

Temporary Accommodation Policy



Effective from June 2025



Walsall Council



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1. Introduction

- 1.1** This policy sets out the Council's policy for placement of homeless households in temporary accommodation. It covers both interim placements made under Section 188 of the Housing Act 1996, while homeless enquiries are undertaken, and longer-term temporary accommodation placements for households accepted as homeless under Section 193 of the Housing Act 1996. This policy supports and underpins all relevant housing related protocols developed and implemented between services within the Council.

2. Background

- 2.1** Local authorities have a statutory duty to provide temporary accommodation in their own area "so far as is reasonably practicable". Statutory guidance requires local authorities "where possible" to try and secure accommodation as close as possible to where an applicant was previously living (Housing Act 1996, Part vii, Section 208(1)), although local authorities are not constrained by the preference of the applicant. As temporary accommodation is necessary only for a short term for most households, there is usually no expectation that households will need to make alternative arrangements for education or employment during their stay in temporary accommodation.

3. Legal Framework

- 3.1** This policy has been developed in accordance with the relevant sections of the following legal and statutory guidance:

- S188 Housing Act 1996
- S193 Housing Act 1996
- S208 Housing Act 1996
- Homeless (Suitability of Accommodation) Order 2012
- S11 Children Act 2004
- Equality Act 2010
- Localism Act 2011
- Domestic Abuse Act 2021
- Homelessness Code of Guidance for Local Authorities (as amended)
- Associated Case Law

- 3.2** Supplementary guidance to the homelessness changes in the Localism Act 2011 and the Homeless (Suitability of Accommodation) Order 2012 states the following:

"Where it is not possible to secure accommodation within the district, and an authority has secured accommodation outside their district, the authority is required to take account of 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 unlikely to be suitable unless the authority has a justifiable reason or the applicant has expressed a preference".

3.3 In *Nzolameso v Westminster City Council* the Supreme Court Judgment included a set of requirements that local authorities need to consider when allocating temporary accommodation to homeless households. These include:

- Each local authority should have, and keep up to date, a policy for allocating temporary accommodation to homeless households. The policy should reflect the authority's statutory obligations under both the Housing Act 1996 and the Children's Act 2004.
- A requirement that local authorities explain their decisions as to the location of the properties offered.
- Where there is an anticipated shortfall of accommodation in the district, the policy should explain the factors to be taken into account when making decisions on where a household is placed.
- The Supreme Court also proposed that each local authority should have a policy for procuring sufficient units of temporary accommodation to meet anticipated demand for the coming year.

3.4 In *Birmingham City Council v Ali*, *Moran v Manchester City Council* [2009], the court observed that 'what is regarded as suitable for discharging the interim duty may be rather different from what is regarded as suitable for discharging the more open-ended duty in section 193(2).' This confirms the Code of Guidance's approach that, accommodation that would not be suitable in the long term may be suitable in the short term.

3.5 In exercising the functions outlined in this policy, the Council will have due regard to S149 Equality Act 2010 to:

- eliminate any form of unlawful discrimination.
- advance equality of opportunity for people with protected characteristics
- foster good relations between people with protected characteristics and those who do not.

3.6 In 2023 the Council approved Walsall's Rough Sleeper and Homelessness Strategy and one of the strategic objectives set out in the strategy is to enhance temporary accommodation (TA) provision tailored to meet individual and local need together with achieving a reduction in the use of bed and breakfast accommodation. A key focus of this provision is to develop a portfolio of dispersed TA and to achieve this the Council has become a Registered Provider (RP) in accordance with the regulations as set out by the Regulator of Social Housing. As an RP the Council must be complicit with the associated Consumer Standards. There are currently four Consumer Standards; namely the:

- 1) Tenancy Standard
- 2) Neighbourhood and Community Standard
- 3) Safety and Quality Homes Standard
- 4) Transparency, Influence and Accountability Standard

The above Consumer Standards are detailed in [Appendix One](#).

