

## Temporary Accommodation Policy 2021

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# Temporary Accommodation Policy 2021

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## **1 Introduction**

- 1.1 This policy sets out how North Northamptonshire Council will meet its duties and exercise its powers in relation to the provision (and withdrawal of) of suitable temporary accommodation for homeless households in North Northamptonshire.
- 1.2 This policy has full regard for legislation, government guidance and it meets relevant aims set out in the North Northamptonshire Housing Strategy Lite.
- 1.3 This policy also meets the requirement to produce a policy which sets out how the local authority will procure accommodation for households who are homeless in its area in accordance with the judgement *Nzolameso v Westminster* (2015) in the Supreme Court.

## **2 Legal framework**

- 2.1 The Council has a statutory duty to assist households presenting as homeless where they are eligible for assistance and in priority need. This policy relates to the placement of homeless households into interim accommodation under S188 Part 7 Housing Act 1996 (as amended) (the Act) and longer-term temporary accommodation placements under S193 of the Act where a main housing duty for households has been accepted.
- 2.2 This policy also sets out the Council's duties under other relevant sections of the Act and circumstances in which it may exercise its power to provide accommodation to homeless households.
- 2.3 When discharging a duty to secure that accommodation is available for an applicant who is homeless, or threatened with homelessness, the Council is also required to, ensure that the accommodation is suitable in accordance with S206(1) of the Act.
- 2.4 Temporary accommodation is for an interim period only while the local authority determines what duty, if any, is owed to the homeless household. Households who are accepted as owed the main housing duty will be offered long term accommodation in the private rented sector or social housing through its Choice Based Lettings System 'North Northamptonshire Keyways' to enable the household to move on from temporary accommodation (see Discharge of Homelessness Duties (Accommodation Offers) Policy for more information).

## **3 Aims and objectives of this policy**

- 3.1 The aims and objectives of this policy are:
  - Provide temporary accommodation in accordance with our duties under homelessness legislation

- Ensure that temporary accommodation provided is suitable in accordance with legislation, guidance and caselaw
- Minimise disruption to homeless households by providing accommodation in their home area where possible, or within North Northamptonshire
- Keeping households who are homeless because of domestic abuse safe and supported
- Keeping the cost of the Council's temporary accommodation bill to a minimum by reducing the use of bed and breakfast / hotel and third-party supplier managed temporary accommodation.

## 4 Types of temporary accommodation

4.1 The Council uses a variety of accommodation to temporarily house homeless households (please note that the term 'areas' refer to the former district and borough council areas):

- **Accommodation within our own housing stock (HRA) in Kettering and Corby areas<sup>1</sup>** – self-contained units of accommodation owned and managed by the Council.
- **Accommodation purchased by the Council to use specifically for temporary accommodation (Acquisitions) in Kettering, and Wellingborough areas** - self-contained units of accommodation owned and managed by the Council.
- **Accommodation provided by a Registered Provider (Greatwell Homes) in the Wellingborough area** – self-contained units of accommodation owned and managed by a Registered Provider (Housing Association).
- **Private sector leased accommodation (PSL) in the Kettering area** – self-contained units of accommodation leased by the Council from private landlords which the Council manages. The Council is working to reduce the number of PSL units in favour of more cost-effective options.
- **Accommodation provided by a third-party supplier of temporary accommodation in all areas** – nightly paid self-contained units of accommodation typically rented to third party suppliers on an assured shorthold tenancy (AST) basis and managed by the supplier (basic furniture is provided but may be removed if required upon request).
- **Bed and breakfast / hotel accommodation in all areas** – shared facilities, although the Council aims to keep use of this type of accommodation to an absolute minimum.

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<sup>1</sup> The Council does not have 'fixed units' of temporary accommodation, how units are identified for use as temporary accommodation depends on availability and demand for specific accommodation sizes and types.

- **Refuge nationwide** – shared facilities with support sourced for households who become homeless because of domestic abuse (where appropriate).
- 4.2 Although the Council is taking steps to procure additional self-contained units of temporary accommodation through spot purchasing on the open market, in order to minimise the use of bed and breakfast / hotel accommodation, the Council will ‘top up’ its self-contained provision via a supply of third party supplier managed units in accordance with any increase in demand for temporary accommodation.
- 4.3 The Council will continually monitor the number of homeless households requiring temporary accommodation to try to secure a sufficient supply of suitable accommodation across all areas of North Northamptonshire, in turn reducing the use of out of area placements and overall costs.
- 4.4 Please note that all self-contained accommodation provided is unfurnished without floor and window coverings unless otherwise stated. The Council will liaise with homeless households in relation to any support that can be offered to procure essential furniture items if required.

