

Three Rivers District Council

Temporary Accommodation Placement Policy

December 2018
(Reviewed May 2024)

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1. Executive Summary

- 1.1. This document sets out Three Rivers District Council's (TRDC) policy for the placement of customers in temporary accommodation, both inside and outside of the Three Rivers district (the district). It covers both interim placements made under Section 188 of the Housing Act 1996 (HA96) as amended, while enquiries are made into a customer's homeless application and longer-term temporary accommodation placements for customers owed the main housing duty under Section 193 HA96.
- 1.2. The purpose of this policy is to ensure that the Council prioritises customers who have the greatest need to be in or close to a particular location or need to move away from a particular location for safety reasons.

2. Introduction

- 2.1. The Housing Act 1996 (as amended by the Homelessness Act 2002, the Localism Act 2011 and the Homelessness Reduction Act 2017) sets out the statutory obligations relating to the assistance to be given to customers threatened with homelessness or actually homeless; this includes the provision of temporary accommodation.
- 2.2. In accordance with Section 208 HA96 and Chapter 17 of the Homelessness Code of Guidance, so far as reasonably practicable, the Council will seek to accommodate customers in the Three Rivers district. The Council will consider the suitability of the accommodation offered, taking into account the personal circumstances of each individual customer. However, due to an acute shortage of available and affordable housing locally and rising rental costs in the private rented sector, a number of customers are likely to be placed outside of the district, as it will not be reasonably practicable to provide accommodation within the district. The introduction of the Housing Benefit Cap in April 2013 has further restricted the number of properties that will be affordable to homeless customers within the district. This has had a particular impact on larger families, whether this is for temporary or permanent accommodation.
- 2.3. If no temporary accommodation is available within the district, the Council will provide temporary accommodation out of district. This will be in an area with access to services and be within a reasonable travelling distance of two hours by public transport to the Three Rivers district. However, there may be rare cases where there is simply no suitable temporary accommodation available, and customers may be placed further away on an emergency basis.
- 2.4. When determining whether it is reasonably practicable to secure accommodation in the district, the cost of the accommodation will be a relevant and proper consideration.

- 2.5. The Local Housing Allowance (LHA) rate is used to work out how much Housing Benefit or the Housing Element of Universal Credit a customer will receive to pay their rent. LHA rates depend on who lives in the household, and the area a customer is making their claim in. These areas are called Broad Rental Market Areas (BRMA) and most of TRDC is part of the South West Herts BRMA. As detailed in the 2014 Housing Benefit and Council Tax circular S1/2011 and A9/2014 a separate test is applied for housing benefit entitlement for those in temporary accommodation.
- 2.6. If a customer is placed into shared facility private sector accommodation (including bed and breakfast accommodation) they will only be entitled to the area appropriate one-bedroom LHA rate set at April 2011.
- 2.7. If a customer is placed into self-contained private sector accommodation, they are entitled to 90% of the area appropriate LHA rate for the property size set at April 2011. In April 2017, the Government removed an additional £60 management fee subsidy. The Council continues to pay this subsidy, which is recharged to Housing Services at the year end and covered by the Homelessness Prevention Grant.
- 2.8. The Welfare Reform Act 2012, the Welfare Reform and Work Act 2016 and changes to government policy have resulted in less affordable rented housing being built. This continues to impact negatively on the supply of family sized accommodation. This means some customers may be in temporary accommodation for significant periods of time.
- 2.9. This policy operates alongside the following strategies and policies of Three Rivers District Council:
- Housing, Homelessness and Rough Sleeping Strategy 2023-2028
 - Housing Allocations Policy
 - Tenancy Policy
 - Private Rented Sector Offer Policy
- 2.10. This policy complies with:
- Part VII of the Housing Act 1996 (as amended)
 - The Homelessness (Suitability of Accommodation) Order 1996
 - Equality Act 2010
 - Homelessness (Suitability of Accommodation) (England) Order 2012
 - Homelessness Code of Guidance for Local Authorities 2018
 - The Homelessness (Review Procedures etc.) Regulations 2018
 - Domestic Abuse Act 2021
 - Modern Slavery Act 2015
- 2.11. This policy does not cover offers of affordable rented housing through the Housing Needs Register as this is covered by the Housing Allocations Policy.