4. Key Principles

- 4.1** This policy is fully complicit with section 1.12 of the Homelessness Code of Guidance for Local Authorities; namely that:

The public sector equality duty in section 149(1) of the Equality Act 2010 requires public authorities, including housing authorities, to integrate equality considerations into the decision-making process from the outset, including in the development, implementation and review of their policies and services. This includes policies and services relating to homelessness and threatened homelessness. Other agencies and bodies who carry out public functions on behalf of local authorities also have a duty to comply with the public sector equality duty in the delivery of those public functions.

- 4.2** The Council will wherever possible offer temporary accommodation within the Walsall District.
- 4.3** There may be occasions when demand for temporary accommodation exceeds the number of available commissioned units, or there are other constraints in finding suitable commissioned accommodation. In these circumstances, if there is a duty to accommodate a household, the Council will as a last resort place a household in bed and breakfast/hotel/guesthouse accommodation.
- 4.4** In the context of 4.3 above, under the Homelessness (Suitability of Accommodation) (England) Order 2003, bed & breakfast accommodation is not considered suitable for families with children and households that include a pregnant woman, except where there is no other accommodation available, and then only for a maximum of six weeks. The Secretary of State considers that Bed & Breakfast accommodation is unsuitable for 16 and 17 year olds.
- 4.5** The Council will take account of all relevant need factors when assessing the suitability of location for temporary accommodation. These factors are listed in Section 5 below. Whilst these factors are always considered, all accommodation located within the Borough which is otherwise suitable, affordable and compliant with any risk assessment specific to the household will constitute as a reasonable offer regardless of its actual location within Walsall. Where possible the Council will endeavour to accommodate the needs of household pets, for example by engaging with local charities who provide temporary fostering facilities for dogs or cats.
- 4.6** When assessing the suitability or location for temporary accommodation, the Council will only take account of actual need and not the applicant's preference. Where there is a justifiable need and reason to do so the Council reserves the right to move households from one unit of temporary accommodation to another (this will be kept to a minimum to avoid disruption to the household concerned).
- 4.7** If it is not possible to provide temporary accommodation within the district, the Council will offer accommodation in another district taking into account the distance of that accommodation from the Walsall district. Where appropriate, the Council will endeavour to provide accommodation with good transport links to Walsall.
- 4.8** Households placed outside of the district may be considered for temporary accommodation within the district once a suitable unit becomes available, subject to their needs being assessed alongside the needs of other households who are owed a duty at the time.
- 4.9** The Council cannot take any responsibility and will not engage in any costs or provision for furniture storage.
- 4.10** Applicants will be notified of their responsibilities and informed of the penalties that can be imposed by the Courts for withholding or providing false information and the impact that will

have on their temporary accommodation provided.

4.11 The Council is committed to taking positive action in conjunction with our partners, to deal with all forms of anti-social behaviour affecting our communities to ensure that residents are able to enjoy peace, quiet and security in and around their homes, whilst remaining tolerant of the reasonable behaviour of others. Examples of Anti-social behaviour includes but is not confined to:

- Drunken or threatening behaviour
- Physical violence
- Hate related incidents
- Noise
- Litter/rubbish/fly-tipping
- Pet and animal nuisance
- Nuisance from vehicles
- Garden nuisance
- Vandalism, graffiti, and damage to property
- Misuse of communal areas/public space loitering
- Verbal abuse/harassment/intimidation – to staff, contractors, tenants or any other member of the community

The Council will work proactively in tackling anti-social behaviour in the Interests of individual residents and communities, recognising that such actions have a direct impact on the sustainability of communities and neighbourhoods.



