



Temporary Accommodation Procurement & Placement Policies

[Approved at Place Committee 25 September 2024](#)

Annex 1

Temporary Accommodation Procurement & Placement Policies

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Introduction

As a result of the UK Supreme Court decision *Nzolameso v Westminster UKSC 2015* all local authorities must have a policy for:

- a) procuring sufficient units of temporary accommodation to meet the anticipated demand for the year ahead
- b) allocating those units to individual homeless households.

Where, as in the case in the Borough of Kingston, there is an anticipated shortfall of units within its own area, the policy should explain the factors which would be taken into account in offering households TA in area, the factors which would be taken into account in offering TA close to home, and if there is a shortage of such units in area or close to home, the factors which would make it suitable to accommodate a household further away.

Both policies must be adopted, kept up-to-date and be publicly available.

This section sets out a) Kingston Council's procurement policy, and b) its placement policy including the criteria for a placement in area, close to area and out of area.

Both policies have been adopted by the Council and will be regularly reviewed.

Note, case law has established that if a local authority has adopted and implemented lawful procurement and placement policies, then its decisions to offer out-of-area accommodation under the terms of such policies would generally be lawful and capable of discharging its duties

1. Procurement Policy

1. Introduction

This is the Royal Borough of Kingston upon Thames Temporary Accommodation procurement policy to meet the expectations set by the *Nzolameso* judgement.

The Council does not have sufficient units of temporary accommodation (TA) within its own owned and managed stock, and as a result we depend on the supply of privately owned properties to meet our obligations to provide TA to homeless households. Changes to the local housing market and other factors largely outside the Council's control have made it increasingly difficult to lease properties for use as TA in the borough and in surrounding areas that meet the standards that are required. This policy is intended to ensure that sufficient numbers of suitable properties are obtained for the anticipated demand for TA in the next 2 years. The policy, and associated demand projections, will be subject to review.

The London Borough of Kingston is experiencing significant homelessness pressures which are in turn driving up TA placements and management costs. TA provision has risen to 964 units (end of March 2024), with significant spend on emergency B&B accommodation contributing to a significant overspend which is impacting negatively on the Council's General Fund (GF) budget and reserves.

By the end of March 2024, 33% of TA was located outside of the Borough.

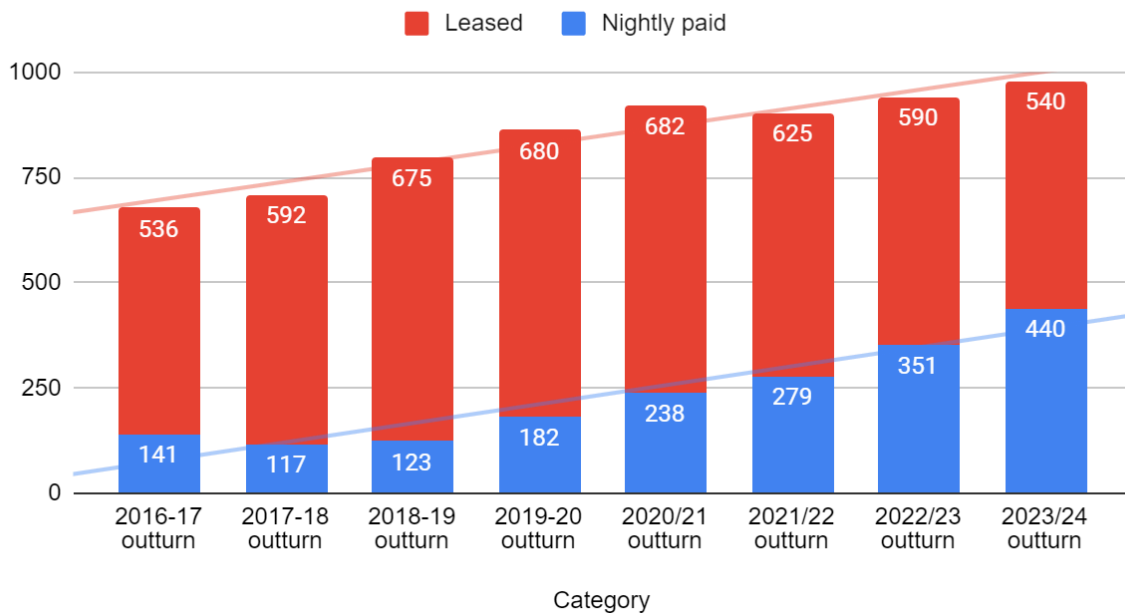
This is a **snapshot** of locations of Temporary Accommodation (at 31 March 2024). Please note that figures fluctuate day by day.

Location	Units
Nightly Paid - B&B and Hotels 40% in Kingston	
Elmbridge	59
Kingston upon Thames	44
Epsom	2
Merton	2
Sutton	1
Nightly Paid - Hostels - 100% in Kingston	
Kingston upon Thames	15
Nightly Paid - self contained annexe 8% in Kingston	
Hounslow	114
Merton	46
Sutton	38
Kingston upon Thames	25
Slough	22
Croydon	21

Spelthorne	9
Wandsworth	9
Hillingdon	8
Ealing	4
Lambeth	4
Runnymede	4
Elmbridge	2
Bexley	1
Brent	1
Mole Valley	1
Reigate & Banstead	1
Richmond upon Thames	1
Southwark	1
Private Sector Leased 94% in Kingston	
Kingston upon Thames	347
Epsom and Ewell	7
Merton	4
Richmond upon Thames	4
Sutton	4
Ashford	1
Elmbridge	1
Hounslow	1
RBK Hostel 100% in Kingston	
Kingston Upon Thames	73
Temporary Accommodation in our own stock 100% in Kingston	
Kingston Upon Thames	117

The table below demonstrates how the use of TA has risen over the years, with a dramatic rise in the use of more expensive Nightly Paid Accommodation to meet need, as our ability to procure cheaper leased accommodation declines due to market conditions.

TA Placements (Source: CH KPIs)



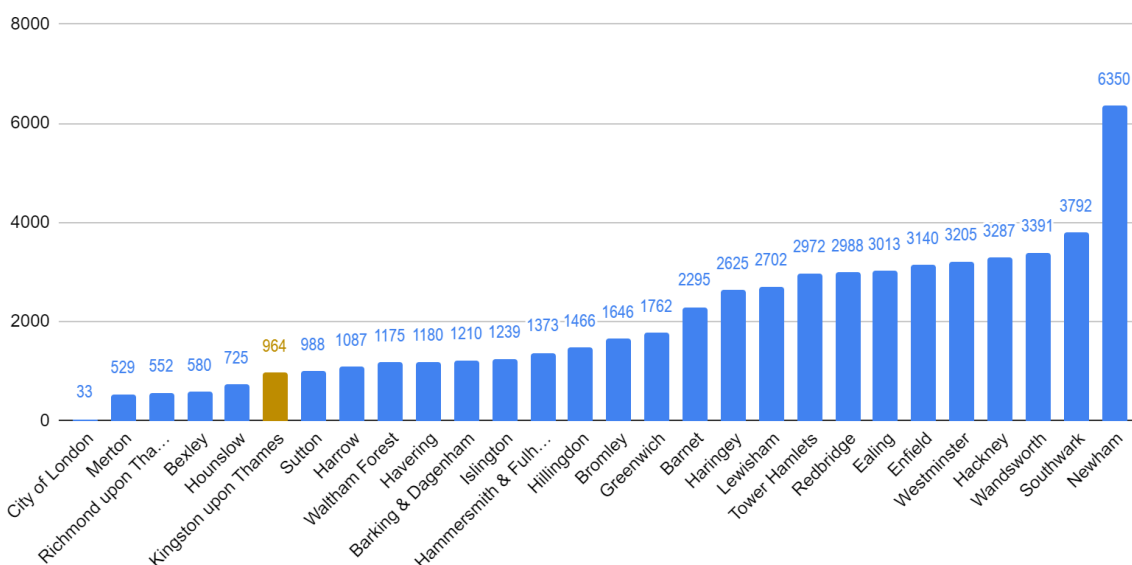
It is important to acknowledge at the outset that Kingston's homelessness pressures are considerable, and it faces a challenging homelessness position as we have the second lowest number of Council owned homes in London with just 4,555 properties.

Looking at London as a whole the TA position has certainly deteriorated over the last 2 years as illustrated below:

- London accounts for nearly 60% of all households placed into TA in England.
- In the last 18 months nearly all London Boroughs have been forced to use commercial hotels due to the lack of alternatives.
- The use of hotels for families is widespread with many Councils in breach of their legal duty to accommodate for no more than 6 weeks
- The 'temporary accommodation subsidy' remains capped at 90% of the 2011 Local Housing Allowance rate, despite rents rising 44.38% in that time.

