



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

This document sets out Brent Council's policy for the placement of households in temporary accommodation and private rented accommodation, both inside and outside the Borough. It covers both *interim* placements made under Section 188 Housing Act 1996 ("HA96") during the 56 day relief duty period under Section 189B HA96 while homelessness enquires are undertaken (or for the duration of a statutory homelessness review under Section 202 HA 96); and *longer term* temporary accommodation placements for households accepted as homeless under Section 193(2) HA 1996 and a private rented sector offer defined by section 193(7AC) with a view to bringing to an end the Section 193(2) duty or as a final accommodation offer made in the 189B relief stage (sections 193A(6) and 193C(9)).

The information regarding applicants and their household's particular circumstances as recorded in their Personalised Housing Plans (PHPs), suitability, medical and vulnerability forms will be taken into account by officers when applying this policy.

The policy complies with:

- The Housing Act 1996, as amended by the Homelessness Act 2002
- The Localism Act 2011
- The Homelessness Reduction Act 2017
- Equality Act 2010 and specifically the Public Sector Equality Duty under s.149
- Homelessness (Suitability of Accommodation)(England) orders 1996, 2003 & 2012.
- Supplementary Guidance on the Homelessness changes in the Localism Act 2011 & the homelessness (Suitability of Accommodation) (England) Order 2012 (as amended by the Homelessness (Suitability of Accommodation) (Amendment) (England) Orders 2022 and 2023
- The Homelessness Code of Guidance
- The Allocation Scheme
- Children Act 1989 (in particular S.17)
- Children Act 2004 (in particular S.11)
- Homelessness and Rough Sleeping Strategy 2020-2025
- Domestic Abuse Act 2021

1.1 The policy takes into account the statutory requirements on local authorities in respect of suitability of accommodation as per section 206 HA 1996, including Suitability Orders, Supplementary Guidance on Homelessness, changes in the Localism Act 2011 and on the Homelessness (Suitability of Accommodation (England) Order 2012, the Homelessness Code of Guidance, the Children Act 2004 S.11 which places duties on a range of organisations and individuals to ensure their functions, and any services that they contract out to others, are discharged having regard to the need to safeguard and promote the welfare of children.

The Council is aware of its obligations under s.149 of the Equality Act 2010, that it must, in the exercise of its functions have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

The policy has also taken into account the relevant decisions by the Courts on out of borough placements, including the Supreme Court judgment in the case of *Nzolameso v City of Westminster* [2015] UKSC 22 and the Court of Appeal decision in *Alibekheit v London Borough of Brent and Adam v City of Westminster* [2018] EWCA Civ 2742.

1.2 As per section 208 HA 1996, and paragraph 17.50 of the Homelessness Code of Guidance, so far as reasonably practicable, the Council seeks to accommodate homeless households in Brent and always considers the suitability of the accommodation, taking into account the circumstances of the individual household. However, due to an acute shortage of affordable housing locally, and rising rental costs, an increasing number of households are likely to be placed outside the borough, as it will not be reasonably practicable to provide accommodation within Brent. The application of housing 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 Brent, and particularly larger families.

1.3 When determining whether it is reasonably practicable to secure accommodation in Brent, as opposed to simply what is reasonable, the cost of the accommodation is a relevant and proper consideration. Matters to be taken into account here would include information provided on the suitability form which is completed by the client, together with the factors set out in Chapter 17: Suitability of accommodation of the Homelessness Code of Guidance. The reality is however that the demand for housing greatly exceeds supply, due to this intensive pressures on housing stock in Brent, rent levels remain high and affordability remains a primary obstacle not only in respect to securing PRSO accommodation but also in respect to securing all forms of temporary accommodation within our borough boundaries.

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

1.5 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).

1.6 The LB Brent is divided into three Broad Rental Market Areas, which are used to calculate LHA rates in Brent. Inner North London BRMA, North West London BRMA and Inner West London BRMA.

1.7 The LHA rates in some of the regions outside London where accommodation costs are lower, there are costs savings to be made by utilising accommodation in areas outside of the three BRMA's in Brent, please see link.: [Search for Local Housing Allowance rates by postcode or local authority : DirectGov – LHA Rates \(voa.gov.uk\)](#)

1.8 The policy therefore details how applicants will be prioritised for housing in Brent, and outside of London.

2 PRSO and Temporary Accommodation Offers and Refusals

2.1 Due to the shortage of suitable accommodation in Brent, homeless applicants who are housed under the Council's interim duty to accommodate pursuant to Section 188 HA96 may initially be placed in emergency accommodation, including bed and breakfast and short-term self-contained accommodation, such as annexes, while enquires are carried out. This accommodation may be outside of the borough. Where it is not reasonably practicable to offer an applicant accommodation in Brent on a specific day, and it has been necessary to offer an applicant out of borough accommodation, there is no legal requirement on the Council to continue to search for in borough accommodation, only that it has done all that is reasonable practicable to secure that accommodation is available for the occupation of the applicant in their district, in accordance with s.208 HA96. If the Council decides it has a duty to house the household, they will be moved to longer-term temporary accommodation or made a PRSO as soon as a suitable property becomes available.

