

SEVENOAKS DISTRICT COUNCIL OUT OF AREA PLACEMENT POLICY

Housing and Health Advisory Committee - 6 June 2022

Report of: Sarah Robson, Deputy Chief Executive and Chief Officer - People and Places

Status: For Decision

Also considered by:

- Cabinet - 7 July 2022

Key Decision: No

Executive Summary: In order for Sevenoaks District to adhere to relevant case law and good practice the Homelessness prevention service has developed an Out of Area Placement Policy (Appendix 1) which gives a framework and structure to the allocation of both temporary accommodation and Private Rented Sector Offers to homeless applicants who have approached for housing assistance.

This report supports the Key Aim of: the Council's Housing and Health Strategy.

Portfolio Holder: Cllr. Kevin Maskell

Contact Officer: Sharon Donald, Interim Head of Housing, x 7131

Recommendation to Housing and Health Advisory Committee:

That comments on recommendation (a) below are passed to Cabinet.

Recommendation to Cabinet:

- a) To adopt the Sevenoaks District Out of Area Placement Policy.

Reason for Recommendation:

The policy will enable Sevenoaks District Council to work in a structured and transparent manner when allocating properties which at times will sit outside of our district boundaries.

1 INTRODUCTION AND BACKGROUND

- 1.1 The demand for both temporary accommodation (TA) and settled accommodation is growing across our district with the number of applicants who are approaching the Council for resettlement support growing each year. In the preceding four years we have had an incremental increase, as set out below:

Table 1: Homeless approaches

	Number Of Approaches
Jan - Dec 2017	1080
Jan - Dec 2018	1314
Jan - Dec 2019	1193
Jan - Dec 2020	1199
Jan - Dec 2021	975

- 1.3 Approaches have slightly decreased because homeless preventions have increased over the past 12 months and new temporary accommodation placements have decreased. However, the team is struggling to secure suitable and affordable 'move on' accommodation in the district, which is impacting numbers of households remaining in temporary accommodation
- 1.4 The need of temporary accommodation continues to increase and has naturally led to a greater demand on longer term accommodation including both affordable housing through the Housing Register and access to the private rented sector through our Private rent Scheme (PRS). As such, the pool of decent affordable units within Sevenoaks District is shrinking, as new build affordable housing cannot keep pace with demand. We are finding it considerably more difficult to place the growing number of households within our district boundaries.
- 1.5 A large number of recent reports have demonstrated the negative effects of homelessness and temporary accommodation on people's physical and mental health and more stable, settled accommodation available in the private rented sector may contribute to resolving this. Please see Background Paper ([22.7 HEALTH AND HOMELESSNESS_v08_WEB_0.PDF \(local.gov.uk\)](#)).

Table 2: Numbers in Emergency Accommodation

Period	No in all Emergency accommodation (as at 1st of each month)
Jan - Dec 2017	663
Jan - Dec 2018	834
Jan - Dec 2019	903
Jan - Dec 2020	1083
Jan - Dec 2021	1423

- 1.6 It is noted that an increase in temporary accommodation has meant there has been a requirement to also source accommodation outside of Sevenoaks District. Sevenoaks District Council has adapted the Help to Rent Scheme so that residents are able to source the property independently or through the assistance of Sevenoaks District Council whom have built up a number of links to access private accommodation. In each instance, the Council will conduct a number of checks to ensure the property is affordable, meets the needs of the household and is at a standard of quality in which residents would be happy to reside.
- 1.7 Alongside the increase in our own local demand, we are also competing for both Temporary Accommodation (TA) and longer-term accommodation with other districts and boroughs including unitary London Authorities, who have a far more generous budget and funding streams than Sevenoaks District. There is lack of available move on properties. These pressures have led us to consider the manner in which we allocate our resources based on household composition; community contribution including work and volunteering; and social and welfare needs. The proposed Out of Area Placement Policy sets out how the Council will seek to work with households based on their priorities, presenting needs and affordability in order to offer the most appropriate accommodation for both TA and through the Private Rented Sector as a longer-term housing solution.
- 1.8 The Policy sets out how households will be prioritised for properties, both for private rented sector offers and for temporary accommodation. Its key principle is to ensure that health and welfare needs are taken into account when households are prioritised for housing in different locations
- 1.9 Accommodation in the private rented sector within Sevenoaks District is often not affordable for many residents whom approach the council. The local housing allowance (LHA) sets the amount of housing support paid out either as part of Universal Credit (UC) or under the legacy Housing Benefit, to those living in the PRS. LHA rates are set by calculating the 30th percentile of rents in 'Broad Rental Market Areas'. In Sevenoaks's case, the area includes neighbouring districts and boroughs where rents are cheaper. The shortfall between LHA rates and private rents in Sevenoaks District is significant as shown in Table: 3.