Kingston experiences all of these London wide problems and more, namely the added challenge of having the second smallest Council stock in London meaning move on options from TA are more restricted than most London Boroughs. Kingston also has a small and costly rental market compared to many authorities, meaning affordable Private Rented homes are difficult to find.

Temporary Accommodation use - London Boroughs March 2024



2. Key principles

The approach of the Council to the acquisition of suitable properties is informed by the following key principles:

- The objective of the Council is to procure sufficient units of TA to meet the anticipated demand for properties in each financial year.
- Where possible these units will be in the borough of Kingston, however the Council may acquire properties in a range of other locations where it appears the supply of units in the borough will not be sufficient for the anticipated demand.
- Where there is a shortfall in the number of 'in-borough' units, the TA 'out of area' Placement policy will be applied to determine which households are offered those units, and which households will be offered properties in other locations
- In addressing the shortfall, the Council will endeavour to acquire units in boroughs that are close to the borough in order to minimise, as far as possible, the distance between the borough itself and the location of TA being offered to households who cannot be accommodated within the borough. These 'nearby boroughs' are - Sutton, Merton, Richmond, Croydon, Wandsworth, and Lambeth together with Ealing, Hounslow, Epsom and Ewell, Reigate and Banstead, Elmbridge, Spelthorne, Runnymede and Mole Valley
- Where the demand for accommodation is such that it is unlikely to be possible to acquire sufficient properties for all homeless households in Kingston and in nearby boroughs, Kingston may acquire properties in other locations, which can be offered to homeless households applying the approach set out in the [Temporary Accommodation Placement Policy](#)

- In making decisions on the acquisition of properties for TA, the Council may take into account the resources available for the provision of TA, the difficulties of procuring sufficient units of TA at affordable prices in the borough, and the practicalities of acquiring accommodation in nearby areas.
- The Council's procurement policy does not just focus on location but on the quality of TA procured. As such the objective has been to increase the number of leased units and reduce the number of nightly paid units and B&B units.
- However rising rents and a very competitive market locally and in London is making it harder to procure new properties in Kingston or the surrounding areas. Frequently, given the current demand for rented property, when current leases end, landlords often move into new markets for which they can achieve higher rents. The result is that emergency nightly booked is being used for longer periods after a housing duty has been accepted; this is helping to drive up the cost of temporary accommodation. The costs of longer term leasing are also rising.
- There is an increasingly competitive temporary accommodation market in London and the South East. Most boroughs face similar challenges and are finding few properties with rents that are near LHA rates more difficult to procure

The table below illustrates the growth in the use of Nightly Paid Accommodation over the last year.

Type of TA	Number of units end March 2023	Number of units end of March 2024
Private Sector Leased	411	360
Nightly Paid	351	427
<i>Of which Bed and Breakfast</i>	44	97
Social housing stock used as TA	120	123
Hostels owned by the Council	67	67
Totals	941	964

The framework for our temporary accommodation procurement policy is set out below:

1. The Council will consider purchasing street properties to use as TA in Borough and in neighbouring Boroughs depending on whether there is sufficient capital resource available in line with the Agreed [Temporary Accommodation Acquisitions Strategy](#).

2. The council will continue to use units in its own stock that would otherwise remain vacant as temporary accommodation (for example harder to let units or voids due to major regeneration schemes eg Cambridge Road Estate)
3. The Council will look to increase the number of units leased from private landlords both in Borough and out of Borough as close as possible to Kingston.
4. The combination of the above approach is aimed at keeping the use of bed and breakfast for families to a minimum and to reduce reliance on more expensive nightly paid TA accommodation.

3. Temporary accommodation provision

The Council currently provides as TA properties which are already owned by the Council which are vacated on estates designated for regeneration. There were 123 units let at the end of March 2024, with potential for this to increase in the period leading up to demolition/regeneration as part of the Cambridge Road Estate Regeneration. However, it is not anticipated that the use of such lets will significantly reduce overall numbers in other types of TA required to manage demand.

At end of June 2017 the number of households in TA was 670. This has risen to over 964 by the end of March 2024. It is therefore essential that privately owned properties are used as part of the TA 'portfolio' in order to fulfil the Council's statutory duties.

The Council currently acquires privately owned, nightly paid properties for use as TA on a 'spot purchase' basis.

The Council also sources properties from private landlords secured under a lease for use as longer-term TA.

4. Anticipated demand for temporary accommodation

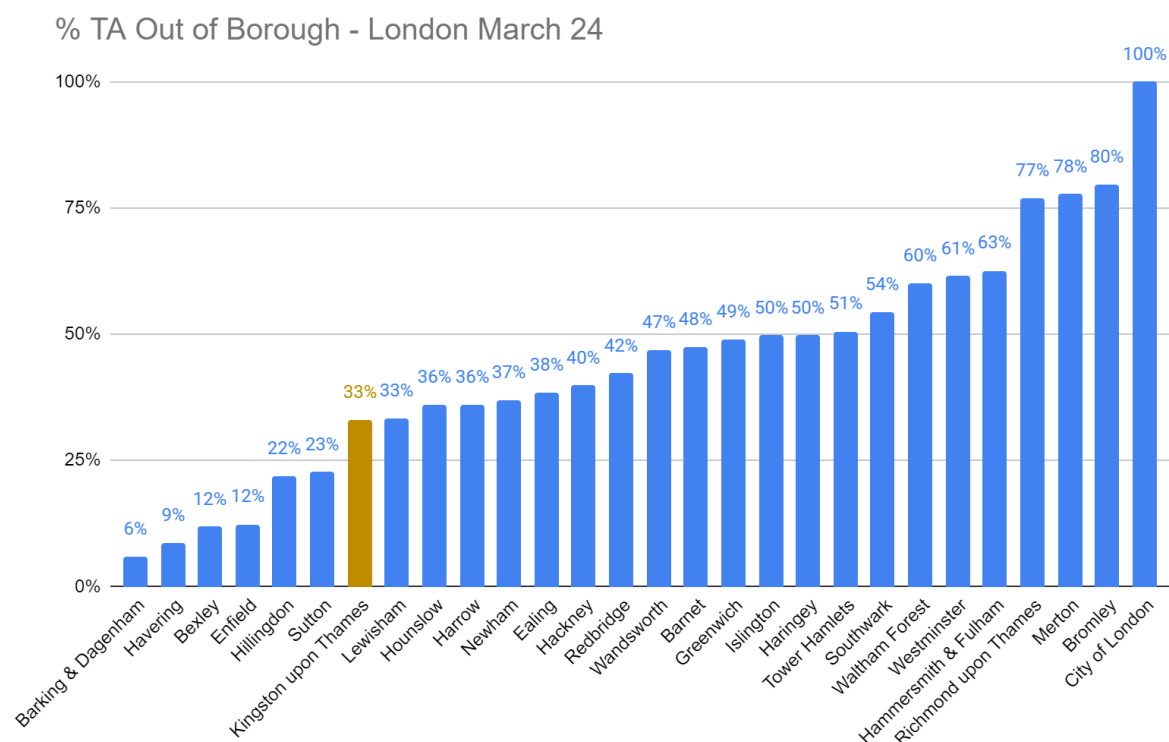
The number of households requiring TA is unlikely to reduce significantly in the near future for a range of reasons, including the limited supply of social housing and a national rise in homelessness applications. The latest Government HCLIC statistics record an annual increase of 10% in applications.

Current predictions at end of March 2024 based on present exits to social housing and entrances made by households requiring TA suggest that in the region of 100 additional units of overall TA will be required by the end of March 2025. Additionally, some properties currently in use as TA may be returned to provider landlords as a consequence of leases ending and other variations with regard to demand may occur during the year creating a need for additional TA procurement.

The Council has a limited ability to procure accommodation in the borough for use as TA due to the divergence between high market rents and those rents offered by the Council's schemes that are linked to Local Housing Allowance (to ensure affordability of the letting for the occupier). The decision by the Government not to include temporary accommodation in the increase in LHA rates from the 1st April 2024 is an additional adverse factor, as LHA TA rates are considerably below market rents as they are based on 90% of the LHA rate for the size of a property as at January 2011.

The rise in landlords evicting tenants to let at a higher rent and the rise in the number of landlords wishing to sell also continues to impact on the number of approaches made to the Council for assistance due to households inability to access or retain lettings in the local private sector rental market.

Given this level of demand it is certain that the Council will not be able to meet the demand for TA using only properties in the borough. There are also very significant challenges in acquiring properties in nearby boroughs, most of which have also experienced increased private sector rents, the effect of which is to reduce the number of properties in the borough or in nearby boroughs which may become available for use as TA. Despite this challenge the Council has worked hard to keep the percentage of households in TA accommodated out of Borough to a minimum. The figure for Kingston is currently 33% which is still one of the lowest out of Borough rates in London as can be seen below.