5. Factors Considered When Making Placements

- 5.1 Risk** - Where a household is perceived to be at risk from others, or where there is a history of risk to others, the extent, nature, likelihood and gravity of the risk will be assessed and taken into account.
- 5.2 Children's education** - the ages and key educational stages of children will be taken into consideration, including any public examinations at Key Stage 4 (GCSE) or Key Stage 5 (A Levels or equivalent Stage 3 vocational courses such as BTECs). The practicalities of travel arrangements to existing schools will be considered including the cost and ease/length of time of travel. Support (to be) provided to any children with special educational needs will also be taken into consideration.
- 5.3 Children's needs** - in accordance with Section 11 of the Children Act 2004, the Council will consider the needs of all children in the household and any arrangements for safeguarding those needs. The key areas that will be considered are; risks to health and safety, as well as enjoyment, achievement, economic wellbeing and any equipment needed appropriate to the needs of the family. Households with children at risk or on the Child Protection Register or whom are identified as significantly disadvantaged, will be prioritised for an offer of temporary accommodation within the Walsall district. In such cases Children's Services will be consulted about making the temporary accommodation placement, which could involve a placement outside of the Walsall district.
- 5.4 Childcare and other caring responsibilities** - the practicalities of maintaining existing childcare and/or other caring arrangements may be considered. The cost and availability of caring arrangements in the new area will also be explored, including travel time to that care provision.
- 5.5 Employment** - where the applicant or their partner is accepted as being in employment and has been working continuously for a period of six months in the district under a written contract of employment (temporary or permanent) which requires at least 16 hours work a week, the place of employment will be taken into consideration. Parents who are on parental leave who intend to return to work will also have their work location considered under this criterion. The ease and cost of travel from the location of the temporary accommodation to an existing place of work, including any shift patterns, may be taken into account.
- 5.6 Health and support needs** - households which contain person(s) receiving regular treatment under the care of a Walsall hospital will be prioritised for an offer of temporary accommodation within the Walsall district. Any other specialist medical or support needs will be considered, including any existing health or support services provided.
- 5.7** The health and support needs of persons affected by substance misuse will be taken into account when making placements out of the Walsall area, particularly in the early stages of care where the transfer to another provider would involve risking disengagement etc. For this client group consideration in terms of placement will also be given to the dynamics and mix of potential residents in the same unit/building where it is felt determinantal in terms of client recovery.
- 5.8 Affordability** – the Council will consider a household's income in order to source temporary accommodation which has a rent that is affordable and meets the household's needs. Due to high rents within some parts of the district, this may mean securing temporary accommodation not in a household's immediate locality. The household's ability to meet any shortfall between housing benefit entitlement and the rent charged will be considered. The Council will determine whether a household may be exempt from the general household benefit cap or whether they may be eligible for a Discretionary Housing Payment (DHP) to help pay the rent.

6. Type and Size of Accommodation Offered

- 6.1** This policy complies with the statutory requirements on councils in respect of the suitability of accommodation, including the Suitability of Accommodation Order 2012. When deciding if a temporary accommodation placement is suitable, consideration will also be given to the Homelessness Code of Guidance for Local Authorities. Households requiring temporary accommodation will often be placed into accommodation that has fewer bedrooms than the statutory entitlement of a property that would be offered on a permanent basis. The condition of the decoration, furniture in the property (where applicable), the layout or type of accommodation, provision of parking and lack of access to a garden are extremely unlikely to be classed as acceptable reasons for refusals of offers.
- 6.2 Type of Temporary Accommodation:** In allocating temporary accommodation the Council will consider the needs of the applicant. It will consider any physical or mental health needs essential to the wellbeing of the applicant and their household, including the need for:
- 1) Access to the accommodation, including level access
 - 2) Adaptations to kitchens & bathrooms
 - 3) Layout of the accommodation, including any internal stairs
 - 4) Location of the accommodation in relation to access to essential health or support services
 - 5) Issues that may exacerbate any issues relating to physical or mental health or old age
- 6.3 Size of Accommodation:** Walsall Council will ensure that when allocating temporary accommodation that it is of an appropriate size for the applicant together with their household. Making a calculation using bedroom and space standard tests will be used to inform the overall number of rooms required for each applicant household. When making this decision the Council will consider the accommodation available to it at the time. Due to the emergency nature of temporary accommodation placements, living rooms and dining rooms may need to be calculated as bedrooms.
- 6.4** Where households are placed in accommodation that is smaller than their bedroom needs, support and practical assistance may be provided. Households will not be placed into accommodation of such a size that would result in statutory overcrowding. However, the Council will consider the general housing circumstances prevailing in the district when sourcing accommodation.
- 6.5 Physical Condition of the Property:** the Council will ensure all its temporary accommodation complies with relevant housing quality standards including health and safety, hygiene and fire legislation and regulations.
- 6.6 Change in circumstances:** any change of circumstances that affects an applicant's needs in relation to temporary accommodation will be considered on a case-by-case basis. An assessment of what is reasonable regarding the above guidance will be made. Changes in circumstances that in the view of the Council make the temporary accommodation unsuitable will be given priority for a move to alternative temporary accommodation.