## **5 Charging arrangements for temporary accommodation**

- 5.1 Homeless households living in temporary accommodation must arrange to pay and/or claim Housing Benefit to cover their weekly temporary accommodation charges.
- 5.2 The Council has clear procedures as to how it will make homeless households aware of their charges and how much they must contribute, they will also assist homeless households – where applicable – to claim Housing Benefit to help cover the cost of the charges.
- 5.3 If a household does not pay their charges and/or if they do not cooperate with their Housing Benefit claim resulting in the accrual of arrears, they will be served with notice to leave their temporary accommodation which may impact the outcome of their application for assistance with their homelessness.
- 5.4 The charging arrangements for the different types of temporary accommodation are as follows:

	<b>Kettering area</b>	<b>Corby area</b>	<b>Wellingborough area</b>	<b>Area formerly known as East Northamptonshire</b>
<b>Accommodation within our own housing stock (HRA)</b>	Social rent levels over 48 weeks <sup>2</sup>	Social rent levels over 52 weeks		
<b>Accommodation purchased by the Council to use specifically for temporary accommodation (Acquisitions)</b>	Current year Local Housing Allowance (LHA) rates over 52 weeks		Current year LHA rates over 52 weeks	
<b>Accommodation provided by a Registered Provider</b>			Social rent levels over 48 weeks	
<b>Private sector leased accommodation (PSL)</b>	90% applicable January 2011 LHA rates			
<b>Accommodation provided by a third-party supplier of temporary accommodation</b>	90% applicable January 2011 LHA rates			
<b>Bed and breakfast / hotel accommodation</b>	100% 1-bedroom January 2011 LHA rate			
<b>Refuge</b>	Charges are variable. The applicant will be supported by refuge staff in relation to any rental and service charges.			

<sup>2</sup> The same value of rent is charged per unit whether over 48 or 52 weeks

- 5.5 All charging arrangements have been decided considering the Homelessness (Suitability of Accommodation) Order 1996.
- 5.6 Where homeless households require additional support to help pay their temporary accommodation charges (and Council Tax and utilities) beyond that provided by the Temporary Accommodation Team, they will be referred for in house or other forms of tenancy support to ensure the household has best prospects of successfully sustaining their temporary accommodation.

## **6 Allocating and deciding priority for different types of temporary accommodation**

- 6.1 When allocating temporary accommodation to homeless households, the Council will take into consideration the households' individual circumstances, whether the requirement for temporary accommodation is an emergency (i.e. no or little notice has been provided) and the availability of the different types of temporary accommodation it uses.
- 6.2 To minimise disruption to homeless households the Council will always try to source accommodation in the applicant's home area<sup>3</sup>.
- 6.3 Where accommodation cannot be provided in the applicant's home area the Council will attempt to source temporary accommodation in a neighbouring area of the applicant's choice within North Northamptonshire, where possible.
- 6.4 If this is not possible the Council will make all attempts to source accommodation within North Northamptonshire and will only place outside of North Northamptonshire in an emergency and/or where there is no other accommodation available in North Northamptonshire.
- 6.5 In such cases the Council will return households to North Northamptonshire, and to their home area if possible, at the earliest opportunity.
- 6.6 When placing an applicant outside of their home area, if required, the Council will consider arranging transport for the household to take up their placement, travel to and from the Council Offices for reasons relating to their application for assistance, or to take up a different placement.
- 6.7 The following table provides an order of preference of how the Council will allocate to the different types of temporary accommodation, by area, taking in to account the different types of temporary accommodation in each area:

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<sup>3</sup> The term 'area' refers to the former district and borough council areas.



	<b>Kettering area</b>	<b>Corby area</b>	<b>Wellingborough area</b>	<b>Area formerly known as East Northamptonshire</b>
<b>1</b>	Acquisition	HRA	Acquisition	Nightly paid self-contained in area
<b>2</b>	PSL	Nightly paid self-contained in area	Registered Provider	Any available properties of acquisition, PSL, HRA and registered provider provision, in other areas within North Northamptonshire
<b>3</b>	HRA		Nightly paid self-contained in area	
<b>4</b>	Nightly paid self-contained in area			
<b>5</b>	<p>If a household can't be provided with temporary accommodation as set out above then bed and breakfast / hotel or nightly paid accommodation will be provided as follows:</p> <ol style="list-style-type: none"> <li>1. Bed and breakfast / hotel in area or nightly paid self-contained in another area of North Northamptonshire</li> <li>2. Nightly paid self-contained in another area of North Northamptonshire</li> <li>3. Bed and breakfast / hotel in another area of North Northamptonshire or nightly paid self-contained outside of North Northamptonshire</li> <li>4. Nightly paid self-contained outside of North Northamptonshire</li> </ol>			

- 6.8 Please note that this is a guide only and the Council may deviate from this approach in order to offer **suitable** temporary accommodation to homeless households based on their own individual circumstances, for example there may be certain circumstances where providing bed and breakfast accommodation in the applicant's home area is deemed more suitable than providing self-contained (and unfurnished) accommodation out of their home area.
- 6.9 In deciding priority for the different types of temporary accommodation it uses, the Council will consider the facts of each case this includes but is not limited to; household composition, any medical needs, and length of any stay in bed and breakfast/hotel or out of area accommodation. For example if a ground floor flat becomes available for use as temporary accommodation and there is a 'new' homeless applicant requiring temporary accommodation and has mobility issues, they will be offered the accommodation over someone without such needs living in bed and breakfast/hotel accommodation.
- 6.10 When non third-party self-contained accommodation becomes available, the Council will seek to offer it to households living in bed and breakfast / hotel

accommodation and those living in temporary accommodation outside of North Northamptonshire first, before it will be offered to any 'new' homeless households requiring temporary accommodation.