Accommodation type Gap between LHA and rents	20/21 LHA rate Per Week	Effective monthly LHA rate	Properties to Rent (Rightmove) in Sevenoaks District Lowest appx rent £	Gap between monthly LHA and rents
Shared Accommodation Rate	£88.85	£385.02	£680.00	-£385,02
One Bedroom	£155.34	£673.14	£950.00	-£276.86
Two Bedroom	£195.62	£847.68	£1,200.00	-£352.32

Three Bedroom	£241.64	£1,047.17	£1,500.00	-£452.83
Four Bedroom	£299.18	£1,296.45	£1,800.00	-£503.55

- 1.10 The Placement Policy will ensure we comply with the relevant case law, including the Supreme Court judgment in the case of *Nzolameso v City of Westminster* [2015] UKSC 22 and the Court of Appeal decisions in the cases of *Alibkheit v London Borough of Brent* and *Adam v City of Westminster* [2018] EWCA Civ 2742, which set out that Local Housing Authorities should adopt a structured and fair process, which determines how applicants will be prioritised for accommodation in our district and beyond.
- 1.11 In order for private rented offers to be affordable to homeless households within benefit levels (or as close as possible), many of these offers are likely to be outside the Sevenoaks District. Support will be offered to households relocating outside the District and to other households where needed, in order to minimise adverse impacts and to enhance the prospects of relocated families integrating into the new area. The policy also aims to help to improve outcomes for homeless households in that they will receive a quicker permanent offer of housing, in an area where they are able to settle and put down long-term roots.
- 1.12 The cost of nightly paid temporary accommodation has increased by 40% from last year. The policy aims to reduce temporary accommodation use and contain costs by offering homeless households private rented housing, as an alternative to them spending many years in temporary accommodation waiting for social housing.

Cost of emergency accommodation (Nightly let) April to April

- 2021/22 - £1,086,572 to December 2021
 - 2020/21 - £769,664
- 1.13 The Council's first priority will be to secure accommodation in Sevenoaks District. Where it is not possible to secure good quality affordable accommodation in the District, the Council will next look in surrounding districts and boroughs, then in other areas increasingly further afield if we deem it to be suitable and meets the requirements as set out by Part 7 of the Housing Act 1996, and the Homelessness Reduction Act 2017; statutory guidance on suitability; and the Homelessness Code of Guidance. The Council will also work to secure accommodation for those households who wish to live outside of this area."
- 1.14 The Placement Policy sets out the way in which we will offer residents homes in the private rented sector and ensure that these are both suitable for the household and sustainable in the longer term. It also covers the way in which we will prioritise households for accommodation within Sevenoaks District in situations where there is not enough housing within the district. Our policy though remains not to place families out of the district unless this is either what they want or where there is no suitable alternative

- 1.15 If the applicant refuses the offer of accommodation and cannot provide further evidence that it would be unsuitable we will discharge our duty and no longer be under a duty to secure accommodation for the applicant. An ongoing duty to provide advice and assistance continues and this may include access to the Housing Register and assistance with obtaining private rented accommodation. The decision on ending our duty to secure accommodation will not be taken lightly and the policy speaks to our aspiration of working in a supportive and transparent manner.
- 1.16 We particularly struggle to procure properties big enough for larger families that is both affordable and suitable. Four bedroomed social housing stock is very limited and larger properties in the private rented sector in Sevenoaks District are often unaffordable.
- 1.17 The human cost of homelessness and households spending years in temporary accommodation is enormous. At the same time the financial cost to the Council of an ever-increasing number of households in temporary accommodation is growing from its current level of £1.2 million per annum. The proposals outlined represent a shift in focus and investment in the prevention of homelessness and support for residents to proactively reduce the number of households reaching crisis point.
- 1.8 The impact of Covid-19 has meant that we have had a sudden rise in the number of single people approaching us for help and who we have accommodated on the basis of their risk of rough sleeping as required by Government. This has led to us accommodating over 75 people in short term emergency housing. The pandemic has also highlighted the role that overcrowding plays in the sustainability of the lockdown for many of our poorest households. Recent figures on mortality from Covid-19 have also added physical risk to the dangers of overcrowding. The Allocations Scheme gives additional priority to social housing tenants who are overcrowded. For private rented tenants, we are working to improve access to the private rented sector to make it easier for them to move to a more suitable home. The Placement Policy sets out our approach to this.