7. Offers and Refusals

- 7.1** An applicant will receive one reasonable offer of temporary accommodation. The Council considers a reasonable offer of accommodation to be accommodation that meets the applicant household's needs, based on the information held in relation to the applicant's homeless application at the time of allocation. All accommodation located within the borough, which is otherwise suitable, affordable and compliant with any risk assessment will constitute as a reasonable offer regardless of its actual location within Walsall. Applicants will be notified of their rights and timescales to seek a review on appeal any decision made about the suitability of temporary accommodation offered or provided. Applicants will be informed where they obtain assistance to take this action and how to go about requesting a review or appeal.
- 7.2** If an applicant refuses an offer of temporary accommodation any of the following duties may come to an end:
- a) Section 188 interim accommodation duty.
 - b) Section 190(2) duty to accommodate for reasonable period.
 - c) Section 193(2) main housing duty.
- 7.3** The applicant will be notified in writing of the possible consequences of refusal and advised of their right to request a review of the suitability of the accommodation. Applicants will be encouraged to accept the offer of temporary accommodation and request a review of the suitability if they consider it not to be appropriate. On this basis if their review request is unsuccessful, they are able to continue to occupy the accommodation.
- 7.4** If the accommodation is refused and upon review the Council is satisfied that the accommodation is suitable the Council will notify the applicant in writing that they are no longer subject to the section 193(2) duty. No further offer of temporary accommodation will be made available.



8. Length of Stay in Temporary Accommodation

- 8.1** Where there is an interim duty to accommodate (as described in Housing Act 1996 Part 7 Section 188), applicants will be provided with temporary accommodation until:
- a) The investigation into their homeless application is complete.
 - b) The outcome of any review is known.
 - c) The household is found to be in breach of their occupation agreement. Action will be taken against any applicant who fraudulently gains temporary accommodation.
- 8.2** Where there is a temporary duty to accommodate following a decision of intentional homeless but in priority need (as described in Housing Act 1996 Part 7 Section 190) applicants will be provided with temporary accommodation until a reasonable period of time has elapsed that will allow them to secure their own accommodation (taking account of the local housing conditions e.g. the availability of alternative accommodation and the personal circumstances of the applicant, which may affect their ability to secure accommodation).
- 8.3** Where the 'main duty' to secure accommodation applies (as described in Housing Act 1996 Part 7 Section 193(2)) applicants may be provided with temporary accommodation until:
- a) They cease to be eligible for assistance.
 - b) They become homeless intentionally from the accommodation provided or otherwise voluntarily ceases to occupy the accommodation provided as his/her only or principal home.
 - c) They accept an offer of accommodation under the Housing Act 1996 Part 6 (allocation of housing accommodation)
 - d) They accept an offer of an assured tenancy.
 - e) They accept an offer of suitable private rented sector accommodation (by means to an assured shorthold tenancy which is of a minimum term of 12 months and includes a break clause should the accommodation deemed to be not suitable).
 - f) They refuse a final offer of suitable accommodation under the Housing Act 1996 Part 6 (allocation of housing accommodation) where they have been informed of the possible consequences of refusal and of their right to request a review of the suitability of the accommodation.
 - g) They refuse an offer of suitable private rented sector accommodation (by means to an assured shorthold tenancy which is of a minimum term of 12 months and includes a break clause should the accommodation deemed to be not suitable) where they have been informed of the possible consequences of refusal and been notified them that they have discharged their duty.
- 8.4** In cases involving applicants who have children under 18 where the housing authority have reason to believe that the applicant may be ineligible for assistance or may be homeless intentionally, the housing authority must, subject to the applicant's consent, alert the children's services authority to the case. A referral to the children's services authority may be made without the applicant's consent where there are safeguarding concerns, in accordance with local procedures
- 8.5** Where the Council is considering ending a licence agreement, the vulnerable household protocols described in Section 10 will be followed to ensure every avenue is explored to safeguard vulnerable households, including children.
- 8.6** An applicant's temporary accommodation will also be brought to an end when an applicant sources his or her own private sector accommodation for a 6-month period.

