Placement Procedure - Temporary Accommodation and Private Rented Accommodation (PRSO)

Effective Date – 01/03/19.

Accompanying documents – Work instructions for Placement Procedure

1 This document sets out Hackney Council’s procedure for the placement of households in temporary accommodation and private rented accommodation, both inside and outside the Borough.

1.1 This is a procedure document and a separate work instruction is in place for the relevant officers to implement this procedure.

1.2 This procedure covers accommodation placements made under –

- Section 188 Housing Act 1996, while homelessness enquires are undertaken
- Section 193 Housing Act 1996 - Temporary Accommodation provided as part of a main housing duty owed
- Private rented sector offer (PRSO) defined by section 193(7AC) Housing Act 1996 with a view to bringing the section 193(2) Housing Act 1996 duty to an end (also known as Discharge of homeless duty into private rented sector accommodation)

1.3 This procedure complies with

- The Housing Act 1996, as amended by the Homelessness Act 2002 and the Homelessness Reduction Act 2017
- The Localism Act 2011
- Equality Act 2010
- The Homelessness Code of Guidance 2018
- The Temporary Accommodation Strategy 2015-18
- Hackney Council’s Homeless Strategy 2015 -18
- Hackney Council’s Lettings Policy 2016
- Children Act 1989 (in particular S.17)
- Children Act 2004 (in particular S.11)

1.4 The procedure takes into account the statutory requirements on local authorities in respect of suitability of accommodation as per

- Section 206, Discharge of functions by local housing authorities, Housing Act 1996
- Suitability Orders
- Supplementary Guidance on homelessness changes in the Localism Act 2011
- Homelessness (Suitability of Accommodation) (England)) Order 2012
- Homelessness Code of Guidance
• 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.

1.5 As per section 208 Housing Act 1996, and paragraphs 16.6 and 17.46 of the Homelessness Code of Guidance, so far as reasonably practicable, the Council seeks to accommodate homeless households in Hackney and always considers the suitability of the accommodation, taking into account the circumstances of the individual household.

1.6 Due to an acute shortage of affordable housing within Hackney and close to it, and rising rental costs, an increasing number of households are likely to be placed outside the borough, as it will not be reasonably practicable to provide accommodation within Hackney.

1.7 The application of benefit caps, LHA rates within the borough, welfare reform, Universal Credit, together with restrictions upon overall benefit entitlement, has further restricted the number of properties that will be affordable to homeless households in Hackney, and particularly larger families.

1.8 When determining whether it is reasonably practicable to secure accommodation in Hackney, as opposed to simply what is reasonable, the cost of the accommodation is a relevant and proper consideration.

1.9 Affordability to pay the rent must be taken into account and will be assessed from information provided by the client and that information already available to the Council, together with paragraph 17.45 of the Homelessness Code of Guidance.

1.10 The demand for housing in Hackney greatly exceeds supply. Due to intensive pressures on housing stock rent levels remain high and affordability remains a primary obstacle not only in respect to securing private rented accommodation but also in respect to securing all forms of temporary accommodation within the borough boundaries.

1.11 The scale of demand and the limitations on resources are such that the council and its partners cannot build enough social housing to meet all housing need. Even if resources were available, there is also a limit to capacity given that the opportunities for large scale new development in Hackney are constrained by land availability and costs.

1.12 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).
1.13 Hackney has three Broad Rental Market Areas, which is used to calculate LHA rates. These are Central London, Inner East London and Inner North London. The majority of the borough is in the Inner East London Area.

2 Private Rented Sector and Temporary Accommodation Offers and Refusals

Interim Accommodation

2.1 Due to the shortage of suitable accommodation in Hackney, homeless applicants who are housed under the Council’s interim duty to accommodate (Section 188 Housing Act 1996) will initially be placed in emergency accommodation, including bed and breakfast and short-term self-contained accommodation, such as annexes, while enquiries are carried out.

2.2 This accommodation may be outside of the borough.

2.3 Wherever possible the Council will avoid placing families with dependent children, pregnant women in bed and breakfast accommodation. Where no other suitable accommodation exists and such placements are necessary, the Council will aim to move these households to more suitable self-contained accommodation within six weeks.

2.4 Applicants will be given one offer of accommodation and this will be under an interim duty (Section 188 Housing Act 1996) pending a decision as to what duty (if any) is owed.

