relating to the homeless applicant and their household that might affect the suitability of accommodation, including any risk of violence, racial or other harassment in a particular locality. Where domestic violence or abuse is involved the Council will consider Refuge in the first instance.
  - xi. *Exceptional circumstances* – consideration will be made of any special circumstances submitted by the applicant that may impact on the suitability of the offer of temporary accommodation.
- 6.2 Assessments are made within the context of the accommodation available and limited options and resources available to the Council on the day of the applicant presenting as homeless.

## **7. Criteria for prioritising placements within the District or Borough**

- 7.1 In the event that short term interim accommodation within the District or Borough is available to the Council, priority for such accommodation will be given to homeless households whose circumstances may include:-
- i. *Applicants with children on the Child Protection register* or with significantly high or complex welfare needs where support can only be provided by statutory agencies within the placing District or Borough area.
  - ii. *Households with a dependent child with an Education Health Care plan* who is receiving specialist education support within the placing District or Borough area and where this cannot be transferred to another school.
  - iii. *Applicants with a diagnosed severe and enduring mental health issue* who is receiving regular psychiatric treatment within the within the placing District or Borough area and a transfer of care would severely impact on their wellbeing.
  - iv. *Applicants who have been continuously employed within the placing District or Borough area* for a period of at least one year and for 16 or more hours a week. Women on maternity leave from employment meeting the same criteria would also be considered.
  - v. *Applicants who have a child within the household who are due to take public examinations* within the current school year, e.g. GCSEs, 'A' Levels or equivalent.
  - vi. *Exceptional circumstances* – where a household's circumstances are particularly complex or significant vulnerabilities exist, to be considered on a case by case basis.
- 7.2 The above categories are not listed in priority order, nor is the list exhaustive. It may be considered that, following a detailed assessment of the household's circumstances, they should qualify for an offer of accommodation within the placing authority area, or outside it.



- 7.3 Given the shortage of temporary accommodation, it is inevitable that Councils will need to make decisions to prioritise the offer of particular temporary accommodation within their own areas. This means that prioritisation may occur, not just between those who fall within one or more of the priority groups set out above and those who do not, but between those households who fall within the priority groups.
- 7.4 The following circumstances will be taken into account by the Council when reaching decisions on prioritisation between households:
- Welfare and safeguarding of any children in the household
  - Level of special educational need
  - Risks posed by living in particular areas;
  - The permanency/flexibility of employment;
  - Access to transport, services, medical facilities, support, cultural or religious amenities;
  - Impact on caring responsibilities;
  - Affordability of the accommodation.
- 7.5 Where accommodation is available within the District or Borough's area and no priority groups require this accommodation, all other households, subject to suitability and risk assessment, will be considered for this accommodation.

## **8. Moving within temporary accommodation**

- 8.1 Where it is considered that the household falls within a priority group for accommodation within the placing authority but no accommodation is available, the households will be placed in any location where there is availability on that day. This accommodation may be suitable in the short-term but not the long-term. If the accommodation provided is deemed unsuitable in the longer term a household will be given priority to be transferred to alternative accommodation within the Council's area, or as close to it as possible, as soon as a more suitable unit becomes available.
- 8.2 It may be necessary to move homeless households to another temporary accommodation property to make best use of available resources.
- 8.3 Households will be required to move when requested. If the households refuses to move, this may result in the Council ending their duties.

## **9. Ending of temporary accommodation placements**

- 9.1 The Council may end emergency/temporary accommodation for those placed under a relief duty, after informing the household in the following circumstances:
- Where a homeless applicant is found not to be in priority need, or is intentionally homeless,
  - Where it is accepted that the homeless applicant has 'deliberately and unreasonably refused to cooperate' with a step in the personalised housing plan,
  - If a homeless applicant rejects or doesn't move following a reasonable offer of accommodation,
  - Where the behaviour of the household results in loss of the emergency or temporary accommodation.

- 9.2 The household will be informed of the situation and the date that the placement will end so that they can make alternative arrangements. If there are children in the household the Council will notify East Sussex County Council's Children's Services for assistance under Section 17 Children Act 1989.

