

| <b>Appendix 1:<br/>Sevenoaks District Council</b>  |   |
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| <b>Policy</b>  | <b>Out of Area Placement Policy</b>   |
| <b>Key legislation</b>   | <ul style="list-style-type: none"> <li><input type="checkbox"/> Housing Act 1996, as amended by the Homelessness Act 2002; Homelessness Code of Guidance</li> <li><input type="checkbox"/> Homelessness (Suitability of Accommodation)(England) orders 1996, 2003 &amp; 2012. Supplementary Guidance on the Homelessness changes in the Localism Act 2011 &amp; the homelessness (Suitability of Accommodation)(England)Order 2012</li> <li><input type="checkbox"/> Homelessness Reduction Act 2017;</li> <li><input type="checkbox"/> Domestic Abuse Act 2021 (England)</li> <li><input type="checkbox"/> Children Act 2004;</li> <li><input type="checkbox"/> The Localism Act 2011</li> <li><input type="checkbox"/> Equality Act 2010; and</li> <li><input type="checkbox"/> Civil Contingencies Act 2004</li> </ul> |
| <b>Key strategies and policies</b>   | <ul style="list-style-type: none"> <li><input type="checkbox"/> Community Plan (2019-22);</li> <li><input type="checkbox"/> Housing Strategy (2017);</li> <li><input type="checkbox"/> Housing Allocations Policy (2019);</li> <li><input type="checkbox"/> West Kent Homelessness Strategy (2016-21); and</li> <li><input type="checkbox"/> Kent &amp; Medway Housing Strategy (2020).</li> </ul>  |
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## Section 1: Introduction

- 1.1 This document sets out Sevenoaks District Council's policy for the placement of households in private rented accommodation, both inside and outside of the Sevenoaks District.
- 1.2 It covers *longer term* temporary accommodation placements for households accepted as homeless under section 193 HA96 and a private rented sector offer defined by section 193(7AC) with a view to bringing the section 189B(2) duty, or section 193(2) duty to an end.
- 1.3 This policy does not cover interim temporary accommodation for homeless households where this is required under section 188 of the Housing Act 1996 while inquiries are carried out.
- 1.4 This policy does not apply to offers of long-term accommodation under Part VI of the Housing Act 1996 as amended.

In accordance with legislation and statutory guidance, the Council seeks to accommodate homeless households in Sevenoaks District as far as reasonably practicable. However, as there is a serious shortfall of accommodation in the District to meet housing need, it will not be reasonably practicable to provide accommodation within Sevenoaks District to every household and there will be an increasing need to use accommodation that may be at some distance from the District.

### The policy complies with:

- The Housing Act 1996, as amended by the Homelessness Act 2002
- The Localism Act 2011
- Equality Act 2010
- Homelessness (Suitability of Accommodation) (England) Orders 1996, 2003 & 2012.
- Supplementary Guidance on the Homelessness changes in the Localism Act 2011 & the Homelessness (Suitability of Accommodation)(England) Order 2012
- The Homelessness Code of Guidance
- The Homelessness and Rough Sleeper Strategy 2019-2024
- The Allocation Scheme
- Children Act 2004 (in particular section 11)
- Relevant decisions by the Courts including the Supreme Court judgment in the case of *Nzolameso v City of Westminster* [2015] UKSC 22 and the Court of Appeal decisions in *Alibkheit v London Borough of Brent and Adam v City of Westminster* [2018] EWCA Civ 2742.