2. AVAILABLE OPTIONS

- 2.1 Option 1: Do nothing - this is not recommended because if we continue to operate without an adopted Placement Policy, this could leave Sevenoaks District Council open to legal challenge and in a precarious position when seeking to end our duties by making an offer of suitable accommodation which sits outside our district boundaries. Households would be in temporary accommodation for longer than necessary which would lead to a negative financial cost implication.
- 2.2 Option 2: Endorse the new Placement Policy - to ensure those households in Temporary accommodation can be offered appropriate accommodation outside of the district in accordance with an adopted policy that reflects the relevant case law and good practice. This may mean households we have an open duty to, could be offered accommodation beyond our district

boundaries - but this will be undertaken in a transparent and consultative manner with the applicant.

3. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 3.1 Our preferred option is Option 2, to endorse the Out of Area Placement Policy. This will enable the homelessness prevention service to work within a framework with households to ensure good quality affordable housing options are offered to applicants.
- 3.2 The Placement Policy will give the housing service team a structure in which to work and also provides transparency to our customers on how allocations will take effect. Sevenoaks District Council will also be working within the spirit of good practice and relevant case law.
- 3.3 The secondary outcome of this we hope would support a reduction in our TA budget moving forward as we can offer more households (currently residing in TA) offers of private rented accommodation which means their housing journey will come to an end quicker than previously.

4. RISK

- 4.1 The Placement Policy codifies the approach to the use of the private rented sector. The transformation programme is based on making best use of the private rented sector. Without a formally approved policy there is a risk of legal challenge.
- 4.2 The policy also enables us to work closely with applicants in a transparent and fair way - this ensures an equitable process for all - instead of an approach that is perceived to be subjective by an aggrieved applicant.
- 4.3 There is a risk that there will be limited affordable private rented properties to meet the needs of homeless households. While the research gave an indication of different locations where properties may be available, market changes can happen quickly and the actual availability of properties depends on the willingness of landlords to let accommodation to homeless households. To mitigate this risk, incentives will continue to be offered to landlords to secure properties in line with local market intelligence. The supply and availability of properties will be kept under review but it needs to be noted that building up supply to meet demand is likely to take time.
- 4.4 There is a risk of legal challenges where offers are outside Sevenoaks District and, or where shared accommodation is offered. To minimise this, individual suitability assessment will be carried out before an offer is made in line with legislation and statutory guidance.

5. NEXT STEPS

- 5.1 The draft timeline for reporting, and final approval for the implementation of the Out of Area Placement Policy is as follows:

Housing & Health Advisory Committee	6 June 2022	This report asks HHAC to recommend the Out of Area Placement Policy to Cabinet
Cabinet	7 July 2022	The adoption of the Out of Area Placement Policy

6. COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 6.1 The policy will be uploaded on to our website so that the general public can review and have access, ensuring transparency.
- 6.2 If the policy is endorsed, the Housing teams will be trained to implement the new processes.
- 6.3 Finally, the Policy will be monitored and reviewed formally in line with the development of a new Homelessness and Rough Sleeping Strategy in 2022. The Policy may also be reviewed at any time, in line with any relevant changes in legislation or Guidance issued by relevant Government Departments.

7. Other Options Considered and/or Rejected

None.

Key Implications

Resource (non-financial)

Existing staffing resources will be utilised.

Financial

There are no financial implications from the introduction of this Policy because the implementation will be delivered within existing resources. Any financial impact that results as an outcome of the new policy should have a positive impact on the Homelessness service because it will reduce the number of people in TA thus reducing service costs. The effects of the policy will be monitored and reported as part of the overall monthly budget monitoring.