## **7 Homeless households deemed at risk in their home area**

- 7.1 Where it is deemed unsafe for a homeless household to remain in their home area, but they would be safe in a different area within North Northamptonshire the Council will source accommodation in that area if possible.
- 7.2 If it is deemed unsafe for an applicant to remain in North Northamptonshire, the Council will provide accommodation outside of the area in the form of bed and breakfast/hotel or third party supplier managed self-contained accommodation until an appropriate housing solution for the homeless household can be identified.
- 7.3 Please note that where a homeless applicant requires emergency accommodation because they have had to leave their home because of domestic abuse, the Council will in the first instance and where appropriate source refuge accommodation to ensure their safety and provision of appropriate support.
- 7.4 In all cases the Council will ensure it complies with the requirement to provide 'suitable' accommodation in accordance with legislation, guidance and caselaw.

## **8 Use of bed and breakfast (or hotel) accommodation**

- 8.1 Bed and breakfast (whether or not breakfast is included) means accommodation which is not self-contained and in which any of the following amenities is shared by more than one household:

- toilet
- personal washing facilities
- cooking facilities

### **8.1 The legal position on use of bed and breakfast for families**

- 8.1.1 In April 2004, the Government introduced legislation to limit the use of bed and breakfast accommodation for homeless families (The Homelessness (Suitability of Accommodation) (England) Order 2003). Bed and breakfast accommodation is not suitable for families with dependent children, including those who are pregnant but councils can use bed and breakfast accommodation as a last resort for a maximum of 6 weeks only.

## **8.2 The legal position on use of bed and breakfast for 16/17 year olds**

- 8.2.1 In accordance with statutory guidance (introduced by the Government in 2010) bed and breakfast accommodation is never suitable for 16 and 17 year olds and councils should ensure they have a sufficient supply of accommodation options for homeless young people.
- 8.2.2 Please refer to the *Northamptonshire Homelessness Protocol for 16 and 17 year olds who become homeless* which details how Northamptonshire Partners work together to ensure a consistent and co-ordinated response to young people who present as homeless and in need of accommodation or accommodation-related support.

## **8.3 General**

- 8.3.1 The Council does not regard bed and breakfast / hotel accommodation as suitable and will only be used in emergency situations or crisis presentations, and as a last resort where homelessness prevention activity has failed and in the absence of available self-contained accommodation.
- 8.3.2 Additionally, where self-contained accommodation cannot be provided in North Northamptonshire, the applicant will be given a choice to be accommodated in bed and breakfast accommodation within the North Northamptonshire area, or in self-contained accommodation (if it can be sourced) outside of the North Northamptonshire area.
- 8.3.3 If a homeless household is placed in bed and breakfast accommodation, or in third party accommodation outside of North Northamptonshire (including where an applicant voluntarily accepts self-contained accommodation outside of North Northamptonshire area instead of being placed in bed and breakfast within North Northamptonshire) the Council will maintain clear records to demonstrate that at placement was a 'last resort'. Additionally, the Council will keep all such placement under weekly review and record efforts to source more suitable accommodation at the earliest opportunity.

## **9 Suitability of temporary accommodation**

### **9.1 Review rights**

- 9.1.1 An applicant does not have a right to ask for a statutory review under S202 of the Act of the Council's decision as to the suitability of interim accommodation secured under S188 of the Act (but such decisions could be subject to judicial review).
- 9.1.2 An applicant does have the right to ask for a statutory review of the Council's decision as to the suitability of temporary accommodation secured under S193

of the Act (after the Council has accepted the main housing duty to the applicant). An applicant has the right to ask for a statutory review whether or not they accept the offer of accommodation.

- 9.1.3 An applicant accepted as homeless under S193 of the Act is notified in writing of their right to ask for a statutory review, and how they may indeed request that review.

## **9.2 Suitability of accommodation**

- 9.2.1 S206(1) of the Act provides that all accommodation provided under Part 7 of Act must be suitable for the applicant and their household, and the suitability requirements under S210 of the Act apply (see below). The Council may take into account the interim nature of a placement when assessing whether or not it is suitable; as accommodation may be suitable for a few days or weeks that would not be suitable for a longer term placement.
- 9.2.2 As set out above the Council will secure temporary accommodation for homeless households while having full regard to the requirements under the Act in respect of suitability of accommodation based on individual circumstances of the homeless household and their family.
- 9.2.3 The Council will consider Parts 9 and 10 of the Housing Act 1985 (slum clearance and overcrowding), Parts 1 to 4 of the Housing Act 2004 (housing conditions, licensing of houses in multiple occupation, selective licensing of other residential accommodation, additional control provisions in relation to residential accommodation). The Council will also consider three statutory instruments (known as Suitability Orders) which help to define suitability for this purpose:
1. The Homelessness (Suitability of Accommodation) Order 1996 (S.I. 1996/3204), which covers the affordability of the accommodation for the household.
  2. The Homelessness (Suitability of Accommodation) (England) Order 2003 (S.I 2003/3326) which specifies the circumstances in which accommodation will not be regarded as suitable for household types.
  3. The Homelessness (Suitability of Accommodation) Order 2012 (S.I. 2012/2601), in particular, paragraph 2 of the 2012 Order which requires consideration of:
    - where the accommodation is situated outside the district of the local housing authority, the distance of the accommodation from the district of the authority;

- the significance of any disruption which would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person or members of the person's household;
- the proximity and accessibility of the accommodation to medical facilities and other support which
  - are currently used by or provided to the person or members of the person's household; and
  - are essential to the well-being of the person or members of the person's household; and
- the proximity and accessibility of the accommodation to local services, amenities and transport.