- 1.5 The policy takes into account the statutory requirements on local authorities in respect of suitability of accommodation as per Section 206 Housing Act 1996 (HA96), including Suitability Orders, Supplementary Guidance on Homelessness changes in the Localism Act 2011 and on the Homelessness (Suitability of Accommodation (England) Order 2012, the Homelessness Code of Guidance 2018, the Children Act 2004 s.11 which places duties on a range of organisations and individuals to ensure their functions, and any services that they contract out to others, are discharged having regard to the need to safeguard and promote the welfare of children.
- 1.6 As per Section 208 Housing Act 1996, and paragraph 17.50 of the Homelessness Code of Guidance, so far as reasonably practicable, the Council seeks to accommodate homeless households as close as possible to where an applicant was previously living and always considers the suitability of the accommodation, taking into account the circumstances of the individual household. However, due to an acute shortage of affordable housing locally, and rising rental costs, an increasing number of households are likely to be placed outside the District, as it will not be reasonably practicable to provide accommodation within Sevenoaks District. The application of housing benefit caps, Local Housing Allowance rates within the District, welfare reform and universal credit, together with restrictions upon overall benefit entitlement, has further restricted the number of properties that will be affordable to homeless households in Sevenoaks District, and particularly larger families.
- 1.7 When determining whether it is reasonably practicable to secure accommodation in Sevenoaks District, as opposed to simply what is reasonable, the cost of the accommodation is a relevant and proper consideration. Matters to be taken into account here include information provided by the applicant, together with paragraph 17.45 of the Homelessness Code of Guidance. The reality however, is that the demand for housing greatly exceeds supply in respect to securing affordable Private Rented Sector Offers (PRSO) accommodation and all forms of temporary accommodation within our District boundaries.
- 1.8 The scale of demand and the limitations on resources are such that the Council and its partners cannot build enough affordable accommodation for households on lower incomes to meet all housing need. Even if resources were available, there is a limit to capacity given that the opportunities for large scale new development in Sevenoaks District are constrained by land availability and costs.
- 1.9 The Local Housing Allowance (LHA) is used to work out how much Housing Benefit a tenant will receive to pay their rent. LHA rates depend on who lives in the household, and the area they are making their claim in. These areas are called Broad Rental Market Areas (BRMA). The local authority area of Sevenoaks District is divided into two Broad Rental

Market Areas (BRMA), which are used to calculate LHA rates in Sevenoaks, namely High Weald BRMA and North West Kent BRMA. Appendix 1 provides a link to the Valuation Officer Agency website where the LHA rates for each District can be searched.

- 1.10 The Council is making efforts to ensure that its temporary accommodation portfolio reflects the most common locations for applicants presenting as homeless in our district. However, the Council is committed to securing suitable accommodation for homeless households under all relevant sectors of the Housing Act 1996.
- 1.11 The policy therefore details how applicants will be prioritised for housing inside the Sevenoaks District and out of District.

## **Section 2: Private Rented Sector Offer and Temporary Accommodation Lettings**

- 2.1 **Temporary Accommodation:** Due to the shortage of suitable accommodation in Sevenoaks District, homeless applicants who are housed under the Council's interim duty to accommodate pursuant to section 188 HA96 may initially be placed in emergency accommodation, including bed and breakfast and short-term self-contained accommodation, such as annexes, or nightly-paid accommodation while enquires are carried out. This accommodation is highly likely to be outside of the District. Where it is not reasonably practicable to offer an applicant in-District accommodation on a specific day, and it has been necessary to offer an applicant out-of-District accommodation, there is no legal requirement on the Council to continue to search for in-District accommodation, only that they have done all that is reasonably practicable to offer a particular applicant accommodation within its own District. If the Council decides the Section 193(2) main housing duty is owed, they will be moved to longer-term temporary accommodation or made a Private Rented Sector Offer (PRSO) as soon as a suitable property becomes available.
- 2.2 Wherever possible and in compliance with the regulations, 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 move these households to more suitable self-contained accommodation within six weeks.
- 2.3 Applicants will be given one offer of suitable accommodation. This may be under longer-term temporary accommodation where the main housing duty has been accepted, or a Private Rented Sector Offer (PRSO). Offers of temporary accommodation will be made verbally over the phone by the Accommodation Services Team and followed up in writing thereafter.