3. Policy Aims

- 3.1. To set out the rights of review for customers relating to interim and temporary accommodation.
- 3.2. To set out the factors that the Council will consider when offering suitable interim and temporary accommodation.
- 3.3. To set the criteria that the Council will consider when prioritising customers for temporary accommodation in the district.

4. Temporary Accommodation Offers and Refusals

- 4.1. Due to the shortage of suitable affordable temporary accommodation in the district, homeless customers who are accommodated under the Council's interim duty pursuant to Section 188 HA96 may initially be placed in emergency accommodation, including bed and breakfast and short-term shared or self-contained accommodation, while enquiries are carried out. This accommodation may be outside of the district. If the Council decides it has a duty to house a customer, the Council will move them to longer-term self-contained accommodation as soon as suitable accommodation becomes available.
- 4.2. Wherever possible, the Council will avoid placing: families with dependent children; pregnant women; and young people aged 16/17 in bed and breakfast accommodation. Where no other suitable accommodation exists and such placements are necessary, the Council will endeavour to move these customers as soon as more suitable self-contained accommodation is available but will always aim for this to be within six weeks. If a move is not possible within six weeks, this will need to be authorised by the Housing Operations Manager with details as to what searches of alternatives have been undertaken.
- 4.3. Customers placed into temporary accommodation are responsible for paying the rent charge, any utilities at the accommodation and any Council Tax liability. If customers require assistance to pay their rent charge they are responsible for making a housing benefit claim if they are eligible.
- 4.4. Where the Council decides that customers housed under Section 188 HA96 are not owed the main housing duty, they will be required to leave the accommodation. The notice period is usually 14 days for single customers and 28 days for families or vulnerable customers. However, consideration will be given to the individual circumstances of each customer.
- 4.5. Customers will be given one offer of suitable interim or longer-term temporary accommodation and they will be asked to accept it straight away. Customers may also be expected to move from one temporary accommodation to another at short notice. There is no obligation on the Council to allow customers to view the accommodation prior to accepting an offer. The individual circumstances of a customer will be considered when making an offer of temporary accommodation.

- 4.6. If a customer rejects an offer, they will be asked to provide their reasons for refusal. This applies to customers to whom the Council has an interim duty to accommodate under Section 188 HA96 and those to whom the Council has accepted the main housing duty under Section 193 HA96. The Council will consider the reasons given and undertake further enquiries as necessary. This process may not necessarily be completed in writing. If the Council accepts the reasons for refusal and agrees the offer is unsuitable, the offer will be withdrawn and a further offer will be made.
- 4.7. Where a customer refuses suitable interim (Section 188 HA96) accommodation, which may include out of district placements and the Council does not accept the reasons for refusal, no further accommodation will be offered. This would result in the Council's interim duty being discharged and a customer will be required to make their own arrangements. There is no right of review against the suitability of accommodation offered to customers under Section 188 HA96 (interim duty) although they can apply for judicial review through the courts. Customers to whom the Council has accepted the main housing duty under Section 193 HA96, (S193 duty) have a right to request a review of the suitability of accommodation, pursuant to Section 202 HA96.
- 4.8. If a customer is entitled to and exercises their right to a review of the Council's offer of temporary accommodation but did not move into the accommodation, they will only be accommodated during the review period in exceptional circumstances. This is a discretionary decision. Each case will be considered on an individual basis; taking into account the overall merits of the review request, any new information or evidence that may alter the original decision, the personal circumstances of the customer and the potential impact of the loss of accommodation. Should the outcome of the review determine that the original offer was suitable and the customer did not move into the accommodation offered, the S193 duty will be discharged. If the customer moved into the accommodation and requested a review but the outcome determined that the original offer was suitable, the S193 duty will remain. If discretion was granted and the customer is accommodated in other accommodation or they are already in longer-term temporary accommodation, they will be required to vacate the property. This will be within 28 days of receiving the review decision letter and advised that no further assistance will be provided. Should the outcome determine that the original offer was unsuitable, then alternative temporary accommodation will be offered and the S193 duty will remain.
- 4.9. In circumstances when the customer has no right to a review, the interim duty will be discharged. If the customer is already resident in temporary accommodation, they will be required to vacate the property. Interim accommodation is usually provided under licences excluded from the Protection from Eviction Act 1977. Therefore, the Council will provide reasonable notice to the customer and do not need to apply for a possession order from the court. The customer will still be entitled to receive a decision on their homeless application and so the temporary