### **9.3 The Council's considerations when securing temporary accommodation**

The Council will therefore consider the following when securing temporary accommodation for a homeless household:

- 1) Distance of the temporary accommodation outside of the Council's area<sup>4</sup>
- 2) Affordability of the temporary accommodation
- 3) If the homeless household has their own transport including additional costs and the impact of these
- 4) Public transport
- 5) Employment
- 6) Caring arrangements
- 7) Children's schools, including availability of school places to transfer to in the new area<sup>5</sup>, any statement of special educational need or educational health care plan, and whether any child is at a pivotal point of education, i.e. GCSE's or A level
- 8) Medical needs of the household
- 9) Other factors as raised by the applicant

9.3.1 The Council will maintain clear records to demonstrate that consideration has been given to these items when placing a homeless household in temporary accommodation.

### **9.4 Providing temporary accommodation outside the Council's area (of North Northamptonshire)**

9.4.1 The Council is committed to providing homeless households with temporary accommodation in their home area where possible, and to keep placements

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<sup>4</sup> Refer to Section 9.4 of this Policy

<sup>5</sup> Refer to Section 9.4 of this Policy

outside of North Northamptonshire to an absolute minimum (where appropriate and suitable considering the safety of the homeless households and any associated risks).

9.4.2 Where there is a need for the Council to provide temporary accommodation outside of its area it will have full regard to The Homelessness (Suitability of Accommodation) Order 2012 (S.I. 2012/2601), in particular, paragraph 2 of the 2012 Order as set out in Section 9.2.3 of this policy; and:

- the Council will take particular care to ensure that applicants have sufficient information about the location of the accommodation and the services that would be available to them there (including details of the provider of the accommodation and the local authority social care teams if appropriate)
- applicants will be given a reasonable amount of time<sup>6</sup> to consider the offer made before reaching a decision whether to accept
- the Council will consider the level of disruption caused by the location of the accommodation with regard to employment, education, health needs, distance and mobility
- if the homeless household contains school age children, the Council will contact the relevant Local Education Authority to make them aware of the placement
- The Council will notify the host local authority of the temporary accommodation of the placement in writing (by email)

9.4.3 When making out of area placements for reasons other than to mitigate any risks posed to the homeless household, the Council will evidence why and how the decision was made acknowledging the household's collective and individual needs. Additionally, the Council will keep all such placement under weekly review and record efforts to source more suitable accommodation at the earliest opportunity.

9.4.4 When placing a homeless household outside North Northamptonshire, the Council will consider arranging transport for the household to take up their placement, travel to and from the Council Offices for reasons relating to their application for assistance, or to take up a different placement.

## **9.5 Persons requiring disabled adapted properties**

9.5.1 The Council will do all it can to ensure that it secures suitable temporary accommodation for homeless households who require disabled adaptations.

9.5.2 If an immediate solution cannot be identified within existing available provision,

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<sup>6</sup> Refer to Section 11 of this policy

the Council will secure a 'best possible' solution until such time as more suitable accommodation can be secured, the Council may therefore need to provide homeless households who require fully adapted accommodation with accessible accommodation in bed and breakfast / hotel in the interim period.

- 9.5.3 Given the limited supply of disabled adapted properties available to temporary use, the Council may not be able to secure suitable accommodation in the applicant's home area and they may be offered suitable accommodation in a different area of North Northamptonshire instead<sup>7</sup>, and if unavailable, outside of North Northamptonshire<sup>8</sup>.

## **9.6 Overcrowding**

- 9.6.1 It can be challenging to source suitably sized accommodation for larger households which means larger households may be placed in temporary accommodation that is smaller than their 'bedroom need' and they may have to use living rooms as sleeping spaces and siblings may need to share.
- 9.6.2 In such cases, the Council will move households to more suitable accommodation as soon as possible considering availability.
- 9.6.3 Given the limited supply of larger (4/5 bedroom) units of accommodation for temporary use, the Council may not be able to secure suitable accommodation in the applicant's home area and they may be offered suitable accommodation in a different area of North Northamptonshire instead<sup>9</sup>, and if unavailable, outside of North Northamptonshire<sup>10</sup>. The size requirement will be considered alongside other important factors such as children's schooling arrangements.