Legal Implications and Risk Assessment Statement

The judgement made by the Supreme Court in *Nzolameso vs Westminster Council* [2015] are set out in this report.

Section 188 of the Housing Act 1996 Part 7 imposes a duty on the Council to secure accommodation for an applicant where it has reason to believe that they may be homeless, eligible for assistance and has a priority need.

Section 193 of the Housing Act 1996 Part 7 imposes a duty on the Council to secure accommodation for an applicant where it is satisfied that they are homeless, eligible for assistance, has a priority need and are not homeless intentionally.

Section 17 of the Children's Act 1989 also provides a general duty on the Council to safeguard and promote the welfare of children within their areas who are in need by providing a range of services to the child and/or his family, which may include the provision of temporary accommodation on a temporary basis.

Section 208 of the 1996 Act also provides that so far as reasonably practicable the Council shall in discharging their housing functions secure that accommodation is available for the occupation of the applicant in their district and that if it secures accommodation outside its district it shall give notice to the local housing authority in whose district the accommodation is situated. The Homelessness (Suitability of Accommodation) Order 2012 sets out factors to be taken into account in determining whether accommodation provided under part 7 is suitable, which includes the location of the accommodation. It also lists various factors to be regarded as unsuitable in relation to a Private Rented Sector Offer. The Homelessness Code of Guidance and Supplementary Guidance include various provisions on suitability of accommodation in relation to part 7.

Equality Assessment

The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. Under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to (i) eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010, (ii) advance equality of opportunity between people from different groups, and (iii) foster good relations between people from different groups. The impact has been analysed and does not vary between groups of people.

The key policies within the Out of Area Placement Policy have a particularly positive impact for disabled people by ensuring a new suitability assessment and ensuring prioritisation for disabled people with the highest needs for in-district accommodation and transfer moves. Overall the impact of the policy upon homeless people with disabilities is positive; ensuring all disabled groups can now access clear guidance on the whole homeless placements process.

Ethnic minority & female households, who are more likely to be homeless and on low income, will benefit from assistance from the council to help them find affordable housing solutions beyond Sevenoaks District when no solution can be found in district. See Appendix 2.

Net Zero Implications

The decisions recommended through this paper have a remote or low relevance to the council's ambition to be Net Zero by 2030. There is no perceived impact regarding either an increase or decrease in carbon emissions in the district, or supporting the resilience of the natural environment

Conclusions

The annual supply of social housing is reducing and after a long period of steady reduction numbers of households in temporary accommodation are increasing. The affordability of temporary accommodation for the Council is a major concern. Changes to temporary accommodation subsidy rules, welfare reform and a private rental market experiencing above inflation rises all combine to put significant financial pressure on the Council.

The extent of demand for temporary accommodation and its limited supply within the Sevenoaks District has historically meant that the majority of temporary housing procured and used has been provided outside the district's boundaries.

For the most part, the proposed policy is simply formalising an existing procedure that the Council has worked to in making out of district placements for many years. However, given the decreasing supply of affordable temporary accommodation and increased competition between Kent and London local authorities to secure it, the majority of households will continue to be placed a considerable distance away. The potential for an increased number of legal challenges exists and therefore, in those circumstances, a policy highlighting which households, where possible and when reasonably practicable will be offered temporary accommodation in the local area is deemed prudent.

Sevenoaks District Council intends to make use of the existing powers to fully discharge its full housing duty by way of a 'private rented sector offer' under (s193 7AA - 7AC) Part VII Housing Act 1996 as amended by s.148 (5)(7) Localism Act 2011. The policy will apply for most homeless applicants who have made a homeless application to the Council and will particularly be apt in cases where there is a significant financial burden on the local authority or applicant. There will not be a blanket application of the legislation and a decision will be taken after a full consideration of each household's individual circumstances and the facts that apply to that case.

The policy makes the Council's position clear and provide a realistic message to applicants on their chances of being placed into accommodation locally.

Appendices:

Appendix 1: Sevenoaks District Council Out of Area Placement Policy

Appendix 2: Equality Impact Assessment (EqIA)

Background Papers:

LGA The Impact of Homeless on Health [22.7 HEALTH AND HOMELESSNESS_v08_WEB_0.PDF \(local.gov.uk\)](#)

Sarah Robson
Deputy Chief Executive
Chief Officer - People and Places