- 2.4 **Private Rented Sector Offer (PRSO):** If a PRSO is being offered the Housing Advice Service will discuss the potential offer with the applicant in a supportive manner, explaining why this decision has been made and follow this up in writing. **The applicant will be advised to accept the offer made, with both the Officer and the offer letter explaining the consequences of refusal and any right of review that they have of the suitability of the offer of accommodation.** There is no obligation upon the Council to enable applicants to view the accommodation prior to acceptance but in terms of a PRSO we would endeavour to enable a viewing. In making the offer, the household's individual circumstances will be considered, taking into account the factors set out in section 3 of this policy and the Council's criteria on in/out of District placements detailed in section 4.
- 2.5 If an applicant rejects an offer of accommodation, they will be asked to provide their reasons for refusal. This applies to those being transferred from existing Temporary Accommodation (TA) or those in TA who are required to move by the Council and whom the Council has accepted a rehousing duty towards under Section 193 HA96. The Council will consider the reasons given and undertake further enquires as necessary. 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.
- 2.6 Where applicants refuse suitable accommodation (which may include out of Area placements) and the Council does not accept their reasons for refusal and considers that the offer is suitable, applicants will not be offered further accommodation and will be required to make their own arrangements.
- 2.7 In cases where the applicant still refuses a suitable offer of accommodation, after having been informed that the Council has not accepted their reasons for refusal, the interim homelessness duty will be discharged. The homeless household will be provided reasonable period of time to leave the interim accommodation unit. In accordance to the Council's safeguarding policy and procedure relevant referrals would be made to Adult and Specialist Children's Social Services to promote the safeguarding of vulnerable adults and children.
- 2.8 If they are already in longer-term temporary accommodation, the main housing duty will be discharged, and the applicant will be served with the appropriate Notice to Quit this accommodation. For applicants where the Council has accepted a rehousing duty under section 193 HA96, (s.193 duty) there is a right to request a review of the suitability decision, pursuant to section 202 HA96.

- 2.9 Where applicants, for whom the Council has accepted a s.193 duty refuse a suitable offer and submit a review request, they will only continue to be accommodated during the review period in exceptional circumstances. The Council will apply the principles laid down in the judgment in *R(Mohammed) v Camden LBC* [1997] 30 HLR 315 when reaching a decision on providing discretion to accommodate an applicant pending a review. 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 affect the original decision, the personal circumstances of the applicant and the potential impact of the loss of accommodation. In accordance with the Council's safeguarding policy and procedure relevant referrals would be made to Adult and Specialist Children's Social Services to promote the safeguarding of vulnerable adults and children.

### **Section 3: Suitability of accommodation**

- 3.1 In relation to a temporary or private sector offer of accommodation, the Council will consider the suitability of the offer, taking into account the following factors:

3.2 **Accommodation available in the District**

If suitable accommodation is available in the local authority area, the Council will seek to house applicants in the Sevenoaks District, allowing them to maintain any established links with services and social/support networks. However, when there is a lack of suitable accommodation or there are higher priority households awaiting accommodation in the District, out of Area placements will be used to meet the Council's housing duty (see section 4 on priority for local accommodation below).

The Council may also keep aside local vacant units in anticipation of applicants presenting who meet the criteria for a local placement. This has been confirmed as a reasonable practice in the Court of Appeal decisions in *Alibkheit v Brent LBC* and *Adam v Westminster*.

3.3 **Affordability**

'Affordability' as defined in this policy means: "the household must have its equivalent level of income support or income-based Jobseeker's Allowance (whether claimed or not) available to spend on reasonable living costs after accommodation costs have been deducted from the household's income". Due regard will be given to s.17.45 of the Code of Guidance 2018 when assessing affordability.

3.4 **Size and location of the property and availability of support networks in the area**

Accommodation must provide adequate space and room standards for the household in light of the relevant needs, requirements and circumstances

of the household (e.g. health or mobility issues and free from any Category 1 Hazards under the Housing Health Safety Rating System).

The Council will consider whether the applicant can afford to pay for their accommodation without being deprived of basic essentials such as food, clothing, heating, transport costs and all other reasonable expenditure. We will therefore take into account the rent that the household can afford as well as any additional costs, such as travel costs, resulting from the location of the accommodation.