## **9.7 Households with pets**

- 9.7.1 Wherever possible and appropriate, homeless households with pets will be placed in temporary accommodation where the pets can reside with them.
- 9.7.2 If this is not possible the applicant should make significant efforts to arrange suitable accommodation for the pet for example with a family member/friend. The Council will offer advice and assistance in a situation where this is not possible.
- 9.7.3 Please note that pets are not permitted in bed and breakfast/hotel accommodation, and with any other forms of temporary accommodation the

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<sup>7</sup> Refer to Section 6 of this policy

<sup>8</sup> Refer to Section 9.4 of this policy

<sup>9</sup> Refer to Section 6 of this policy

<sup>10</sup> Refer to Section 9.4 of this policy

Council must grant explicit permission for the pet to reside at the accommodation.

## **9.8 Dealing with complaints about temporary accommodation**

- 9.8.1 The Council is responsible for providing suitable temporary accommodation for homeless households.<sup>11</sup>
- 9.8.2 Homeless households can make complaints about any aspect of their temporary accommodation via the Council's complaints process.<sup>12</sup>

## **9.9 Repairs and property condition**

- 9.9.1 If the temporary accommodation is owned and/or managed by the Council, homeless households can complain about repairs and property condition by contacting the Council's Customer Services Team on 0300 126 3000.
- 9.9.2 If the temporary accommodation is owned and/or managed by an external provider/supplier, applicants will be advised to contact the provider/supplier directly with complaints about repairs and property condition in the first instance.
- 9.9.3 The Council will intervene in complaints about repairs and property condition in temporary accommodation when they are not adequately resolved by the external provider/supplier. In doing so the Council will contact the applicant, and the provider/supplier, directly and decide the appropriate course of action.
- 9.9.4 Please note that any external provider/supplier of temporary accommodation must provide accommodation to the required standards and the Council will conduct regular inspections of the accommodation being used to ensure compliance.

## **10 Storing personal belongings**

- 10.1 Under S211(1) and (2) of the Act where the Council has become subject to a duty to an applicant under specified provisions of the Act, and it has reason to believe that:
  - a) there is a danger of loss of, or damage to, the applicant's personal property;
  - b) because the applicant is unable to protect it or deal with it; and,
  - c) no other suitable arrangements have been, or are being, made,

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<sup>11</sup> Refer to Section 9.2 of this policy

<sup>12</sup> Refer to Section 17 of this policy



then, whether or not the Council is still subject to such a duty, it must take reasonable steps to prevent the loss of, or to prevent or mitigate damage to, any personal property of the applicant.

10.2 The specified provisions are:

- a) S188 (interim duty to accommodate);
- b) S189B (initial duty owed to all eligible persons who are homeless); and,
- c) S190, S193 or S195 (duties to persons found to be homeless or threatened with homelessness); or S200 (duties to an applicant whose case is considered for referral or is referred).

10.3 When deciding how to perform its duty, the Council will consider the individual facts of each case.

## **11 Making offers of long-term accommodation to households living in temporary accommodation**

11.1 Please note that homeless households living in temporary accommodation will be given reasonable time to consider any offer of long term accommodation made to bring the S189B relief or S193 main housing duty to an end, including whether or not the applicant should exercise their right to ask for a statutory review under S202 of the Act of the Council's decision as to the suitability of the offer of long term accommodation.

11.2 There is no set reasonable period; some applicants may require longer than others depending on their circumstances, whether they wish to seek advice in making their decision and whether they are already familiar with the property or locality in question. Longer periods may be required where the applicant is in hospital or temporarily absent from the area. In deciding what a reasonable period is, the Council will consider the applicant's individual circumstances.

11.3 Applicants will be given the chance to view accommodation that is offered, before being required to decide whether they accept or refuse an offer, and before being required to sign any written agreement relating to the accommodation for example, a tenancy agreement. In some circumstances where the homeless household is residing in temporary accommodation owned and managed by the Council (HRA only) the Council may offer that same unit of temporary accommodation to the homeless household as their long term home (this is called a 'temporary – permanent conversion').

11.4 See Discharge of Homelessness Duties (Accommodation Offers) Policy for further details.

## **12 Duties to secure accommodation**

### **12.1 Section 188 interim duty to accommodate**

- 12.1.1 S188(1) requires the Council to secure that accommodation is available for an applicant (and their household) if it has reason to believe that the applicant may be homeless and be eligible for assistance; and have a priority need.
- 12.1.2 The S188(1) interim accommodation duty applies even where the Council considers the applicant may not have a local connection with its area and may have one with the area of another housing authority giving rise to the possibility of referral (S188(2)).

### **12.2 Duty to secure accommodation under the section 193(2) 'main housing duty'**

- 12.2.1 When an applicant is accepted as being owed the main housing duty the Council has a duty under S193(2) to secure that accommodation is available for their occupation (unless it refers the application to another housing authority under S198).
- 12.2.2 The accommodation secured must be available for occupation by the applicant together with any other person who normally resides with them as a member of their family, or any other person who might reasonably be expected to reside with them. It must also be suitable for their occupation.<sup>13</sup>
- 12.2.3 The main housing duty will not be owed to an applicant who has turned down a suitable final accommodation offer or Part 6 offer made during the S189B(2) relief stage, or has been given notice under S193B(2) due to their deliberate and unreasonable refusal to co-operate.