2.2 Wherever possible, the Council will avoid placing: families with dependent children; pregnant women; and, young people aged 16/17 in bed and breakfast accommodation. Where no other suitable accommodation exists and such placements are necessary, the Council will move these households to more suitable self-contained accommodation within six weeks.

2.3 Where the Council decides that applicants housed under Section 188 HA96 are not owed the main homelessness duty, they will be asked to leave, usually within fourteen days of receiving a homelessness decision letter.

2.4 Applicants will be given one offer of suitable accommodation this may be under an interim duty while enquiries are being carried out, or longer term temporary accommodation where a full housing duty has been accepted or a PRSO, they will be advised to accept this. 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 section 3 of this policy and Council's criteria on in/out of borough placements detailed in section 4.

2.5 If an applicant rejects an offer, they will be asked to provide their reasons for refusal. This applies to new applicants to whom the Council has an interim duty to accommodate under Section 188 HA96, as well as those seeking a transfer from existing Temporary Accommodation (TA) or those in TA who are required to move by the Council whom the Council has accepted a rehousing duty towards under Section 193 HA96. The Council will consider the reasons given and undertake further enquires as

necessary. If the Council accepts the reasons for refusal and agree the offer is unsuitable, the offer will be withdrawn and a further offer will be made.

2.6 Where applicants refuse suitable emergency 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, applicants will not be offered further accommodation and will be required to make their own arrangements. They will be provided with a reasonable period of time to leave the emergency accommodation unit. There is no right of appeal against the suitability of accommodation offered to applicants under Section 188 HA96 (although they can apply for judicial review through the courts). For applicants where the Council has accepted a rehousing duty under Section 193 HA96, (s193 duty) there is a right to request a review of the suitability decision, pursuant to Section 202 HA96.

2.7 In cases where the applicant still refuses a suitable offer of accommodation, the main homelessness duty will be discharged. and the Council will comply with the duty under s.190 HA 1996, the applicant will be provided with a reasonable period of time to leave the accommodation unit and be advised that no further assistance will be provided. If they are already in longer-term temporary accommodation, the current housing provider would be advised that the duty has been discharged. If the Council owns or manages the long term temporary accommodation then the applicant will be served with the appropriate Notice to Quit for this accommodation.

2.8 Where Applicants, whom the Council has accepted a s193 duty refuse a suitable offer and submit a review request, they will only continue to be accommodated during the review period in exceptional circumstances. The Council will apply the principles laid down in the judgment in *R (Mohammed) v Camden LBC* [1997] 30 HLR 315 when reaching a decision on whether to exercise its discretion to accommodate an applicant pending a review. Each case will be considered on an individual basis, taking into account the overall merits of the review request, any new information or evidence that may affect the original decision, and the personal circumstances of the applicant and the potential impact of the loss of accommodation.

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 the following factors:

3.1.1 Accommodation available in the borough – if suitable accommodation is available in the local authority area, applicants will be housed in Brent, allowing them to maintain any established links with services and social/support networks. However, when there is a lack of suitable accommodation or there are higher priority households awaiting accommodation in the borough, out of borough placements will be used to meet the Council's housing duty (see section 4 on priority for local accommodation below). Given the shortage of accommodation locally, bed and breakfast in/outside of the borough may be considered suitable for short-term interim placements.

3.1.2 Affordability: 'Affordability' has been defined in this policy thus: "the household must have its equivalent level of income support or income based jobseeker's allowance (whether claimed or not) available to spend on reasonable living costs after accommodation costs have been deducted from the household's income". Due regard will be paid to paragraphs 17.48 – 17.49 of the Homelessness Code of Guidance when assessing affordability.

3.1.3 Size and location of the property and the availability of support networks in the area – accommodation must provide adequate space and room standards for the household and be fit to

inhabit including ensuring in accordance with paragraph 17.12 that there is adequate space for a cot for each child under 2. (To ensure that the property is suitable in terms of space and arrangement in light of the relevant needs, requirements and circumstances of the household. E.g. Health or mobility issues and free from any Category 1 Hazards under the Housing Health Safety Rating System)

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

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

3.1.4 Health factors – the Council will consider health factors, such as ability to get up the stairs, care and support provided by other statutory agencies or the need to access any specialist medical services that are only available in Brent. If the applicant or a member of the resident household is citing medical grounds that were not identified during the initial assessment, the applicant must submit a medical form with 24 hours. The key test in determining the impact of medical issues is whether the condition itself makes the housing offered unsuitable. Problems such as depression, asthma, diabetes or back pain would not normally make a property unsuitable, as the problems would persist in any sort of accommodation.

3.1.5 Education - attendance at local schools will not be considered a reason to refuse accommodation, though some priority will be given to special educational needs and students who are close to taking public examinations in determining priority for in-borough placements (see Section 4).