This TA procurement policy assumes that it will be necessary to procure both nightly paid properties and leased properties in a range of locations beyond the borough and surrounding areas. All properties procured under the policy will be as close to the borough as is reasonably practicable, given the financial constraints within which the Council operates and the practical difficulties which can prevent units being procured in Kingston or nearby boroughs.

This TA procurement policy identifies a need to source accommodation for use as TA to meet the needs of households with a disability. In making decisions on the acquisition of properties for TA, the Council will take into account the current and anticipated need for the provision of TA to households with mobility issues and the requirement for property adaptations.

5. Instructions to suppliers

The Council must ensure that all TA suppliers are compliant with this Temporary Accommodation Procurement Policy. All TA suppliers must meet the Council's TA quality requirements and all applicable regulatory standards.

The Council will apply the key principles of this Temporary Accommodation Procurement Policy when deciding whether to use a particular property which is being offered by a supplier.

The Council will seek to procure as many properties as possible in the borough; to procure properties in nearby boroughs wherever possible; and to procure properties as close to the borough as possible when considering other areas.

Where it may be possible for suppliers to deliver cost-effective arrangements for TA in other areas, Council Officers are authorised to approve these arrangements where it appears clear that

- On the basis of trends in supply and demand the Council cannot be confident of comprehensively meeting its statutory obligations to homeless households using only the properties likely to be acquired in the borough and in nearby areas, and
- It is likely there will also be a shortfall in the number of available units located in areas between the borough and nearby areas and the location of the potential acquisition and
- The properties in question meet the physical standards required under the Housing Health & Safety Rating System (HHSRS) requirements
- The properties being offered represent good value for money when considered in the context of the Council's overall expenditure on TA

Where units are acquired in other areas by applying the above criteria, the Temporary Accommodation 'Out of Area' Placements Policy will be applied in the process of matching each individual property to a homeless household. Each property will only be offered to an applicant when the Council has satisfied itself that it is suitable for the homeless household, taking into account the household's individual circumstances and the characteristics of the property.

6. Process for acquisitions

Before agreeing to the use of a specific unit, Council Officers are responsible for ensuring that the acquisition of the unit is consistent with the principles of this Temporary Accommodation Procurement Policy as set out above.

Where there are not likely to be sufficient units in the borough and nearby boroughs to meet demand, Council Officers can authorise the acquisition of properties elsewhere in order that it will be possible to meet the Council's statutory obligations.

When properties have been acquired, the Council will consider which households should be offered each unit of TA by applying the Temporary Accommodation Placement Policy which contains the criteria for prioritising in area and out of area placements.

The process of acquisition will consider current and anticipated demand for TA for households with a disability. This will include consideration of the potential need to meet accommodation providers additional financial expectations where a property may require works for adaptation to meet a household's specific needs.

7. Financial considerations

The difficulties experienced by the Council in procuring TA in the borough and in nearby boroughs are largely related to wider housing market trends and other letting options available to providers and landlords which are more financially attractive (including letting properties at market rent to households not dependent on Housing Benefit). In light of this the Council keeps under review the rates paid and other financial incentives offered to providers and landlords and will increase these where there is a business case for doing so (subject to available funding).

Council Services are obliged to provide services within the budget limits set by the Council, and to seek value for money in all its dealings with third parties. For these reasons it is not viable for the Council to pay 'market rents' for properties in the borough, or in any area, where to do so would create a severe financial imbalance between the maximum obtainable rent (based on the Housing Benefit subsidy arrangements for TA) and the amount payable to the provider or landlord. In seeking to provide suitable accommodation in the borough or as close to it as possible, the Council cannot set aside its obligations to local Council taxpayers and other sources of funding. These considerations represent a significant impediment to obtaining as many units of TA in the borough or nearby as would be desirable to fulfil the principles of the Temporary Accommodation Placements Policy and this Temporary Accommodation Procurement Policy.

The Council and the suppliers with whom it works in partnership are committed to maximising the supply of properties in or near the borough for use as TA. This Temporary Accommodation Procurement Policy reflects this objective while taking account of the difficulties in procuring sufficient units of TA in the borough, and the practical and financial constraints in obtaining properties of a sufficiently high standard in nearby areas.

7.4 The Council also has regard to the right of homeless applicants to request a review of the suitability of any temporary accommodation provided to them under section 193 of the Housing Act 1996, and of the requirements of the Homelessness (Suitability of Accommodation) (England) Order 2012.

8. Standards in temporary accommodation

The Council is committed to ensuring that all properties acquired for use as TA, meet the Council's Property Standards, ensuring compliance with the Housing Health and Safety Rating System (HHSRS).

HHSRS introduced by Part 1 of the Housing Act 2004 provides an evaluation of the potential risks to health and safety from any deficiencies identified in dwellings under a Rating System. The HHSRS evaluates both the likelihood of an occurrence that could cause harm, and the probable severity of the outcomes of such an occurrence. The Rating System is concerned with the assessment of hazards and within this considers both issues of disrepair or improvements needed to a residential premises.

2. Temporary Accommodation Placement Policy

1. Introduction

As a result of the UK Supreme Court decision *Nzolameso v Westminster* UKSC 2015 all local authorities are expected to have a published policy, adopted by council members, for allocating TA and to have a clear set of decision-making criteria to inform the offer of placements relevant to offering TA a) Out of area but nearby and b) where necessary further away.

This is the London Borough of Kingston's TA placement policy to meet the expectations set by the *Nzolameso* judgement. Note the relevant sections of the policy relating to in Borough and out of Borough placement criteria and the assessment of suitability also apply to offers of any private rented tenancy made to bring to an end either the relief of homelessness duty under section 189b or the main homelessness duty under section 193 of the Housing Act 1996.

This document sets out Kingston Council's policy for allocating and ending temporary accommodation placements for households who are classed as eligible, homeless, and where there's a reason to believe, or it has been found the household have a priority need for accommodation within the meaning of Part VII of the Housing Act 1996, as amended by The Homelessness (Priority Need for Accommodation) (England) Order 2002.

The policy applies to all types of temporary accommodation provided by Kingston Council to meet its legislative duties under Part VII of the Housing Act 1996, including out of area placements.

2. Aims and objectives

The overarching objective of the Council is to provide suitable temporary accommodation within Kingston wherever reasonably practicable to do so. However, this is constrained by the shortage of supply of suitable accommodation being available within Kingston (see the procurement policy).

This policy acknowledges there might cases where there is a specific reason why the household should not be accommodated within the local area including for example:

- a) those at risk of abuse or violence that need to be accommodated elsewhere to reduce the risk of further contact with the perpetrator(s)).
- b) where upon the advice of the relevant provider of offender management services, ex-offenders or drug/alcohol users would benefit from being accommodated outside the Borough to help break links with previous contacts which could exert a negative influence.
- c) where a victim of human trafficking or modern day slavery is assessed at being at risk of being re-trafficked if they were to remain in Kingston.

However, it is accepted that the main reason for an out of area placement is likely to be the shortage of suitable accommodation within the Borough that can be procured at a reasonable cost for use as TA.

Therefore, a key aim of this policy is to detail how households will be prioritised for the allocation of temporary accommodation both within and outside of the Borough; setting out the factors that will be considered as part of that process, as well as the statutory requirements the council must adhere to meet its statutory duties. In accordance with the public sector equality duty, it is intended to ensure that those with the greatest need are accommodated appropriately to meet their needs.

This policy also clarifies the legislation under which temporary accommodation placements are offered, how and when offers of accommodation can be appealed, how placements can be ended, and the factors the Council will take into consideration when ending placements.

3. Legal overview

Generally, temporary accommodation is offered to applicants and members of their household, as well as those who might be reasonably expected to live with them under the following legislation. This is not an exhaustive list and may be amended in accordance with changes in legislation:

- Section 188(1) of Housing Act 1996: where an applicant is eligible for assistance, homeless, and there is reason to believe they are in priority need the Council must secure that accommodation is available for the applicant's occupation.
- Section 190(2) of Housing Act 1996: duty to secure accommodation is available for such a period the Council considers will give an applicant assessed as eligible, homeless, priority need, but intentionally homeless a reasonable opportunity for them to secure their own accommodation.
- Section 193(2) of Housing Act 1996: the main housing duty to secure suitable accommodation for applicants that have been assessed as eligible, homeless, priority need, unintentionally homeless, and who have a local connection to Kingston. This duty also applies to applicants re-applying to the Council as homeless within two years of the date of acceptance of a private rented sector offer made under section 193 (7AA) of Housing Act 1996, providing the applicant is eligible for assistance and has become homeless unintentionally from that accommodation, regardless of whether the applicant has a priority need.
- Section 193C (4) of Housing Act 1996: duty to accommodate applicants who are eligible, homeless, in priority need and but are no longer owed the S.189B relief duty because they have been served with a S.193B notice due to deliberately and unreasonably refusing to co-operate with the steps they were required to take within their personalised housing plan.
- Section 199(A2) of Housing Act 1996: duty to secure accommodation is available for applicants assessed as having no local connection to Kingston but who are also assessed as eligible, homeless, and where there is reason to believe they are a priority need household pending the outcome of a

Section 198(A1) (189B relief stage referral) to another local authority in England to whom they are considered to have a local connection.