### **12.3 Section 190(2) duty to provide accommodation to applicants who are intentionally homeless**

- 12.3.1 On reaching a decision that an applicant has priority need and is intentionally homeless, the Council must secure accommodation for a period of time that will provide a reasonable opportunity for them to find their own accommodation.
- 12.3.2 Generally the Council will continue to provide an applicant with accommodation for a further 28 days before they are required to vacate their interim accommodation. The applicant will be provided with housing options wrap around support to secure alternative accommodation. This includes a referral to

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<sup>13</sup> Refer to Section 9 of this policy

the Northamptonshire Multi Agency Safeguarding Hub (MASH)<sup>14</sup> in cases where households contain dependent children (referral to the MASH may also be made without the applicant's consent where there are safeguarding concerns).

12.3.3 Less or additional time may be provided, in determining the period for which accommodation will be secured under S190(2) the Council must consider each case on its merits. In making this decision the Council will take into account:

- the particular needs and circumstances of the applicant and the resources available to them to secure accommodation. This might include any health or support needs that make it more difficult for the applicant to find and secure accommodation, as well as the support available from their family or social network
- the housing circumstances in the local area, and the length of time it might reasonably take to secure accommodation. In assessing this the Council might reflect on the efforts previously made by both the Council and the applicant to relieve their homelessness, and why these had not proved successful
- arrangements that have already been made by the applicant which are likely to be successful within a reasonable timescale. For example, if the applicant has secured accommodation that is not yet available to occupy or can demonstrate that accommodation will be so secured, the Council will consider providing S190(2) accommodation until the applicant is able to take up the accommodation.

#### **12.4 Section 199A(2) and section 200(1) duties to accommodate applicants with no local connection pending outcome of referral**

12.4.1 If the Council has notified an applicant that it proposes to refer the case to another housing authority, it has a duty under: S199A(2) if referral is in the relief stage of an applicant who the authority has reason to believe may have a priority need; or S200(1) if referral is in the S193 main housing duty stage of an applicant who has a priority need and is unintentionally homeless, to secure that accommodation is available for the applicant until they are notified of the decision whether the conditions for referral are met. At this point the duty under S199A(2) or S200(1) will come to an end and a duty under S189B or S193(2) will be owed by either the notified housing authority or the notifying housing authority.

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<sup>14</sup><https://www.northamptonshire.gov.uk/councilservices/children-families-education/SEND/local-offer/local-government-department/2459-multi-agency-safeguarding-hub-mash-and-child-protection-team>

## **12.5 Section 193C(4) duty to accommodate applicants who have deliberately and unreasonably refused to co-operate pending final offer**

- 12.5.1 Applicants who have priority need but are no longer owed a S189B relief duty following service of a S193B notice due to their deliberate and unreasonable refusal to co-operate will not be owed the S193 main housing duty but will be owed an accommodation duty under S193C(4).
- 12.5.2 The S193C(4) duty ends if the applicant accepts or refuses a final accommodation offer or a final Part 6 offer. A 'final accommodation offer' is an offer of an assured shorthold tenancy made by a private landlord with the approval of the Council, with a view to bringing the S193C(4) duty to an end. The offer must be of a fixed term tenancy (within the meaning of Part 1 of the Housing Act 1988) of at least 6 months duration, and the accommodation must be suitable for the applicant. A 'final Part 6 offer' is a suitable housing allocation (under Part 6 of the 1996 Act) made in writing, and which states that it is a final offer for the purposes of this section (a housing authority must not approve a final accommodation offer or make a final Part 6 offer if the applicant has a contractual obligation in respect of their existing accommodation which they are unable to bring to an end before being required to take up the offer).
- 12.5.3 The S193C(4) duty will also end if the applicant:
- ceases to be eligible for assistance;
  - becomes homeless intentionally from the accommodation provided under S193C(4);
  - accepts an offer of an assured tenancy from a private landlord; or,
  - voluntarily ceases to occupy as their only or principal home, the accommodation provided.

## **13 Ending interim and temporary accommodation duties**

### **13.1 Ending the section 188 interim duty**

- 13.1.1 The S188(1) interim duty comes to an end when applicants are notified of certain decisions in relation to their application.
- 13.1.2 The Council may bring the S188(1) interim accommodation duty to an end within the 56 day relief stage by issuing a S184 decision that the applicant does not have priority need (the applicant will continue to be owed a S189B(2) relief duty until that duty ends or is found not to be owed). Or, the S188(1) interim duty can be ended by issuing a notification that the relief duty is not owed or has been brought to an end. If neither of these notifications is issued within the 56 day relief stage, the S188(1) interim accommodation duty will be brought to an end by notification of what further duties are owed, if any, under S193 or S190.