2.5 There is no obligation upon the Council to enable applicants to view the interim accommodation prior to acceptance. In making the offer, the household’s individual circumstances will be considered, taking into account the factors set out in Sections 3 and 4 of this procedure and the likely duration of stay in that accommodation.

2.6 All offers of accommodation will be given in writing. The letter will state

2.6.1 The address of the property being offered

2.6.2 The consequences of refusal

2.7 There is no statutory right to request an internal review as to the suitability of interim accommodation offered under section 188 of the Housing Act 1996. Applicants may, however, apply for judicial review through the courts

2.8 In instances where an applicant refuses an offer of interim accommodation pending the homeless assessment (Section 188 Housing Act 1996) the duty to provide interim accommodation will be discharged. No other accommodation will be offered pending a decision as to what duty (if any) is owed.
Temporary Accommodation

2.9 Where the Council decides it has a duty to house the applicant (Section 193(2) Housing Act 1996), they may be moved to alternative longer-term temporary accommodation.

2.10 Applicants will be given one offer of suitable accommodation and this will be under a main housing duty (Section 193 of the Housing Act 1996) where the offer of accommodation will be temporary accommodation.

2.11 This accommodation may be outside of the borough.

2.12 There is no obligation upon the Council to enable applicants to view the accommodation prior to acceptance. In making the offer, the household’s individual circumstances will be considered, taking into account the factors set out in Sections 3 and 4 of this procedure.

2.13 All offers of accommodation will be given in writing. The letter will state

- The address of the property being offered
- The consequences of refusal
- The right to review the offer (if applicable)
- The right to request an extension of the provision of Temporary Accommodation pending review

2.14 If an applicant rejects an offer, they will be asked to provide their reasons for refusal. This applies to –

- Those seeking a transfer from existing Temporary Accommodation (TA)
- Those in TA that are owed a main housing duty under Section 193 Housing Act 1996 and are required to move by the Council.
- Accepted homeless applicants that are not currently in temporary accommodation, but to whom the Council has a duty to accommodate under Section 193(2) Housing Act 1996

2.15 The Council will consider the reasons given and undertake further enquiries as necessary. If the Council accepts the reasons for refusal and agree the offer is unsuitable, the offer will be withdrawn and a further offer will be made.

2.16 Where applicants refuse suitable accommodation (which may include out of borough placements) and the Council does not accept their reasons for refusal, and considers that the offer is suitable to accept, they will be notified of this in writing and the applicants will not be offered further accommodation under that duty and will be required to make their own arrangements.
2.15.1 In instances where the Council have accepted a main housing duty under Section 193 Housing Act 1996, there is a right to request a review of the suitability of the accommodation (Section 202 Housing Act 1996).

2.16 In cases where an applicant has refused a suitable offer of accommodation, either under Section 188 or Section 193 Housing Act 1996, the council shall discharge its duty to either provide interim accommodation pending the homeless assessment (Section 188 Housing Act 1996) or accommodation under a full homeless duty (Section 193 Housing Act 1996).

2.16.1 If the applicant is resident in accommodation under an interim duty (Section 188 Housing Act 1996) they will usually be asked to vacate the property within 14 days, subject to the period of notice set out in the licence agreement.

2.16.2 In instances where an applicant, that is owed a main housing duty under S193 Housing Act 1996, refuses a suitable offer of accommodation and submits a review request, they will only continue to be accommodated during the review period in exceptional circumstances. 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, and the personal circumstances of the applicant and the potential impact of the loss of accommodation. For example this could be a request from Social Services or due to a disability within the household finding alternative accommodation is difficult.

2.16.3 If accommodation is provided, pending a review request, the applicant will be notified of this in writing and then depending on the outcome of the review the accommodation will continue to be provided or it will be cancelled subject to the period of notice set out in the licence agreement.

If accommodation is not extended for the review period the applicant will be notified of this in writing and the accommodation will be cancelled subject to the period of notice set out in the licence agreement.

2.17 Where the Council decides that applicants housed under Section 188, Housing Act 1996, are not owed the main housing duty, they will be given reasonable notice to move out of the accommodation and this will usually be within fourteen days of receiving a homelessness decision letter, subject to the period of notice set out in the licence agreement.