9. Procurement of Temporary Accommodation

- 9.1** The Council will ensure the provision of Temporary Accommodation in the following ways:
- a) The Council will provide units of accommodation from its own stock portfolio.
 - b) The Council will source units of accommodation from known third sector providers.
 - c) The Council will source units of accommodation from the private sector.
- 9.2** The Council has developed its own temporary accommodation portfolio including a portfolio of dispersed units across the borough. Bed and Breakfast accommodation will only be used as a last resort or in an emergency. Where this does become necessary the Council will endeavour to use one of its approved premises which are inspected by the Council annually (or more often if required) to ensure that they meet statutory standards.
- 9.3** It is recognised that in certain circumstances Bed and Breakfast premises that are not on the approved premises list will have to be used. Where an applicant and their household remain within this type of accommodation for longer than a week the Council will endeavour to inspect this premise providing that it does not place an undue strain on resources. However, where an applicant who is pregnant and/or dependent children reside, or the applicant is a child aged 16 or 17, the property will be inspected within a week.
- 9.4** The Council will work in accordance with all relevant legislation when procuring temporary accommodation e.g. The Local Government Act 1999, the Council's Procurement Policy, the Housing Act 1996 as amended by the Homeless Act 2002, Homelessness (Suitability of Accommodation) (England) Order 2012 (SI 2012/2601), Localism Act 2011, Section 1 of the Children's Act 1989, The Local Code of Guidance for Local Authorities 2006, Public Contracts Regulations 2015, and any subsequent guidance, relevant statutes, case law, national and local requirements.
- 9.5** Under the Council's procurement regulations, it is not required to tender for the lease of accommodation, as regulation 10 of the Public Contracts Regulations 2015 specifically excludes the acquisition or rental of land (including buildings) and rights over land as a service contract. However, with this in mind officers will continue to monitor and review contracted arrangements for sourcing temporary accommodation in the private sector to ensure the said arrangements remain cost effective.