- Section 200(1) of Housing Act 1996: duty to secure accommodation is available for applicant households assessed as having no local connection to Kingston but who are also assessed as eligible, homeless, priority need for accommodation and unintentionally homeless pending the outcome of a Section 198(1) (Section 193 main duty referral) to another local authority in England, Scotland, or Wales to whom they are considered to have a local connection.
- Discretionary powers to accommodate pending a S.202 review: Housing authorities have discretionary powers to secure accommodation for applicants pending the outcome of review decisions on their homeless applications under S.202 of the Housing Act 1996.
- Discretionary power to accommodate pending an appeal to the county court: This power may be exercised where the housing authority was previously under a duty to secure temporary accommodation for the applicant's occupation under [section 188](#), [section 190](#), [section 199A](#) or [section 200](#); and may be exercised whether or not the housing authority has exercised its powers to accommodate the applicant pending a review.
- [Section 54](#) of, and [schedule 3 to, the Nationality, Immigration and Asylum Act 2002](#) prevents the Council from exercising its powers to accommodate an applicant pending a review or appeal to the county court 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
- Temporary accommodation placements initially offered under S.188 of the Housing Act 1996 may and often will transition to placements under S.190(2), S.193(2), S.193(4), S.199(A2), S.200(1), and discretionary placements as decisions are made on an applicant's case.

4. Legal requirements concerning the suitability of temporary accommodation

[Section 206](#) of Housing Act 1996 stipulates where a housing authority discharges its functions to secure that accommodation is available for an applicant the accommodation must be suitable. This applies in respect of all powers and duties to secure accommodation under Part 7, including interim duties. The accommodation must be suitable in relation to the applicant and to all members of their household who normally reside with them, or who might reasonably be expected to reside with them.

When determining what is suitable accommodation consideration must be given to environmental health hazards and statutory room and space standards as determined by [Parts 9 and 10 of the Housing Act 1985](#). As a minimum, local authorities must ensure that all accommodation is free of category 1 hazards as determined by the HHSRS in line with the Housing Act 2004.

The [Homelessness \(Suitability of Accommodation\) \(England\) Order 2003](#) specifies that B&B accommodation is not to be regarded as suitable for applicants with family commitments (households containing a pregnant person or dependent children). For applicants with family commitments, B&B accommodation should only be provided for a maximum period of 6 weeks where no other temporary accommodation is available. If there is a change in circumstances that brings an applicant accommodated in bed and breakfast accommodation within the scope of the order (e.g., an applicant becomes pregnant) the six-week period begins from the date the applicant informs us of the change. Applicants affected by the order should be notified of the Council's obligations under it.

For the purpose of the 2003 Order, B&B accommodation means accommodation (whether or not breakfast is included):

1. (a) which is not separate and self-contained premises; and,
2. (b) in which any of the following amenities is shared by more than one household:
 - (i) a toilet;
 - (ii) personal washing facilities; or,
 - (iii) cooking facilities.

However, B&B accommodation does not include accommodation which is owned or managed by the Council, a private registered provider or a voluntary organisation as defined in [section 180\(3\) of the 1996 Act](#)

The prohibition on the use of B&B for applicants with family commitments does not apply where the Council is using discretionary powers to accommodate a household pending a review or appeal to the courts or for families that have arrived in the UK within 2 years **Homelessness (Suitability of Accommodation) (England) (Amendment) Order 2024**

Ministry of Housing, Communities and Local Government (MHCLG) guidance stipulates B&B accommodation is not suitable for 16- and 17-year-old applicants even on an emergency basis.

The Homelessness code of guidance for local authorities stipulates bed and breakfast accommodation, including hotels and nightly let accommodation with shared facilities, is not considered suitable for care leavers aged under 25 and should only be used in exceptional circumstances and for short periods.

Kingston Council at all times seeks to adhere to these requirements but inevitably due to the current housing pressures the Council faces B&B accommodation may need to be used for families and although the Council takes all reasonable measures to ensure that placements do not breach the '6 week' rule there may inevitably be occasions where the rule is breached. If this is the case every effort is made to transfer a family to alternative accommodation as a matter of urgency.

[Article 3 of The Homelessness \(Suitability of Accommodation\) \(England\) Order 2012](#) concerns the suitability of privately rented accommodation offered to applicants who are homeless or threatened with homelessness and in priority need at the S.189B relief duty stage, or the S.193 Main duty stage. Consequently, housing authorities should undertake useful checks when making temporary

accommodation placement offers through the private rented sector to ensure such offers are suitable.

For the purposes of the 2012 order local authorities need to be satisfied the following applies in relation to temporary accommodation:

- The accommodation is in a 'reasonable physical condition'
- Any electrical equipment provided complies with electrical safety regulations
- Reasonable precautions to ensure fire safety and avoid carbon monoxide poisoning have been taken
- There is a current gas safety record
- There is a valid energy performance certificate
- The landlord is a 'fit and proper person' meaning have they not been convicted of certain criminal offences or broken any housing or landlord and tenant law, or practised unlawful discrimination
- For the purposes of temporary accommodation there must be a suitable licence/occupancy agreement.
- If the property offered is an HMO it must be licensed appropriately in accordance with sections 55 and 56 of the Housing Act 2004.

However, case law has established that the Council is not under a duty to carry out a full inspection and a hazard assessment under the Housing Health and Safety Rating System before deciding if accommodation offered to an applicant is suitable but should be satisfied using reasonable checks that a property is safe and in a 'reasonable physical condition'.

Where a household is placed in multi-occupied buildings with common or shared parts, local authorities must be satisfied that landlords have put in place appropriate management and maintenance systems to ensure any fire safety equipment or equipment which might represent a fire hazard is maintained in good working order, and in accordance with the manufacturer's instructions. Furthermore, furniture and furnishings supplied must comply with the [Furniture and Furnishings \(Fire\) \(Safety\) Regulations 1988](#) or the most relevant.

[The Homelessness \(Suitability of Accommodation\) Order 1996](#) specifies that in determining whether it would be, or would have been, reasonable for a person to occupy accommodation and in determining whether accommodation is suitable a housing authority must take into account whether the accommodation is affordable to them. The 1996 order specifies that income and expenditure to be considered when undertaking an assessment to determine whether the applicant can afford accommodation without being deprived of essentials such as food, clothing, heating, and transport. Housing authorities may be guided by Universal Credit standard allowances when assessing the income an applicant will require to meet their essential needs. Consideration should also be given to costs that may be incurred because of the location of the accommodation.

Kingston Council complies with this requirement and will undertake an income and expenditure assessment to decide what an applicant will be required to pay. Depending on the outcome of the assessment an applicant will be required to pay

the occupation charge in full or pay a lower amount based on the affordability assessment undertaken.

It is important to note that case law has established that a local authority does not have to complete the assessment of the applicant's affordable contribution on the day of placement into TA but can complete the exercise after placement so that the applicant is fully informed of the occupation charge and the amount they will be required to pay towards that charge.

Where it is proposed to offer a private rented tenancy to end either the relief of homelessness duty or the main duty a full affordability assessment based on the applicant's circumstances will be carried out to determine if the property is affordable before a property is formally offered.

[Section 208\(1\) of the Housing 1996 Act](#) requires that authorities shall, in discharging their housing functions under Part 7 of the Act, in so far as is reasonably practicable, secure accommodation within the authority's own district. However, in some cases, such as where applicants have fled violence, out of area accommodation might be more suitable, or where there is insufficient in area accommodation available in the Borough.

The Homelessness code of guidance recognizes that accommodation that is suitable for a short period, for example accommodation used to discharge an interim duty pending inquiries under [section 188](#), may not necessarily be suitable for a longer period, for example to discharge a duty under [section 193\(2\)](#).

The Homelessness code of guidance stipulates housing authorities are required to assess whether accommodation is suitable for each household individually, and case records should demonstrate that they have taken the statutory requirements into account in securing the accommodation. The council will carry out a suitability assessment of all placements.

The Homelessness code of guidance stipulates housing authorities have a continuing obligation to keep the suitability of accommodation under review, and to respond to any relevant change in circumstances which may affect suitability, until such time as the accommodation duty is ended. To meet this requirement the Council has adopted an inspection regime for all temporary accommodation used including regular inspections of B&B in Kingston; PSL leased units both in and outside of Kingston; the Council's own social housing stock used as TA and spot checks for a rolling proportion of nightly paid accommodation used. For B&B outside of the Borough the Council liaises with the relevant statutory inspection service for the Council where the accommodation is placed. Furthermore, all applicants are informed that if their circumstances change or if they have any concerns with the standard or fitness or deterioration of their temporary accommodation home they should contact the Council immediately.