- 13.1.3 In the event that the relief duty is brought to an end following refusal of a final accommodation or Part 6 offer, and the applicant requests a review as to the suitability of the accommodation offered, the S188(1) duty will continue until a decision on the review has been notified to the applicant.
- 13.1.4 In circumstances where an applicant is found not to be eligible for assistance and S188(1) interim accommodation has been provided, notice periods should take account of the needs of the applicant and the time required for them to access assistance (the Council must provide, or secure the provision of, information and advice as set out in S179).
- 13.1.5 Where households include children or particularly vulnerable adults who are owed duties under the Children Act 1989 or Care Act 2014 and responsibilities are transferred to Social Care Teams or Children First Northamptonshire, there should be no break in the provision of accommodation for applicants who cease to be eligible for support under the Act (see housing/child/adult joint working procedures for more information).

### **13.2 Refusal or loss of interim accommodation**

- 13.2.1 Where an applicant rejects an offer of interim accommodation (or accepts and moves into the interim accommodation and then later rejects it), this will bring the Council's interim accommodation duty to an end – unless it is reactivated by any change of circumstances. Note, however, that an applicant's rejection of interim accommodation does not end other duties that the Council may owe under the Act.
- 13.2.2 The S188 interim duty will also end if the applicant refuses a suitable offer of interim accommodation or the applicant breaches the terms of their occupation agreement.

### **13.3 Ending interim accommodation arrangements**

- 13.3.1 When the Council is satisfied that it is under no further duty to secure interim accommodation or where this duty has ended, it will take steps to terminate the applicant's right of occupation. In general, the Council will provide 28 days' notice, and will not rely on any licenses being a lesser period by which notice can be served.
- 13.3.2 In accordance with the supreme court judgment R(ZH and CN) v London Borough of Newham and London Borough of Lewisham (2014), applicants residing in temporary accommodation provided under Part 7 of the Act are required to vacate with reasonable notice only and the Council does not need to apply for a possession order from the Court. In all cases the Council will act reasonably and give the applicant an opportunity to find alternative

accommodation before the interim accommodation is terminated. Again, the Council will consider the facts of the case considering the circumstances of the applicant and allowing time for them to consider whether to request a review of any decision where applicable (see Withdrawal of Temporary Accommodation Procedure for more information).

#### **13.4 Circumstances where the Council will cease to be subject to the main housing duty under section 193(2)**

13.4.1 The Council will cease to be subject to the main housing duty under S193(2) in the following circumstances:

- the applicant **accepts a suitable offer of accommodation under Part 6** (an allocation of social housing) (S193(6)(c)). This would include an offer of an assured tenancy of a private registered provider property via North Northamptonshire Keyways;
- the applicant **accepts an offer of an assured tenancy** (other than an assured shorthold tenancy) from a private landlord (S193(6)(cc)). This could include an offer of an assured tenancy made by a private registered provider;
- the applicant **accepts or refuses a private rented sector offer - an offer of an assured shorthold tenancy of at least 12 months made by a private landlord (S193(7AA))**. For this to be the case the applicant must have been informed in writing of the possible consequences of refusing or accepting the offer, their right to request a review of the suitability of the accommodation, and the duties that would be owed to them on re-application if they became unintentionally homeless from the accommodation within 2 years of accepting the offer;
- the applicant **refuses a final offer of accommodation under Part 6** (an allocation of social housing). The main housing duty does not end unless the applicant is informed of the possible consequences of refusal and of their right to ask for a review of the suitability of the accommodation (S193(7)), the offer is made in writing and states that it is a final offer (S193(7A)), and the Council is satisfied that the accommodation is suitable and that it would be reasonable for the applicant to accept it (S193(7F));
- the applicant **refuses an offer of temporary accommodation** which the Council is satisfied is suitable for the applicant (S193(5)). For this to be the case the applicant must have been informed of the possible consequences of refusal and of their right to ask for a review of the suitability of the accommodation, and have been notified by the Council that it regards itself as having discharged its duty.
- The applicant **ceases to be eligible** for assistance as defined in S185 of the 1996 Act;

- The applicant **becomes homeless intentionally** from accommodation made available to them under S193;
- The applicant voluntarily **ceases to occupy** as their principal home the accommodation made available under S193.

13.4.2 In **restricted cases** the Council will, as far as is reasonably practicable, bring the S193(2) duty to an end through the offer of a assured shorthold tenancy of at least 12 months duration with a private landlord (S193(7AD)). The applicant will not be owed a S195A duty if they re-apply as unintentionally homeless within 2 years of accepting the offer.

13.4.3 In any case where the S193 duty is ended, the applicant will be advised of their right to request a S202 review of that decision, and how to request that review (see Discharge of Homelessness Duties (Accommodation Offers) Policy and S202 Review Procedures for more information).

## 14 Discretionary powers to secure accommodation

### 14.1 Powers to accommodate pending a review

14.1.1 Under S202 of the Act applicants have the right to ask for a review of the Council's decision on a number of issues relating to their case, and may also request that accommodation is secured for them pending a decision on the review. Housing authorities have powers to accommodate applicants pending a decision on reviews under S188(3), S199A(6) and S200(5) of the 1996 Act.