3 **Suitability of accommodation – factors to consider**

3.1 In offering temporary or private sector accommodation, the Council will consider the suitability of the offer, taking into account a number of relevant factors including location, affordability, impact upon employment, education and caring responsibilities of the applicant and household.
If suitable accommodation is available in the local authority area, applicants will be housed in Hackney, allowing them to maintain any established links with services and social/support networks.

When there is a lack of suitable accommodation or there are higher priority households awaiting accommodation in the borough, out of borough placements will be used to meet the Council’s housing duty.

Given the shortage of accommodation, bed and breakfast accommodation both in and outside of the borough may be considered suitable for interim placements subject to 2.4 and 2.5 above.

Affordability - In all cases the authority will determine the affordability of any particular property to the applicant based on their specific circumstances. As a general guideline the household should have its equivalent level of income support or Universal Credit (whether claimed or not) available to spend on reasonable living costs after accommodation costs have been deducted from the household’s income. Where the applicant’s household income includes amounts that would normally be disregarded in the assessment of means tested benefits the council will normally use this income to determine affordability but will have regard to relevant outgoings.

If the household is subject to the benefit cap then this will also be taken into consideration when assessing income that is available to them.

Due regard will be paid to Sections 17.45 – 17.46 of the Code of Guidance 2018 when assessing affordability.

Location of the property - where the authority is unable to secure suitable accommodation within the borough it will secure suitable accommodation outside the borough having due regard to the distance of that accommodation from the district.

In determining the suitability of a property the authority will take into account transport links and accessibility/availability of essential services appropriate to the applicant’s household needs.

The property offered will be suitable in terms of space and lay out taking into account the reasonable and relevant needs, requirements and circumstances of the household with special regard, but not limited to, health and mobility issues.

The quality of the decoration/furniture, the layout/type of accommodation, provision of parking space, garden or white goods are unlikely to be acceptable reasons for a refusal.

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 Hackney. 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 provide evidence of this with a medical form within 1 day of the initial offer. If it is not possible to provide this information within 1 day then extensions will be given on a case by case basis.

3.11 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 sort of accommodation.

3.12 Education – Where the applicant’s household includes a child/children of school age attendance at schools will be considered before an offer of accommodation is made. The Council understands that disruption to education and established support networks can be detrimental to a child’s development but also recognises that the impact of homelessness and living in insecure or temporary accommodation for a length of time can equally be detrimental.

Therefore an assessment of the child’s need will be carried out which will look at the requirement to both promote and safeguard their welfare.

Temporary accommodation will normally be considered suitable where it is within 60 minutes travel (by public transport) of the child’s school.

Where the authority makes an offer of Private Rented Sector accommodation it is reasonable to assume that children under year 10 could transfer to a local school and that this would not constitute a significant disruption to their education. The authority must establish that there are appropriate school places available within a reasonable distance of the accommodation offered.

If children are in a special school or have a Statement of Special Educational Needs it would be necessary to assess whether a transfer to a location out of the borough would represent a significant disruption to their education. This may involve making enquiries of the potential host authority to establish that those needs could be met in a local school. Each case will be considered on an individual basis.

Where the applicant or partner is taking degree or postgraduate study at University, in making a decision about the location of accommodation consideration will be given to the potential disruption to those studies. This will be balanced against the wider benefits of stable sustainable accommodation to the household.

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

3.15 The Council will consider the proximity to schools, public transport, primary care services, GP’s and local services in the area in which the accommodation is located.

3.16 For applicants who are victims of domestic violence and abuse, and a placement in the borough has been prioritised for the household following this procedure, then if
the accommodation provided is going to be a hostel this should be, if available at the
time, a Hackney owned hostel with a 24 hour security provision.

3.17 The Council will consider any other special circumstances put forward by the
applicant and come to an overall view about whether the offer is suitable.

3.18 Each case will be considered on the individual circumstances of that case at the time.

4 Criteria for placing applicants in or outside of Hackney.

4.1 As the borough faces increasing difficulties in housing applicants inside the borough,
it will become more necessary to make decisions about the suitability of out of
borough placements for individual households and balance these against the type
and location of temporary accommodation and private rented accommodation that
can be offered.

4.2 In many cases housing outside of the borough will 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. In some cases the benefit
cap may cease to apply.