In deciding on the fitness of the property, consideration would be given to the length of time needed to complete any necessary repairs and whether it is reasonable to complete these while the property is occupied. The quality of the decoration/furniture, the layout/type of accommodation, provision of parking and lack of access to a garden are unlikely to be acceptable reasons for a refusal.

### **3.5 Health factors**

The Council will consider health factors, such as ability to get up the stairs, care and support provided by other statutory agencies or the need to access any specialist medical services that are only available within the District. If the applicant or a member of the resident household is citing medical grounds that were not identified during the initial assessment, the applicant must submit medical evidence within 48 hours. The key test in determining the impact of medical issues is whether the condition itself makes the housing offered unsuitable. Problems such as depression, asthma, diabetes or back pain would not normally make a property unsuitable, as the problems would persist in any accommodation.

### **3.6 Education**

Attendance at local schools will not be considered a reason to refuse accommodation, though 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 (see Section 4).

### **3.7 Employment**

The Council will consider the need of applicants who are in paid employment to reach their normal workplace from the accommodation that is secured (see Section 4).

### **3.8 Proximity to schools and services**

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

### 3.9 Pet ownership

Pets are not allowed in temporary accommodation. If you have pets you should make arrangements for them to be looked after by a friend, relative or a charity. You will be responsible for any costs incurred. However, where

a PRSO offer of accommodation is made by the local authority, the Accommodation Services Team will advise the homeless household if the private landlord will allow pets in the private rented accommodation unit.

### 3.10 Any special circumstance

The Council will consider any other reasons for refusal put forward by the applicant and come to an overall view about whether the offer is suitable.

## Section 4: Criteria for prioritising placements inside and outside of the Sevenoaks District Council

- 4.1 It is the Council's preferred position to house applicants within the Sevenoaks District. The Council acknowledges that in the current housing market it will be necessary to make decisions about the suitability of out of area placements for individual households and balance these against the type and location of temporary accommodation and private rented accommodation that can be offered. In some cases, housing outside of the District might be more sustainable for the household in the long-term, with lower rents allowing them to better meet their subsistence and household costs and avoid rent arrears.
- 4.2 In placing households in temporary accommodation and private rented accommodation, there will be a general presumption that placements outside of Sevenoaks District may be used to discharge housing duties where the accommodation is suitable and where an affordable accommodation solution is not available locally.
- 4.3 Our preference for resettlement will follow a stepped approach, we will seek accommodation within our district, then to the wider County of Kent and finally we may consider placements outside of Kent across the whole country. All of these options will be fully considered using the prioritisation listed below. However, we may at times withhold available accommodation in the district or the wider Kent County if we feel other households would be more in need as set out in *Alibkheit v London Borough and Adam v City of Westminster*. Each application will be assessed according to the household's presenting needs.



## Placements within the Sevenoaks District

4.4 Priority for in-District accommodation will be given to certain households whose circumstances indicate that they would best be housed locally. These include but not limited to:

- Applicants with a severe and enduring health condition requiring intensive and specialist medical treatment that is only available in Sevenoaks District.
- Applicants who are in receipt of a significant package and range of health care options that cannot be easily transferred.
- Applicants 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.
- Households with children registered on the Child Protection register in Sevenoaks District, 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.
- Households containing a child with special educational needs who is receiving education or educational support in Sevenoaks District, where change would be detrimental to their well-being.
- Households containing one or more children in secondary school in their final year of Key Stage 4 (generally Year 11) with exams to be taken within the next six months
- Applicants who have a longstanding arrangement to provide care and support to another family member in Sevenoaks District who is not part of the resident household and would be likely to require statutory health and social support if the care ceased.
- Any other special circumstance will also be taken into account

### **Priority for placements in the County of Kent will be given to:**

- 4.5 Applicants who have been continuously employed in Kent for a period of 12 months, and for 24 hours or more per week.
- 4.6 Women who are on maternity leave from employment and meet the above criteria would also be prioritised for placements in Kent.
- 4.7 Applicants who have as part of their household, a child or children who are enrolled in public examination courses in Sevenoaks District, with exams to be taken within the next six months or in year 11 and year 13 of their secondary education. Wherever practicable the Council will seek to

place such households within 60 minutes car travelling distance of their school or college.