14.1.2 In considering whether to secure accommodation pending review the Council will balance the objective of maintaining fairness between homeless persons in circumstances where it has decided that no duty is owed to them, against proper consideration of the possibility that the applicant might be right. The Council will consider the following, along with any other relevant factors:

- the merits of the applicant's case that the original decision was flawed and the extent to which it can properly be said that the decision was one which was either contrary to the apparent merits or was one which involved a very fine balance of judgment;
- whether any new material, information or argument has been put to them which could alter the original decision; and,
- the personal circumstances of the applicant and the consequences to them of a decision not to exercise the discretion to accommodate.

14.1.3 Where an applicant is refused accommodation pending a review, they may seek to challenge the decision through judicial review.

## 14.2 Power to accommodate pending an appeal to the county court

- 14.2.1 Where an applicant is dissatisfied with the Council's S202 review decision or is not notified of the review decision within the proper time limits, an applicant has the right to appeal to the county court on a point of law arising from the review decision or original homelessness decision.
- 14.2.2 Under S204(4) of the Act the Council has have the power to accommodate certain applicants during the period for making an appeal against their decision; and, if an appeal is brought, until it and any subsequent appeals are finally determined.
- 14.2.3 This power may be exercised where the Council was previously under a duty to secure accommodation for the applicant's occupation under S188, S190, S199A or S200; and may be exercised whether or not the housing authority has exercised its powers to accommodate the applicant pending review.
- 14.2.4 In deciding whether to exercise this power, the Council will adopt the same approach, and consider the same factors, as for a decision whether to exercise their power to accommodate pending a review.
- 14.2.5 Under S204A of the Act, applicants have a right to appeal to the county court against decisions on the use of the S204(4) power to accommodate. This enables an appeal against decisions not to secure accommodation for them pending their main appeal, or to stop securing accommodation, or to secure accommodation for only a limited period before final determination of the main appeal by the county court.
- 14.2.6 In deciding a S204A appeal, if the court quashes the decision of the housing authority, it may order the authority to accommodate the applicant, but only where it is satisfied that failure to do so would substantially prejudice the applicant's ability to pursue the main appeal on the homelessness decision.
- 14.2.7 Where the Council has decided that an applicant is **not eligible** for housing assistance under Part 7 it can still exercising its powers to secure accommodation pending a review or appeal unless it is prevented from doing so by S54 of, and schedule 3 to, the Nationality, Immigration and Asylum Act 2002 where the applicant is a person who falls within one of a number of classes of person specified in schedule 3 unless there would otherwise be a breach of the person's rights under the European Court of Human Rights or rights under EU Treaties.



### **14.3 Powers to secure accommodation to prevent or relieve homelessness**

- 14.3.1 The Council has duties to help prevent and relieve homelessness for eligible applicants who are threatened with becoming homeless within 56 days or are homeless. The S195(2) prevention duty requires the Council to take reasonable steps to help the applicant to secure that accommodation does not cease to be available to them, and the relief duty requires the Council to take reasonable steps to help the applicant to secure that suitable accommodation becomes available to them for at least 6 months.
- 14.3.2 S205(3) of the Act enables housing authorities to discharge the S189B(2) relief and/or S195(2) prevention duties by securing accommodation for an applicant, where it decides to do so.
- 14.3.3 The power to secure accommodation for applicants to prevent or relieve homelessness, regardless of priority need status, provides more flexibility to pursue appropriate housing options for applicants.
- 14.3.4 The Council can use the S205(3) power to deliver accommodation services for groups that are at higher risk of homelessness, for example young people with low incomes, or to provide additional help to those least able to secure accommodation directly from a private landlord, such as people with an offending history or people with a mental health problem. The Council will consider local priorities, needs and resources when considering how the power might best be utilised in its area.

## **15 The Council's response to Covid-19 and rough sleeping**

- 15.1 The Council exercises its power to secure accommodation to relieve homelessness under S205(3) of the Act for genuine and verified rough sleepers during the Covid-19 pandemic restrictions.
- 15.2 The Council will exercise its powers under S1 of the Localism Act 2011 to secure accommodation for those who are ineligible for assistance in these extenuating circumstances.
- 15.3 There are extensive procedures in relation to the provision of accommodation for this vulnerable group, and indeed anyone else who requires emergency accommodation to self-isolate or for other reasons relating to Covid-19 (see Covid-19 procedures for more information).

## **16 Monitoring and review**

- 16.1 There will be stringent monitoring and regular review of the number of households living in temporary accommodation, the type and suitability of

temporary accommodation provided, the length of time households spend in temporary accommodation, and expenditure on temporary accommodation.

- 16.2 This policy will be reviewed annually or sooner if there are any changes to legislation or operational requirements that may impact on this policy and its delivery.
- 16.3 Minor changes can be agreed by the **INSERT POSITION**. Where there are significant changes or changes to legislation then this will require the appropriate governance.

## **17 Complaints**

- 17.1 North Northamptonshire Council operates a Compliments and Complaints Policy so that everyone is clear about how to compliment, comment and complain about services provided by the Council and what will happen to those comments once they are received. A copy of the Compliments and Complaints Policy can be found on the North Northamptonshire Council website.

## **18 More information**

- 18.1 If you would like further information about this policy please contact North Northamptonshire Council's Housing Options Service:

***ENTER CONTACT DETAILS***