accommodation duty could be reactivated if the main housing duty is later owed.

- 4.10. In accordance with the Homelessness Code of Guidance, customers in temporary accommodation under the interim duty (S188) are subject to the relief duty (Section 189B); this means that the Council should help customers to secure accommodation for themselves. In the event that the relief duty is brought to an end following a customer refusing a final accommodation or Part 6 offer, and the customer 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 customer.

5. Suitability of Accommodation – Factors to Consider

- 5.1. When offering temporary accommodation, the Council will consider the suitability of accommodation, taking into account the following factors:

5.1.1. The temporary accommodation available in the district

Temporary accommodation will be offered in the district if suitable accommodation is available. This will allow a customer to maintain any established links with services or social/support networks. However, there may be circumstances when there is a lack of suitable temporary accommodation or there are higher priority customers awaiting accommodation in the district and out of district temporary accommodation will be used to meet the Council's duty.

Where it is not reasonably practicable to secure accommodation within district and an authority has secured accommodation outside their district, the housing 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 applicant has specified a preference, or the accommodation has been offered in accordance with a published policy which provides for fair and reasonable allocation of accommodation that is or may become available to applicants.

5.1.2. Size and condition of the property

Temporary accommodation must provide adequate space and room standards for the customer and be fit to occupy. If self-contained accommodation is provided customers will typically be expected to use a living room as a bedroom. If there are any concerns raised regarding the condition of the temporary accommodation these will be raised with the accommodation provider to investigate and resolve. The quality of the decoration/furniture, the layout/type of accommodation, provision of parking and access to a garden are not in themselves acceptable reasons for refusal.

5.1.3. Access to local support links

The Council will consider what local transport links are available to customers so that they can continue to access their support networks. Further consideration will be given as to whether a customer or a member of their household can drive and has access to a vehicle. The Council will consider the proximity to schools, public transport, primary care services, and local services in the area in which the accommodation is located.

5.1.4. Health factors

The Council will consider health factors, such as ability to manage the stairs, care and support provided by other statutory agencies or the need to access any specialist medical services that are only available in the district. If the customer or a member of their household provides medical information that was not available during the initial assessment, the customer must submit this within 24 hours. The impact on health of occupying certain accommodation may be subject to an assessment by an independent medical advisor. The key test in determining the impact of any medical issues is whether the condition itself makes the housing offered unsuitable. For example problems such as depression, asthma, diabetes or epilepsy would be unlikely to make a property unsuitable as these problems would persist in any sort of accommodation. Medical needs that have a reliance on specialist services provided locally will be considered when providing temporary accommodation and will be one of the criteria that would be taken into account for priority for accommodation in the district.

5.1.5. Caring responsibilities

The Council will consider significant caring responsibilities for people who are not part of the customer's household and the need to reach people who are being cared for. Proof of receipt of carers allowance or attendance allowance will be required.

5.1.6. Education

Attendance at local schools will not be considered a reason to refuse accommodation, although some priority will be given to special educational needs and students who are close to taking public examinations in determining priority for in-district placements. Customers can also contact the local education authority to discuss whether they are entitled to any assistance with transport costs.

5.1.7. Welfare and safeguarding of children (Children Act 2004)

All decisions made will take account of the welfare and safety of children who are part of the household.