10. Tenure and Vulnerable Household Protocols

- 10.1** All households placed in either emergency or short-term Temporary Accommodation will be required to sign a relevant legal license agreement before they are able to occupy the accommodation. The agreement sets out the particulars and terms of occupancy for the household, including charges for occupation, how to pay them, conduct and behaviour, and what enforcement action will be taken should the terms of the license agreement be broken.
- 10.2** The Council will always take actions to support and sustain the licence agreement, taking into account the individual circumstances of each licensee household including any vulnerability. Vulnerabilities may be linked to age, disability, mental health, ethnicity and other factors. Support will also include liaising with any existing support networks, utilising multi-agency networks and services including Early Help where children form part of the household. The Council will seek to ensure that tenants understand the terms of their licence agreement, the consequences of breaching these terms, and what action they can take to remedy any breach. This information will be communicated at licence sign up meetings and where interventions occur to deal with breaches.
- 10.3** In any circumstances where the Council considers there are grounds to end the licence agreement, it will take all reasonable attempts to intervene at an early stage. Termination will only be considered after reasonable steps have been taken to enable compliance with the agreement and have subsequently failed (except in circumstances of very serious breaches such as a serious indictable offence being committed or using a property for illegal purposes).
- 10.4** 10.4 The Council recognises that ending a licence has potentially far-reaching consequences, including the risk of homelessness and disruption to community, family and employment, education and training networks. Therefore, other than serious breaches as described in 10.3 above termination proceedings for vulnerable households will be considered by a panel convened appropriate and relevant to the household. Specifically, where children form part of the household, the panel will include an officer from Children's Services. For clarification, a panel will not normally be convened when an Interim Duty comes to an end.
- 10.5** Guided by existing protocols, if services are unable to agree with the ending of a Licence, the decision should be referred to and made mutually between the Heads of Service in Children's Services and Customer Engagement. If there is disagreement between the Heads of Service, then a referral to the Directors of Children's Social Work and Customer Engagement should be made for a joint decision. A further escalation to the respective Executive Directors may be made if the Directors are unable to reach agreement. A final route of escalation to the Chief Executive is possible if an agreement is still not reached on ending the Licence.

11. Monitoring and Reviews

- 11.1** The Council or any partner acting as the Council's agent in providing temporary accommodation services will keep daily records of what properties or units are available on each day and assess the best use of vacancies based on the needs of all households requiring accommodation.
- 11.2** A desktop review of this policy will be undertaken as and when required, considering patterns of demand for temporary accommodation and the availability of both commissioned and non-commissioned sources of temporary accommodation.
- 11.3** The Director of Customer Engagement will approve subsequent Temporary Accommodation Policy reviews and amendments except where the changes are major or involve amended legislation, at which point a revised Policy would be presented to the Corporate Management Team.



APPENDIX ONE: Regulatory Consumer Standards

Specific to its own temporary accommodation portfolio where the Council owns and manages properties, the Regulator for Social Housing sets out 4 Consumer Standards to which the Council must be compliant as a Registered Housing Provider. As a provider of less than 1,000 units, the Council is classified as a 'Small Provider'.

The **Safety and Quality Homes Standard** focuses on ensuring that Registered Providers (RPs) understand the condition of all of their homes and make use of that data to provide well maintained and safe homes for tenants. RPs are required to deliver repairs, maintenance and planned improvements in an effective, efficient and timely manner, and must be clear on their health and safety responsibilities.

The **Neighbourhood and Community Standard** requires Registered Providers (RPs) to work co-operatively with tenants and relevant organisations to take reasonable steps to ensure the safety of shared spaces and to promote social, environmental and economic wellbeing. RPs must also work in partnership with agencies such as the police and other relevant organisations to deter and tackle both anti-social behaviour and hate incidents in the relevant local neighbourhoods. Specifically, RPs must also work co-operatively with other agencies to tackle domestic abuse and enable tenants to access appropriate support and advice.

The **Tenancy Standard** requires Registered Providers (RPs) to allocate and let their homes in a fair and transparent manner and offer tenancies or terms of occupation which are compatible with the purpose of the accommodation and the needs of the individual household. RPs must support tenants to maintain their licence and are required to meet all applicable statutory and legal requirements in relation to the form and use of tenancy agreements or terms of occupation.

The **Transparency, Influence, and Accountability Standard** requires Registered Providers (RPs) to treat tenants and prospective tenants with 'fairness' and 'respect'. In relation to the housing and landlord services they provide, RPs are required to deliver fair and equitable outcomes for tenants and, where relevant, prospective tenants. RPs are required to take tenants' views into account in their decision making about how landlord services are delivered and communicate how tenants' views have been considered. Information about such services must be made available to tenants so that they can use landlord services, understand what to expect, and hold their landlord to account. RPs must lastly collect and provide information to support effective scrutiny by tenants of their landlord's performance in delivering services. Complaints must be addressed fairly, effectively, and promptly.

Further information regarding the **Regulatory Standards** can be found at [Regulatory standards - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/regulatory-standards-for-social-housing)