Applicants only have the right to request a review from a housing authority of the suitability of temporary accommodation offered to them under S.193(2). In all other cases applicants must apply to the courts for a judicial review of the suitability of temporary accommodation offered. However, Kingston Council informs all applicant's on placement that if they have any concerns regarding the suitability of their TA unit they should contact the Council immediately. We do not want applicants to have to be put through the pressure and possibly cost of trying to

seek legal advice to challenge the suitability of interim TA through a judicial review, but of course that action remains open to any applicant.

5. Terms and conditions of temporary accommodation placements

All temporary accommodation placements are subject to the terms and conditions of the accompanying licence or occupancy agreement and can be ended in accordance with those conditions.

The Council will not tolerate any form of anti-social behaviour perpetrated by any household member, or associate of a household member that resides in our temporary accommodation.

In the case of anti-social behaviour perpetrated by an associate of a household member, the Council will seek to take remedial action where such behaviour has a direct impact on our housing function. This may include applying for a civil injunction to ensure the perpetrator of the behaviour cannot return to the property or engage in further anti-social behaviour.

For the purposes of this policy, anti-social behaviour means any conduct capable of causing nuisance or annoyance to any persons and includes but is not limited to:

- Aggressive Begging
- Assault
- Criminal Damage
- Domestic Abuse
- Domestic Noise
- Drug Abuse
- Gang involvement
- Harassment
- Hate Crime
- Illegal/Immoral Use of Property
- Intimidating Behaviour
- Neighbour Nuisance
- Prostitution
- Threatening, Aggressive, or Violent Behaviour
- Vehicle Nuisance

The Council will investigate all complaints of anti-social behaviour and take appropriate remedial action on a case-by-case basis. Where complaints of ASB are founded, whenever possible in the first instance, the Council will attempt to issue residents of temporary accommodation with a warning letter to address that behaviour. Depending on the severity of the behaviour, and its impact on others, the Council reserves the right to terminate TA without a warning letter having been issued.

If an applicant is evicted from temporary accommodation the Council will seek to give reasonable notice, what constitutes reasonable notice will be determined on a

case-by-case basis. There may be some circumstances where, on the facts, it is determined the correct course of action to take would be to immediately end the placement without any further offer of temporary or permanent accommodation.

If a temporary accommodation licence or occupancy agreement offered under S.188 of the Housing Act 1996 is ended due to breaches of any conditions of the agreement, no further offer of temporary accommodation will be made unless the applicant is later found to be owed a S.193(2) or S.190(2) duty.

If a temporary accommodation licence or occupancy agreement offered under any placement duty of the Housing Act 1996 is ended due to breaches of any conditions of the agreement, the terms and conditions of the licence or occupancy agreement with regards to leaving accommodation and rechargeable events still apply.

Statutory requirements concerning the cessation of temporary accommodation duties and notification periods.

Temporary accommodation placements provided under S.188(1) of Housing Act 1996 can be ended within the 56-day relief period if an applicant has received a notification letter that the relief duty is no longer owed, or a S.184 non-priority need decision letter that specifies no further accommodation duties will be owed under s.190 or s.193. However, if the relief duty is ended following refusal of a final accommodation (privately rented) or Part VI offer and the applicant requests a review as to the suitability of the accommodation, the S188(1) any TA duty will continue until a negative decision on the review has been notified to the applicant. If neither of these notifications is issued within the 56 day period, the duty will be ended by notification of what further duties are owed, if any, under section 193 or section 190.

If an applicant accommodated under S188(1) is found not to be eligible for assistance, notice periods will take account of the needs of the applicant and the time required for them to access assistance. For households containing vulnerable adults or children owed duties under the Children Act 1989 and Care Act 2014, the Council will seek to manage a transition in responsibilities to the relevant safeguarding authority to ensure there is no break in the provision of accommodation for applicants. This does not mean applicants will be able to continue to reside in temporary accommodation under the Housing Act 1996 nor that they will be able to remain in the same accommodation given the current portfolio is required to meet duties under the homelessness legislation.

Temporary accommodation provided under S.190(2) of Housing Act 1996 for applicants determined to be intentionally homeless can be ended once applicants have been accommodated for a reasonable period to enable them to find their own accommodation. What constitutes a reasonable period should be determined on a case-by-case basis however account will be given to:

- The needs, circumstances, and resources available to the applicant to secure accommodation.
- The housing circumstances in the local area, and the length of time it might reasonably take to secure accommodation.
- Arrangements that have already been made by the applicant which are likely to be successful within a reasonable timescale.

Temporary accommodation provided under S.193(2) of Housing Act 1996 can be ended under the following circumstances:

- the applicant accepts a suitable offer of accommodation under Part VI (an offer of social housing by either the Council or a private registered provider through the Council's allocation scheme)
- the applicant accepts an offer of an assured tenancy (other than an assured shorthold tenancy) from a private landlord or 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. However, the applicant must be given written notification 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). However, notification must be given in writing that it is a final offer, and notification must include the possible consequences of refusal, the right to ask for a review of the suitability of the accommodation and state the Council is satisfied that the accommodation is suitable and that it would be reasonable for the applicant to accept it.
- the applicant refuses an offer of temporary accommodation which the housing authority is satisfied is suitable for the applicant. However, the applicant must have been informed of the possible consequences of refusal, 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.
- the applicant becomes homeless intentionally from temporary accommodation made available to them under section 193(2).
- the applicant voluntarily ceases to occupy the temporary accommodation as their principal home.

If an applicant accepts a suitable offer of private or social housing, temporary accommodation provided under S.193(2) will remain available to them until the Council determines that the applicant is able to move into their new home which will normally be the date of the tenancy commencement. However, the terms and conditions of their licence or occupancy agreement with regards to leaving accommodation, notifying the Council, and rechargeable events still apply. If an applicant does not relinquish a temporary accommodation licence or occupancy agreement prior to signing their tenancy agreement they will be liable for rent on both properties.

A temporary accommodation placement provided by the Council under sections 199(A2) and 200(1) of the Housing Act 1996 can be ended once an applicant is notified of the decision the conditions for referral are met, meaning the Council where the case has been referred has accepted the referral and Kingston have notified the applicant that the referral has been accepted.

A temporary accommodation placement provided on a discretionary basis pending a review of any qualifying decision that can be reviewed under Part VII, or appeal to the courts can be ended once a decision has been reached but will be subject to the terms and conditions of the licence or occupancy agreement and can be ended in accordance with those terms and conditions.

Before a temporary accommodation placement is ended based on an applicant having refused a final part VI offer or final offer of accommodation, the Council will ensure that the applicant was not under any contractual obligation in respect of any other existing accommodation.

The Council will always seek to adhere to statutory requirements concerning the cessation of temporary accommodation duties and notification periods when bringing placements to an end.

Where serious breaches of licence or occupancy agreements have occurred the Council reserves the right to end temporary accommodation placements with immediate effect.

6. Temporary accommodation allocation criteria

Due to high demand and limited availability, all temporary accommodation assessed as suitable will be offered on a no choice basis however the following factors will be considered when allocating temporary accommodation to households that fall within specified priority need categories:

- **Unaccompanied under 18s** – In almost all circumstances a homeless 16/17 year old is a child in need under S.20 of the Children Act 1989. Consequently, the primary responsibility for a homeless 16/17 year old requiring accommodation rests with the relevant children's authority. Before placing any unaccompanied 16/17 year old in temporary accommodation contact will be made with Kingston Children Services Department to determine whether they owe an accommodation duty. Should the 16/17 year old refuse assistance from Children Services, they will qualify for interim accommodation under the Housing Act 1996. In line with Government guidance, Kingston Council will only accommodate a 16/17 year old in B&B if there is no suitable alternative. Where no other suitable accommodation exists and such placements are necessary, the Council will move these households as soon as more suitable accommodation becomes available in accordance with the 'priority TA moves' section of this policy.
- **Households with Family Commitments** – The Council will always seek to offer alternative accommodation to B&B for households containing pregnant women or dependent children. However, due to a lack of availability and high demand there will be instances where no other suitable alternative accommodation is available. Where no other suitable accommodation exists and such placements are necessary, unless accommodated under discretionary powers pending a review or appeal to the courts, the Council will move these households as soon as more suitable accommodation becomes available in accordance with the 'priority TA moves' of this policy.
- **Domestic Abuse Victims** – In all cases involving domestic abuse the safety of victims and social considerations in relation to the household will be considered when allocating temporary accommodation. Wherever possible

the Council will seek to offer same sex or refuge accommodation, as well as facilitate out of area placements should case facts indicate there is a need to do so. If an out of area placement is not appropriate, consideration will be given as to the location of accommodation offered to minimise risk of further risk to victims.