- 4.8 Wherever practicable, any applicant who works for more than 24 hours per week and has been employed continuously for more than 12 months will not be placed more than 90 minutes travelling distance by public transport, from their place of employment.
- 4.9 Applicants who meet none of the above criteria may be offered properties out of Kent when no suitable property is available.
- 4.10 The Council will access 'safe' accommodation for victims or survivors of domestic abuse. Victims will have individual and varying needs and support will be tailored to the individual. To meet the needs of all victims, paying special attention and consideration to those who share protected characteristic(s) under the Equality Act 2010 or who share a vulnerability requiring additional support.
- 4.11 We will make services easier to access by identifying and removing barriers and creating clear pathways to access support for those living in safe accommodation, including, for example, quick access to independent, and specialist services to help them with any financial difficulties they may be experiencing as a result of economic abuse. The Homelessness case officer will undertake a DASH (Domestic Abuse Stalking and Harassment) risk assessment to assess risk and safer locations a victim and (or) households are able to reside at.
- 4.12 Children are recognised in the Domestic Abuse Act 2021 as victims in their own right. We will ensure that children's individual needs and preferences are taken into account and that all children affected by domestic abuse in safe accommodation have access to support that will help them recover from abuse
- 4.13 Applicants who are at risk of violence being perpetrated against them will be placed outside of the District, however, this will be subject to a Domestic abuse, stalking and harassment risk assessment (DASH) risk assessment. The Homelessness case officer will assess the risk and safer locations a victim and (or) households are able to reside at. Whilst having given consideration to all other factors within this policy.
- 4.14 Applicants who indicate a desire to be housed in a particular area outside of Sevenoaks District will be housed in those area(s) so far as reasonably practicable.
- 4.13 Any other special circumstance will be taken into account.

## **Notification arrangements when households are placed outside of Sevenoaks District**

- 4.14 The Council, when discharging a homeless duty, will aim to ensure that information concerning details of placements in temporary accommodation and private rented accommodation outside Sevenoaks District is shared as far as possible in a fair and timely manner with the relevant Local Housing Authority in areas where families are moving to.
- 4.15 Notification arrangements - The Council will notify the receiving Local Housing Authority of any placement (as far as this is possible). The receiving Local Housing Authority should also notify Sevenoaks District Council as to any action they may have taken against a landlord/agent.
- 4.16 Pay a Fair Rent - The Council will, as far as is practical, ensure that the rent paid is in accordance with the prevailing local housing allowance rent levels and is not at a level that is likely to encourage inflation of rent levels.
- 4.17 Vulnerable families - So far as is practicable, if placing vulnerable families outside of Sevenoaks District, the Council will ensure that such families will continue to receive appropriate support.
- 4.18 For any household offered long-term temporary or permanent privately rented accommodation outside of the District, information will be provide on how to access local services, amenities and facilities in the local area. In particular they will be given general guidance on registering for Local Council Tax Support, applying for benefits, registering with a local GP, what to do if they need emergency funds and how to apply for a school place in the local authority area in which they are to reside.

### **Section 5: Monitoring and Review**

- 5.1 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, in consultation with the Cabinet Member for Housing and Health.

## Section 6: Local Housing Allowance (LHA) rates

Visit: <http://lha-direct.voa.gov.uk/Search.aspx>

### Sevenoaks District

As at February 2022, the North West Kent LHA levels are as follows:

Shared £88.85 per week per week or £385.07 per month.

1 bed £155.34 per week or £673.14 per month.

2 bed £195.62 per week or £847.69 per month.

3 bed £241.64 per week or £1,047.11 per month.

4 bed £299.18 per week or £1,296 per month.

As at February 2022, the High Weald LHA levels are as follows:-

Shared £100.11 per week per week or £433.81 per month.

1 bed £159.95 per week or £693.12 per month.

2 bed £207.12 per week or £897.52 per month.

3 bed £260.05 per week or £1,126.88 per month.

4 bed £345.21 per week or £1,495.91 per month.