## **10. Breaches of licence conditions**

- 10.1 The household will have been notified about the consequences of breaching the terms of their placement, at the beginning of the placement.
- 10.2 In the event of a breach of the terms of placement, the placing authority will issue a verbal and written final warning to the applicant or a member of their household. If this is the first breach and not of the most serious nature then the placement (or an alternative placement) will not be ended but a final warning will be given explaining that a further breach will result in the termination of the placement. If following a final warning, a further breach is committed, the placement will be terminated and any duty or discretionary power offered by the Council is likely to end.
- 10.3 If the household's behaviour is extreme (e.g. violence), the placement may be ended immediately. If the placement is terminated any duty or discretionary power offered by the Council will then be ended.

## **11. Pets**

- 11.1 The Councils do not have a duty to accommodate pets and are usually not able to accommodate pets within emergency or temporary accommodation. Applicants will need to make alternative arrangements for any pets whilst they are in such accommodation and the placing Council will discuss these options with them.
- 11.2 The Council can help place dogs and cats in kennels and catteries. Applicants are liable for the cost of accommodating pets, and will need to ensure the pet/s are vaccinated, neutered, wormed and de-flead.
- 11.3 There is no provision for accommodating non-domestic pets, but support will be provided to access appropriate re-homing options.

## **12. Data Protection and Information Sharing**

- 11.1 Applicants' privacy is protected and the Council's party to this policy will only use and store personal data in line with the General Data Protection Regulation 2016 and the Data Protection Act 2018.
- 11.2 The information provided by the customer will be treated confidentially at all times. Security safeguards apply to both manual and electronically held data and only relevant staff can access this information. As a data controller, each Council has a responsibility to make sure the applicant knows why and how their personal information is being used in accordance with relevant data protection laws.
- 11.3 The Councils will only use the applicant's personal data for the purposes for

which it is collected, unless it is reasonably considered that we will need to use it for another legitimate reason and that reason is compatible with the original purpose. If personal data is used for an unrelated purpose, the placing Council will notify the applicant and explain the legal basis for doing so. Processing personal data without the applicant's knowledge or consent, where this is required or permitted by law, may be done.

### **13. Performance Monitoring and Review**

- 13.1 The Policy will be monitored and reviewed on an annual basis and updated as required, for example due to changes in legislation, guidance or case law.
- 13.2 Monitoring will include, the numbers of applicants placed in temporary accommodation within and outside the District or Borough.

**Minutes of the Overview and Scrutiny Meeting – 17 October 2022**

**OSC22/27. EAST SUSSEX TEMPORARY ACCOMMODATION POLICY**

(6)

Members received the report of the Head of Housing and Community which gave details of the East Sussex Temporary Accommodation Policy that had been written by the operational housing managers across all five districts and boroughs. The Policy outlined the standards applied to the size and location of Temporary Accommodation (TA) as well as the processes and procedures to follow. The Policy applied both within district or borough, and outside of the placement authority area. The Policy was appended at Appendix A to the report.

The Policy covered both interim placements made under Section 188 Housing Act 1996 (as amended), during the relief duty and while homelessness enquiries were undertaken, and longer-term TA placements for households accepted as homeless under Section 193 of the Act. 4.

The East Sussex Housing Officers Group had identified that a more consistent approach to the placement of households in TA was needed across East Sussex. The new policy would lead to a more efficient process and procedure for making placements between local authorities and the various private providers of TA within East Sussex.

The Policy did not cover the standard of TA used, with these standards being dictated by the national Housing Health and Safety Rating System overseen by the different local authority housing teams. The Policy was relatively limited in its scope, focusing on the suitability standards for the size and location of TA, as well as the processes and procedures local authorities would follow when placing households in TA.

The main areas of the Policy were: what constituted suitable TA, in terms of its size and location; to provide a more consistent approach to the amount of money working households were expected to contribute; and that the districts and boroughs did not accommodate pets in TA and how breaches of licence conditions would be addressed.

Members had the opportunity to ask questions and the following points were noted during the discussion:

- the number of households in TA over recent months was 130, which was 90 more than at the current time the previous year;
- an increase in households requiring TA was expected, due to the current cost of living crisis;
- employment considerations and households with a child or children due to take public examinations within the current school year should be given higher priority when looking at TA placements;

- the policy reflected best practice, which the Council already had in place; and
- the number of verified rough sleepers in the district was currently three, the annual count was three or four. Members would be alerted if the number increased in the quarterly performance review reports.

**RESOLVED:** That the East Sussex Temporary Accommodation Policy be recommended to Cabinet and full Council for adoption.

(Councillor Maynard declared a Personal Interest in this matter as Executive Member of East Sussex County Council and in accordance with the Members' Code of Conduct remained in the meeting during the consideration thereof).