- **People who are vulnerable because of old age, mental illness, learning disability, physical disability, or other special reason** – When arranging a placement associated needs will be taken into consideration if there is a direct impact on the accommodation requirements, such as ground floor/level access for wheelchair users. Furthermore, the need to access hospital, mental health, or any other clinical or third sector support will be considered however medical evidence and/or letters of support are required in all cases. Whenever possible the Council will seek to ensure established links to care and support services are maintained. However, if suitable accommodation is available in a locality where relevant support services and access to medical care exists, and no suitable accommodation is available near established support networks, this will also be considered. In such cases we will assist applicants to approach relevant services to arrange for a transfer of their support where appropriate. The Council will also assist those that might struggle to gather evidence to support their case due to their disability.

Where relevant the assessment of the suitability of TA will fully consider the public sector equality duty requirements as set through caselaw. The suitability assessment proformas include a section specifically assessing the suitability of the proposed TA offer under the PSED.

- **People aged under 21 who were looked after, accommodated, or fostered between the ages of 16 and 18 (except relevant students), or those aged 21 or over who are vulnerable because of having been looked after, accommodated, or fostered** – The Council will only accommodate former care leavers aged under 25 in B&B if there is no other suitable alternative accommodation. Where no other suitable accommodation exists and such placements are necessary, the Council will move these households as soon as more suitable accommodation becomes available in accordance with the 'priority TA moves' of this policy. The Council will consider requests from care leavers who advise of a need to be near another significant adult such as a friend or ex-foster carer; or who need to avoid certain locations due to childhood experiences or associations and may consult personal advisors.
- **A person who is vulnerable because of having been a member of Her Majesty's regular naval, military or air forces** – Consideration will be given to the location of the accommodation offered in respect of those with protected characteristics under the public sector equality duty.
- **A person who is vulnerable because of having served a custodial sentence, been committed for contempt of court or any other kindred offence or having been remanded in custody** – The Council will be guided by any relevant provider of probation services or MAPPA when determining a suitable safe location for placements. The support needs of offenders will

also be considered and referrals to appropriate support agencies will be discussed with applicants and might be made upon placement.

- **A person who is vulnerable as a result of ceasing to occupy accommodation because of violence from another person or threats of violence from another person which are likely to be carried out**– The Council will be guided by any relevant safeguarding or criminal justice agencies when determining a suitable safe location for placements.
- **A person who is homeless, or threatened with homelessness, because of an emergency such as flood, fire, or other disaster** - Consideration will generally be given in respect of employment and support and specifically the accommodation in respect of those with protected characteristics under the public sector equality duty.

7. Additional factors considered when allocating temporary accommodation placements

- **Accommodation size upon emergency placement** – accommodation will be offered with the appropriate number of bed spaces for the household but that does not mean that the bedroom standard for allocating Part VI social housing will be applied. For example, a couple with 2 children may be accommodated in a 1 bedroom unit assessed as suitable as there are 2 rooms that can be used as bedrooms. Consideration will not be given to the type or size of the accommodation unless there is a documented recommendation from a professional agency that is accepted by the Council, or evidence suggests general needs emergency accommodation would not be appropriate for the household, for example where a person with decreased mobility requires level access.
- **Room and space standards regarding long term temporary accommodation** – When offering longer term temporary accommodation, the Council will ensure the accommodation offered complies with statutory room and space standards as determined by [Parts 9 and 10 of the Housing Act 1985](#).
- **Carer and caring responsibilities** – If a member of the household has significant caring responsibilities or receives significant care, consideration will be given to the location of accommodation offered to attempt to minimise the disruption of care provided to the affected persons. Evidence of receipt of carers allowance or attendance allowance is required, and advice may be sought from relevant care agencies to determine the impact of the withdrawal of care on the affected persons.
- **Education** – When making a placement wherever possible we will seek to ensure that disruption to schooling is minimised for all households with children
- **Employment** – In assessing the significance of disruption to employment, account will be taken of all relevant household's members need to reach their normal workplace from the accommodation secured. Any potential loss of employment and access to qualifying benefits will be taken into consideration when undertaking an [affordability assessment](#) of

accommodation offered. This is only applicable to those who are employed or who have evidence of an employment offer.

- Safeguarding - all decisions made will consider the wellbeing and safety of any members of the household that are children in accordance with section 11 of the Children Act 2004.
- **Risk areas** – No household will be offered temporary accommodation in an area where a household member is assessed as being at risk of violence or has received threats of violence likely to be carried out. However, for non-domestic abuse cases supporting evidence will normally need to be provided by a relevant authority, such as a child or adult safeguarding service, or the police.
- **Pets** – Unlike in some other nations such as the United States, in the UK emotional support animals do not have a legal recognition in the way that assistance dogs do in the UK.
 - Under the Council's TA placement policy in regard of pets we will consider whether the pet is a working dog who is registered assistance dog and therefore does come under any equality act considerations. If it is a registered assistance dog then any suitable TA offered will allow the applicant to take their dog.
 - If the claim is that the applicant has an emotional support pet (i.e. not protected under the Equality Act) we will consider whether, as a reasonable council, there are exceptional circumstances which mean we should exercise our discretion to offer TA that can take the pet.
 - Where TA offered is in a communal hostel it may not be possible to offer accommodation with a pet because of hygiene or safety issues if other residents are scared of dogs, etc.
 - The Council will consider a claim that a pet needs to be accommodated with an applicant where the applicant comes under a protected characteristic under the Equality Act and the claim is that not being able to have the emotional support of their pet would significantly impact for example on their mental health. This will be considered by the Independent Medical Advisor on receipt of evidence from a mental health practitioner, GP or consultant
 - Where an applicant is dependent upon a service dog they will be accommodated with their animal
 - A claim that an applicant needs to be accommodated with an 'emotional support animal' will not be accepted unless the Council assess that on the facts the impact on the applicant of not having the pet at their accommodation would be so significant that the Council accepts accommodation with the pet should be provided. Where an applicant is assessed as needing to be accommodated with an emotional support animal, every attempt will be made to accommodate them with the animal. Where no suitable accommodation exists that would accept an animal. Where no suitable accommodation exists that can accommodate the applicant's animal the Council will look to move the household as soon as more suitable accommodation becomes available that can accommodate an animal. If we cannot accommodate a pet with its owner, we will

support the owner in their attempts to find a family or friend that can foster the animal until accommodation is available or consider whether the Council will contribute to any kennelling costs in exceptional circumstances.

- **Affordability** – When assessing the allocation of a temporary accommodation placement, an affordability assessment will be completed:
 - a) if any issue of affordability has been raised by the applicant, or
 - b) the facts of the case clearly indicate that affordability is a matter that needs to be formally assessed e.g. a case that is subject to the benefit cap or is working and not entitled to full housing benefit, or

An affordability assessment will be carried out after the placement has been made to determine the amount that an applicant can afford and be required to make towards their accommodation costs. The Council will consider all income and expenditure as prescribed by The Homelessness Suitability of Accommodation Order 1996. In determining whether an applicant can afford accommodation without being deprived of essentials such as food, clothing, heating and transport, any costs incurred as a result the location of the accommodation will be considered. The Council will consider Local Housing Allowance Rates and Universal Credit standard allowances in relation to the household type to determine whether they could afford essentials if placed in a particular locality. It is an applicant's responsibility to disclose all income and expenditure for the Council to determine whether an offer of accommodation is affordable. The Council reserves the right to request bank statements and proof of income to determine an applicant's affordability.

- **Repairs and Adaptations** – When deciding whether a property is suitable consideration will be given to the length of time needed to complete any necessary repair works or adaptations and whether it is reasonable to complete these whilst the property is occupied. Adapted properties are altered to meet the specific needs of individuals and therefore, adapted properties that become available might not be suitable for all households waiting for an adapted property. Consequently, adapted properties that become available will be allocated to households whose needs match the specification of the property, and allocations will be prioritised to those with the most pressing needs to ensure the Council complies with the Public Sector Equality Duty.
- The criteria set out in this section is not an exhaustive list as this policy recognises that individual cases must be assessed on their own merit to establish whether they are sufficiently exceptional to depart from the policy.

3. Out of Area Placement Policy

1. Introduction

This document sets out Kingston Policy for how homeless households will be prioritised for temporary accommodation (TA) 'in Borough' within the Royal Borough of Kingston (referred to in the policy as the Kingston area) and when placements may be made out of Borough.

If the Council has a duty to secure TA, an assessment will be carried out to determine the requirements of the household, including the children. The assessment will determine whether the household has:

- 1) priority to be located in the Royal Borough of Kingston
- 2) priority to be located close to the Royal Borough of Kingston
- 3) no priority to be located either within or close to the Royal Borough of Kingston which may mean households could be placed outside of London depending on the location of TA available at any point in time.