4.3 So far as is practicable if placing vulnerable families outside of Hackney we will
ensure that such families will continue to receive appropriate support. In all cases we
will notify the host borough of the household details. All households will also be given
details of their local GP surgeries, schools, religious communities and community
centres as applicable.

4.4 There is an expectation that applicants will provide all relevant information about their
circumstances at the earliest opportunity to ensure decisions about property location
and suitability can be made. Applicants who do not provide reasonably requested
information and evidence to determine their circumstances will be deemed to be
suitable for an offer of accommodation in any area when no suitable property is
available closer to Hackney.

4.5 Priority for in-borough accommodation will be given to certain households whose
circumstances indicate that they would best be housed in Hackney and close to it.
These include –

4.5.1 Applicants with a severe and enduring health condition requiring intensive and
specialist medical treatment that is only available in Hackney.

4.5.2 Applicants who are in receipt of a significant package and range of health care
options that cannot be easily transferred.

4.5.3 Applicants with a severe and enduring mental health condition 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 significantly impact their well-being.

4.5.4 Households with children registered on the Child Protection register in Hackney, or families who are linked into local health services or have high social needs, for example are working with Social Services, and where it is confirmed that a transfer to another area would significantly impact their welfare.

4.5.5 Households with a child/children with special educational needs, receiving education or educational support in Hackney, where those needs cannot reasonably be met elsewhere.

4.5.6 Any other special circumstances will also be taken into account

4.6 Priority for placements within a commuting distance of Hackney or a relevant centre of interest will be given to:

4.6.1 Applicants who have been continuously employed for a period of at least 6 months and for 24 hours or more per week.

4.6.2 Applicants who are on maternity/paternity/adoption leave from employment that meets the criteria in 4.6.1.

4.6.3 Wherever practicable, any applicant who satisfies 4.6.1 or 4.6.2 will not be placed more than 90 minutes travelling distance by public transport from their place of employment (or a longer time which reflects the applicants normal travel time to work from their last settled accommodation).

4.6.4 Applicants who have as part of their household, a child or children who are enrolled in public examination courses in Hackney with exams to be taken within the next 12 months. Wherever practicable we will seek to place such households within 60 minutes travelling distance of their school or college.

4.6.5 Applicants who are victims of domestic violence or abuse will be placed outside of Hackney in an area where the risk of violence is minimised having given consideration to all other factors within this procedure. This is to ensure the applicant’s continued safety.

4.6.6 Applicants who are at risk of violence or harassment being perpetrated against them would be placed outside of Hackney in an area where the risk of violence is minimised having given consideration to all other factors within this procedure. This is to ensure the applicant’s continued safety.

4.6.7 Consideration will be given to applicants who indicate a desire to be housed in a particular area outside of Hackney. They will be offered assistance to secure suitable accommodation in those area(s) so far as reasonably practicable but
may be offered any suitable accommodation in accordance with these procedures.

4.6.8 Applicants who can demonstrate a longstanding arrangement to provide care and support to another family member in Hackney who is not part of the applicant’s household and would be likely to require statutory health and social support if the care ceased.

4.6.9 Applicants (or their partner) who are attending University for degree or postgraduate which is intended to be completed within 12 months. Wherever practicable we will seek to place such households within 90 minutes travelling distance of their University.

4.7 Applicants who meet none of the criteria specified in paras 4.5 - 4.6.9 may be offered properties in any area when no suitable property is available closer to Hackney

4.8 In all cases the Council will always try and source accommodation as close to the borough as practically possible. The Council’s Temporary Accommodation Strategy 2015/18 sets out how the Council procures temporary accommodation.

5 Notification arrangements when households are placed outside of London

5.1 In accordance with Section 208 of the Housing Act 1996, we will ensure that written information concerning details of placements in temporary accommodation and private rented accommodation outside the borough is shared with the relevant councils in areas where the households are moving to.

5.2 Where applicants have identified, social, education or medical needs and it is considered that an offer of accommodation outside the borough is appropriate, arrangements will be made with the destination authority to transfer service provision at the time of the move.

6 Suitability requirements for properties offered Private Rented Sector Offer (PRSO)

6.1 We will ensure, when procuring accommodation for PRSO’s, that the accommodation meets the standards as set out in The Homelessness (Suitability of Accommodation) (England) Order 2012.