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

3.1.7 Proximity to schools and Services - The council will consider the proximity to schools, public transport, primary care services, and local services in the area in which the accommodation is located.

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

4 Criteria for prioritising placements inside/outside of Brent

4.1 As the borough faces pressure to house applicants outside the area, it will increasingly be necessary to make decisions about the suitability of out of London/Greater London placements for individual households and balance these against the type and location of temporary accommodation and private rented accommodation that can be offered. 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.

4.2 In placing households in temporary accommodation and private rented accommodation, there will be a general presumption that placements outside of London will be used to discharge housing duties where suitable, where affordable accommodation is not available locally.

Notification arrangements when households are placed outside of London:

We will aim to ensure that information concerning details of placements in temporary accommodation and private rented accommodation outside London is shared as far as possible in a fair and timely manner with the relevant councils in areas where families are moving to.

A) Notification arrangements – we will notify the receiving authority of any placement (as far as this is possible) in accordance with s.208 HA 1996. The receiving authority should also notify us as to any action they may have taken against a landlord/agent.

B) Pay a Fair Rent – We will as far as is practical ensure that the rent paid is in accordance with the prevailing LHA rent levels and is not at a level that is likely to encourage inflation of rent levels.

C) Vulnerable families and individuals – So far as is practicable if placing vulnerable families and individuals (including domestic abuse survivors, refugees and victims of modern slavery and trafficking) outside of London we will ensure that such households will be able to continue to receive appropriate support or access suitable alternative providers of such support.

D) For any household offered long-term temporary or permanent privately rented accommodation outside of London, information will be provided on how to access local services, amenities and facilities in the local area, including how to apply for a school place in the local authority area in which they are to reside.

However, priority for in-borough accommodation will be given to certain households whose circumstances indicate that they would best be housed locally. These include:

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

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

4.2.3 Applicants with a severe and enduring mental health problem who are receiving psychiatric treatment and aftercare provided by community mental health services and have an established support network where a transfer of care would severely impact on their well-being.

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

4.2.5 Households containing a child with special educational needs who is receiving education or educational support in Brent, where change would be detrimental to their well-being.

4.2.6 Applicants who have a longstanding arrangement to provide care and support to another family member in Brent who is not part of the resident household and would be likely to require statutory health and social support if the care ceased.

4.2.7 Any other special circumstance will also be taken into account

4.3 Priority for placements in Greater London will be given to:

Although the following groups are prioritised for placement in Greater London, unfortunately if there is an acute lack of affordable accommodation available for the Council to procure, applicants may still be placed outside of London despite their priority if the Council does not have anything else affordable available.

4.3.1 Applicants who have been continuously employed in Greater London for a period of six months, and for 24 hours or more per week. Women who are on maternity leave from employment and meet the above criteria would also be prioritised for placements in Greater London.

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

4.3.3 Wherever practicable, any lone parent working 16 hours per week or any applicant who works for more than 24 hours per week and has been employed continuously for more than six months will not be placed more than 90 minutes travelling distance by public transport, from their place of employment. Additional priority on a case-by-case basis may be considered for those applicants who are able to work but cannot do so because they are performing full time care duties

4.3.4 The Council will use its best endeavours to access “safe” accommodation for victims or survivors of domestic abuse and will endeavour to meet the needs of all victims, paying special attention and consideration to those who share protected characteristic(s) under the Equality Act 2010 or who share a vulnerability requiring additional support.

4.3.5 Specialist Domestic Abuse Homelessness case officers will undertake a safe lives DASH (Domestic Abuse Stalking and Harassment) risk assessment to assess risk and safer locations a victim an (or) households are able to reside in. They will also assist with victims accessing independent, and specialist services to help them with any financial difficulties they may be experiencing as a result of economic abuse.

4.3.6 Children are recognised in the Domestic Abuse Act 2021 as victims in their own right. The Council will ensure that children’s individuals needs and preferences are taken into account and that all children affected by domestic abuse in safe accommodation have access to support that will help them recover from abuse.

4.3.7 Applicants who are victims of domestic abuse who wish to be placed outside of Brent or Greater London in an area where the risk of violence does not exist The Domestic Abuse Homelessness case officer will assess the risk and safer locations a victim and (or) households are able to reside at, whilst having given consideration to all other factors within this policy.

4.3.8 Applicants who are at risk of violence being perpetrated against them who wish to be placed outside of Brent or Greater London in an area where the risk of violence does not exist having given consideration to all other factors within this policy.

4.3.9 Applicants who indicate a desire to be housed in a particular area outside of Brent or Greater London will housed in those area(s) so far as reasonably practicable.

4.3.10 Any other special circumstance will be taken into account.

5 Monitoring and Review

5.1 The Policy will be monitored and reviewed at any time, in line with any relevant changes in legislation or Guidance issued by relevant government Departments, in consultation with the Director of Housing Needs and the relevant Cabinet member for Housing, Homelessness & Renters Security or their equivalent.

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