The criteria set out in this policy for in Borough, close to Borough and outside of the Borough or close to Borough including outside of London will also be applied to prospective private rented sector accommodation offers where it is proposed to end either the relief of homelessness duty or the main homelessness duty through such an offer. This policy does not apply to offers of long-term accommodation under Part VI of the Act.

In addition, to the policy criteria the council assesses the suitability of every offer of accommodation that is made to individual homeless households, in line with legal requirements, including legislation and regulation, associated case law and statutory guidance

Taking into account all known and relevant facts relating to the household, including dependent children, officers will endeavour to place all households within or as close as possible to Kingston. This policy outlines which households will have priority for the differing units of accommodation that become available.

However, despite the best efforts of the Council to increase the number of TA units within Kingston or in a neighbouring Council to Kingston there is an insufficient supply of affordable, local, temporary accommodation meaning that some households will need to be placed into suitable TA out-of-borough, or out-of-London for both short term or long term TA placements.

2. Who does this policy apply to?

The policy applies to all households placed in temporary accommodation by the Council under Section 188 *The Relief of Homelessness Duty* and Section 193 *The Main Homelessness Duty* arising out of the Housing Act 1996. It also applies to any accommodation:

1. Secured under a power to provide temporary accommodation pending a review or appeal
2. Secured to meet any duty owed to an intentionally homeless household
3. Secured to meet any interim accommodation duty pending the outcome of a local connection referral to another local authority

Although references in this Policy relate to TA the criteria set out in this Policy for in Borough, close to Borough and outside of the Borough or close to Borough including outside of London will also be applied to prospective private rented sector accommodation offers where it is proposed to end either the relief of homelessness duty or the main homelessness duty through such an offer. Therefore this Policy is to be taken as the Council's adopted Policy for discharging any section 189b(2) Relief of homelessness duty or section 193 (2) Main homelessness duty through an offer of a private rented tenancy.

This document should be read in conjunction with the Council's 'TA Procurement Policy' which sets out how the Council is seeking to develop more local temporary and permanent accommodation options to meet demand for households owed any duty under the Part 7 of the Housing Act 1996 as amended by the Homelessness Reduction Act 2017.

This 'out of area' placement policy is compliant with the advice set by the Supreme Court in April 2015 for the case of *Nzolameso and Westminster Council*.

This Temporary Accommodation (TA) 'Out of Area' Placement Policy seeks to ensure that all placements are made on the basis of:

- a. A comprehensive assessment of a household's circumstances and needs, and
- b. A balanced assessment of the needs of all households requiring temporary accommodation set against consideration of the type and location of accommodation that is available to be allocated at any given point

Our policy is to provide, wherever reasonably practicable, suitable accommodation within Kingston except in cases where there is a specific reason why the household should not be accommodated within the Borough (for example, applicants at risk of domestic violence or other violence).

However, our ability to meet this policy objective is subject to the supply of suitable temporary accommodation being available.

We are making every effort to ensure that the location of our temporary accommodation both within Kingston or close to Kingston meets the needs of the

majority of homeless households in Kingston who have established links to the Borough through long term residence or close family who provide support. However, there are a minority of homeless applicants who do not have established links to the Borough through long term residence or close family support and therefore given the shortage of local TA these households, subject to an individual needs assessment, may need to be placed further away.

We have developed a temporary accommodation demand and supply predictive model to help the council estimate and plan how much temporary accommodation we are likely to need and we will seek to develop new TA schemes to increase the number of units both within Borough and close to Borough.

3. Legal requirements

This policy is compliant with leading caselaw. It is compliant with the decisions reached in the leading cases of:

- a) *Nzolameso v Westminster UKSC 2015*
- b) *Alibkhiat and Brent 2018*
- c) *Saleh and Waltham Forest – Nov 2019*

The advice set by the Courts are that a Council should:

1. Have a published and adopted Policy for procuring sufficient temporary accommodation within the Council's geographical area to meet current and projected demand. *This is Kingston Councils' adopted Policy*
2. Within that Policy to set criteria for when in times of shortages the will allocate TA in area and out of area but as close as reasonably possible. *This is the Council's published policy for out of area placements*
3. Secure TA within its area insofar as it is 'reasonably practicable' to do so, but a Council can take into account the resources available to the Council and the difficulty in procuring TA at an affordable cost. *The Council always seeks to secure TA within its Borough as far as reasonably practicable and where this is not possible it seeks to make placements as close as possible to Kingston but will also take into account the cost of TA when making procurement decisions.*
4. Before a Council can conclude that any TA to be offered is suitable it must take into account:
 - a) The advice in the Homelessness Code of Guidance to secure TA that is as close as possible to the household's previous address (with the exception of victims of domestic abuse who may not be safe in the area they presented from).
 - b) Consider all issues relating to the factors set out in the Government's 'Suitability Order' re the location and whether the council considers whether the offer and location is reasonable for the household to accept

- c) Must consider the welfare of any children under section 11 of the Children Act 2004 and in particular need to act in the best interests of the child
 - d) Must consider their 'Public Sector Equality Duty' when deciding whether a potential offer is suitable for any applicant that meets any of the PSED protected characteristics.
5. Must be able to properly evidence and explain its decisions including the assessment of suitability made, and evidence that all of the factors above have been considered, especially any potential impact on employment, education, support and services received that are essential for the well-being of the household or household members
6. If a placement is made out of area they must have formally notified the Council where the household has been placed to meet its duty under section 208 Housing Act 1996.

The Council fully complies with all 6 core requirements .

4. The details for the 'in area and out of area criteria

This policy is intended to ensure that we prioritise those who have the greatest need to be accommodated within our Borough.

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

The Council will also take account the distance of any offer of temporary accommodation from the last address where they have presented as homeless. We will consider any possible disruption to employment, education or caring responsibilities, accessibility of essential medical facilities and support that are essential to the wellbeing of any household member, and accessibility of local amenities, services and transport. We will not assume that just because a temporary accommodation unit is available anywhere in the Kingston Council area that it meets the legislative suitability requirements.

An assessment of all of these matters will be completed when an applicant is being matched to any available temporary accommodation unit. A copy of the assessment form and procedure we use to assess the suitability of the location of accommodation to be offered is available on request.

Any decision regarding an allocation of temporary accommodation will have regard to the Council's obligations under Section 11 of the Children Act 2004 including the need to both safeguard and promote the welfare of children.

This policy fully complies with the requirements of:

- a) Sections 206, 208, and 210 of the Housing Act 1996 as amended by the Homelessness Reduction Act 2017
- b) The Homelessness (Suitability of Accommodation) (England) Order 2012.
- c) Whether the accommodation is affordable
- d) The relevant sections of the Homelessness Code of Guidance 2018 (and all associated on-line amendments to that code).
- e) The Ministry of Housing, Communities and Local Government (MHCLG) Supplementary Guidance on the homelessness changes in the Localism Act 2011 and on the Homelessness (Suitability of Accommodation) (England) Order 2012 (November 2012) Applicants accommodated under this policy under section 193 of the Housing Act 1996 can request a statutory review of the suitability of any accommodation offered to them, in accordance with section 202 of the Act.
- f) Advice from the Courts to local authorities regarding when temporary accommodation is suitable including the leading case of *Nzolameso* and Westminster Council.
- g) The Equalities Act 2010

5. Guidelines on the Location of Accommodation

For the purposes of making an allocation, all units of TA that may be offered to an applicant owed a temporary accommodation duty will be categorised simply as:

- **Area 1: 'Within the Royal Borough of Kingston local authority area in area)**, Defined as within the Royal Borough of Kingston's geographical boundary, or
- **Area 2: 'Close to the Borough'** – Defined as Temporary Accommodation located in an authority district that borders Kingston, or in a 'near neighbour' authority district that is no more than 1 hours travelling distance by public transport. This includes the local authority areas for Sutton, Merton, Richmond, Croydon, Wandsworth, and Lambeth together with Ealing, Hounslow, Epsom and Ewell, Reigate and Banstead, Elmbridge, Spelthorne, Runnymede and Mole Valley.
- **Area 3: 'Further away'** – Defined as locations outside of London or elsewhere in London in districts not covered by area 2 above.

Where there are insufficient units of temporary accommodation in this Council's Geographical boundaries a suitable TA placement offer will be made outside of Kingston. Currently, less than a third (31%) of TA households are accommodated in areas 2 or 3.

The Council may also keep aside local vacant units in anticipation of applicants presenting who meet the criteria for a local placement. This has been confirmed as a reasonable practice in the 2018 Court of Appeal case for *Adam and Alibkhiat v Westminster and Brent Councils*.

6. How we will prioritise households for an offer of temporary accommodation in-area

All households will be placed into temporary accommodation in the Kingston area as long as there are adequate numbers of suitable units available at the time of placement. However, this is unlikely to be the case on any given day. Where there is a shortage of in area vacant TA units on any given day a decision may be taken to 'keep aside' some vacant units in anticipation of applicants presenting who meet the criteria for an 'in area' placement.