5.1.8. Employment

The Council will consider the need of customers who are in paid employment to reach their normal workplace from the temporary

accommodation that is provided. This will apply to those that have access to a car and those that rely on public transport.

5.1.9. Any risks associated with living in a particular area

Priority will be given if a customer needs to be moved to a particular location or cannot remain in a particular location because of a risk to safety. The Council will prioritise any guidance received from the Police on the level of risk to a customer in an area.

5.1.10 Domestic Abuse

If it is suitable for the customer (and members of their household, if applicable), the Council will always consider placement in a refuge as the first option for an offer of accommodation for a customer that is fleeing domestic abuse. If a refuge is not available, or this type of accommodation is not suitable for the customer or members of their household, the Council will offer an alternative type of accommodation. The suitability of refuge accommodation will be considered on a case-by-case basis.

5.1.11 Equality Act 2010

The Council will take into consideration circumstances covered by the Equality Act in relation to any specific needs of the customer or their household.

5.1.12 Any special circumstance

The Council will consider any other circumstances described by the customer when making an offer of suitable temporary accommodation.

6. Criteria for Prioritising Placements

- 6.1. As the district faces pressure to accommodate customers, it will be increasingly necessary to make decisions about the suitability of placements in and out of the district. The Council will balance the needs of individual customers and balance these against the type and location of temporary accommodation available. In some cases, temporary accommodation outside of the district may be more sustainable for a customer in the long-term. For example, a lower rent could allow a customer to better meet their household costs and living costs and reduce the risk of accruing rent arrears.
- 6.2. Priority for in-district accommodation will be given to certain customers whose circumstances indicate that they would best be housed as close to the district as possible. These include:
 - 6.2.1. Customers with a severe and enduring health condition requiring intensive and specialist medical treatment that is only available in the district.
 - 6.2.2. Customers who are in receipt of a significant package and range of health care options that cannot be easily transferred.

- 6.2.3. Customers with a severe and enduring mental health problem who are receiving psychiatric treatment and aftercare provided by community mental health services and have an established support network where a transfer of care would severely impact on their wellbeing.
- 6.2.4. Customers with a child registered on the Child Protection register in Hertfordshire or families who have high social needs who are linked into local health services and where it is confirmed that a transfer to another area would impact on their welfare.
- 6.2.5. Customers with a child with special educational needs who is receiving education or educational support in the district, where change would be detrimental to their wellbeing.
- 6.2.6. Customers with a child over the age of 14 who is enrolled in public examination courses in the district and with exams to be taken within a year. If in-district accommodation is not available, the Council where practicable will seek to place such customers within reasonable travelling distance of their school or college.
- 6.2.7. Customers who have a longstanding arrangement to provide care and support to another family member in the district who is not part of the household, evidenced by a Carers Assessment and/or the receipt of Carers Allowance, and would be likely to require statutory health and social support if the care ceased.
- 6.2.8. Any other special circumstance will also be taken into account.
- 6.3. Wherever practicable, the Council will endeavour to place a customer who works in paid and settled employment within a reasonable travelling distance. A reasonable travelling distance is considered to be two hours by public transport from their place of employment. For this consideration, a customer should be working a minimum of 16 hours per week for a single person or a lone parent and 20 hours per week for a couple. Maternity leave will be taken into account where the requisite hours were routinely worked prior to maternity leave and there is an intention to return to work. The customer would have been employed continuously for more than six months.
- 6.4. Customers who fall outside of the criteria specified in 6.2 and 6.3 will be offered properties outside of the district if no suitable property in the district is available.

7. Reviewing the Policy

- 7.1. The policy will be reviewed in line with any significant change in legislation, guidance issued by government or significant case law. In any case, it will be reviewed every three years.
- 7.2. An Equalities Impact Assessment has been completed for this policy.

8. Version Control

| Version | Date amended | Date approved |
|---------|---------------|----------------|
| V1 | December 2018 | January 2019 |
| V2 | October 2021 | December 2021 |
| V3 | June 2021 | September 2021 |
| V4 | May 2024 | |