If there isn't a sufficient number of 'in area' temporary accommodation units available, a household will be placed in a unit that has been assessed as suitable outside of the Kingston area, but as close to Kingston as possible, but this will still be based on the practicality of sourcing units on any given day. This could unfortunately mean that a household from Kingston who requires temporary accommodation on a given day and meets the in area criteria may still be placed into suitable TA located in area 2 or even area 3 if there are no 'in area' TA units available on that day (and where placed into area 3 if there are no area 2 units available).

For placements within Kingston it is unlikely that the Council will be able to place households into TA in their local ward as there are only a small number of units available in Kingston and the Borough is geographically compact with excellent public transport links.

Relevant facts regarding the household's circumstances will be gathered by officers in the course of their enquiries through completing their assessment of an applicant's housing and support needs required under section 189A of the Housing Act 1996.

Households will be given priority for a placement 'in area' if they meet the following criteria. Please note this does not mean that they are guaranteed to receive an offer of 'in area' accommodation when any TA duty arises. It may be that at the time they require temporary accommodation there are no 'in area' vacancies available. If this is the case, an offer of suitable TA will be made as close as possible with priority given to any household that meets one or more of the criteria set out below, to be relocated to suitable temporary accommodation 'in area' as soon as is reasonably practicable to do so.

7. Priority for accommodation within the Borough of Kingston (area1)

Priority for available in-borough accommodation will be given to certain households who the Council has assessed as having a particular need to be housed within the Royal Borough of Kingston. Households who satisfy one or more of the following criteria will be considered as having a priority for TA within the Royal Borough of Kingston:

The 'in area' Area 1 priority placement criteria' is:

1. Households where at least one member has a severe health condition or disability (including a severe mental health condition) that is long-term and requires intensive and specialised medical treatment/ aftercare that is either (a) only available in the Borough of Kingston or (b) where if a transfer of care was required due to the TA location would create serious risk to their safety or the sustainability of the treatment or care
2. Households where at least one member is receiving support through a commissioned care package or package of health care options provided in Kingston, where if a transfer of care was required due to the TA location this would create serious risk to their safety or the sustainability of the care
3. Households where at least one of the children has a Statement of Special Educational Needs or an Education, Health and Care Plan, is receiving education or educational support in Kingston and where it is demonstrated that a placement outside of Kingston would be seriously detrimental to their well-being due for example to a need to move schools because a child is assessed as by the Council as unlikely to be able to continue to attend their existing school.
4. Households with children who are subject to a Child Protection Plan in the Royal Borough of Kingston which cannot be transferred to another Council without causing serious detriment to a child's welfare.
5. Households where at least one person can demonstrate to the satisfaction of the Council that (a) they have a longstanding arrangement (or if the arrangement has started more recently, that it is likely to be longstanding) to provide high levels of care and support to another person in Kingston who is not part of the resident household and the cared for person would be likely to require statutory health and social support if the care ceased and (b) that they would be unable to commute to fulfil their caring duties
6. Households where at least one person can demonstrate to the satisfaction of the Council that (a) they have a longstanding arrangement (or if the arrangement has started more recently, that it is likely to be longstanding) to receive high levels of long term care from another person in Kingston who is not part of the resident household and would be likely to require statutory health and social support if the care ceased and (b) that the carer would be unable to commute to fulfil their caring duties
7. Households with significant medical or severe learning disability where a child attends a special school. Wherever practicable we will seek to place such households within area and as close as possible to existing schools to minimise public transport travelling distance and costs.

The 'close to Borough' Area 2 priority placement criteria' is:

1. All the criteria set out in area 1 where it has not been possible to place into the Borough of Kingston itself.

2. Households with at least one child in their final year of Key Stage 4 (generally Year 11) or in Key Stage 5 (A levels or equivalent Level 3 vocational courses, such as BTECs, or GCSE re-sits in English and Maths) at a school or further education college in London with exams due to be taken in the next 6 months. The practicalities of travel arrangements to existing schools or colleges will be considered including the cost and ease / length of time of travel.
3. Where the applicant or their partner or household member is accepted by the council as being in employment and has been working continuously for a period of at least six months in Kingston under a written contract of employment (permanent or temporary) which requires at least 16 hours a week. The practicalities of travel arrangements to existing employment will be considered including the cost and ease / length of time of travel.
4. Where it is assessed that an area 3 placement would mean that the applicant will not be able to maintain existing childcare which is essential to enable a member of the household to maintain their employment or study. The cost and availability of caring arrangements in the new area will also be explored, including travel time to that care provision

The 'Area 3' placement criteria' is:

1. All other homeless households that do not meet the criteria for areas 1 or 2
2. Households in receipt of welfare benefits or who may be on a low income may be subject to restrictions on the amount of benefit they can receive, which may affect their ability to pay their temporary accommodation rent where the impact of an out of area 1 or 2 placement on the applicant and their household has been assessed as not significant.
3. Applicants that come under article 2A(1)(d) The Homelessness (Suitability of Accommodation) (England) Order 2012/2601 as inserted by art 5(3) the Homelessness (Suitability of Accommodation) (Amendment) (England) Order 2022/521. These are applicants who have made a homelessness application to Kingston Council within 2 years of their arrival to the UK This change applies to homeless applications made on or after 1 June 2022 and:
4. Are not a person who had a right to occupy accommodation in the UK for an uninterrupted period of six months or more in the three years before they most recently arrived in the UK, and
5. Have been assessed as there would be no significant impact due to the disruption caused to any caring responsibilities of the applicant or their household.

Note for these cases the amendment to the suitability order means that Kingston Council is not required to consider the distance of any TA placement from the Kingston area, disruption to employment and education, or the proximity of medical facilities, support or local services.

Note for area 3 placements the Council will normally not look to offer properties further afield than 90 minutes travelling distance of the Royal Borough of Kingston by public transport, but this may not always be possible due to:

- A shortage of available suitable TA within 90 minutes, or

- Where a household is subject to restrictions on the amount of benefit they can receive (benefit capped) and affordable TA is only available more than 90 minutes travelling by public transport.

Please note the following:

1. The above 3 area categories do not mean that no other special circumstances will be taken into account. Whenever an applicant is owed an 'interim' or 'full' temporary accommodation duty a full assessment will be carried out of their household's housing needs and circumstances. Following that assessment it may be decided that an applicant should qualify for 'in area', or close to area temporary accommodation for a special reason despite not meeting the set criteria.
2. The time likely to be spent in the accommodation will also be taken into account when determining the suitability of any offer of temporary accommodation out of area.
3. Where there are no in area temporary accommodation units immediately available which meets the household's identified needs, a homeless household may be placed on an emergency basis into accommodation in any location where there is availability on that day as long as it has been assessed as being suitable.
4. Households in receipt of welfare benefits or who may be on a low income may be subject to restrictions on the amount of benefit they can receive, which may affect their ability to pay their temporary accommodation rent. Placement in a local area is subject to suitable accommodation being available that the applicant can afford. Note caselaw has established (*Webb-Harnden v London Borough of Waltham Forest [2023] EWCA Civ 1992*) that It is not unlawful for a local authority to adopt a policy recognising that local accommodation may be unaffordable and therefore not suitable to discharge homelessness duties to applicants who are subject to restrictions on how much benefits they receive (the 'benefits cap'), provided that the impact of an out-of-area placement on the applicant and their household is correctly assessed in each case.
5. Where there are multiple priorities identified i.e. where there are conflicting schooling, medical and employment needs it will be determined by the Council as to which priority it chooses to give weight to in the event that not all needs can be met.
6. Where a placement is made outside Kingston, notification will be made in accordance with s.208 of the Housing Act 1996 to the host borough.
7. Given the shortage of available properties, it may be required to make a decision regarding how to prioritise the allocation of a particular property on a particular day where more than one household requires temporary accommodation and more than one household meets the local area criteria set out above. The following circumstances will be taken into account when prioritising between households. Please note the circumstances listed are not in descending order of importance and do not form an exclusive set of criteria as other factors may also be relevant:

- Level of need relating to the welfare and safeguarding of any children in the household
- Level of educational need
- Identified risks posed by living in particular areas
- Permanency/flexibility of employment
- Access to transport
- Level of need to be close to services and amenities
- Level of need to be close to health services
- Level of need to be close to support networks
- Level of need to be close to cultural or religious amenities
- Impact on caring responsibilities
- Affordability of the accommodation
- Impact of the relocation, and of occupying the accommodation on a continuing basis, on the well-being of household members
- Impact of the relocation, and of occupying the accommodation on a continuing basis, on the well-being of any children in the household, having regard to the Council's duty under the Children Act 2004 to safeguard and promote their well-being

The impact of these and any other relevant circumstances will be considered both individually and cumulatively.

