

# **Title of report: Temporary Accommodation Policy and Procurement**

**Decision maker: Councillor Tyler - Cabinet Member - Housing, Regulatory Services and Community**

## **Cabinet Member Decision**

**Decision date:** Thursday 2<sup>nd</sup> February 2023

**Report by:** Bob Barnett – Housing Strategy Officer, Strategic Housing Manager

## **Classification**

Open

This report is open but an appendix is exempt by virtue of the paragraph(s) of the Access to Information Procedure Rules set out in the constitution pursuant to Schedule 12A of the Local Government Act 1972, as amended.

## **Decision type**

### **Key**

This is a key decision because it is likely to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council's budget for the service or function concerned. A threshold of £500,000 is regarded as significant.

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## **Wards affected**

(All Wards);

## **Purpose**

The purpose of this report is to seek approval for the implementation of the Temporary Accommodation Policy

## **Recommendation(s)**

**That:**

- a) The Temporary Accommodation Procurement and Placement Policy 2023– 2026 is approved;**
- b) Authority to be delegated to the Director of Community Wellbeing Directorate to make all operational decisions to implement this policy.**

## **Alternative options**

1. To not adopt the policy as recommended above. Whilst the Supreme Court judgement recommendations in the case of (TN) Nzolamenso v Westminster City Council (2 April 2015) are not a statutory requirement, they are considered to be best practice and a failure by Herefordshire Council to adopt them, could make it harder for the Council to defend its actions, if challenged through the courts.
2. Mini competitions to secure Temporary Accommodation have been discounted as they are deemed to be too time intensive each time temporary accommodation is required and not able to be operated with sufficient dynamism.
3. A Dynamic Purchasing System was considered and has been discounted as it is deemed to add unnecessary layers of administration to the work of the Temporary Accommodation Team.

## **Key considerations**

4. The need for this policy has arisen following research into developing best practice for housing provision in Herefordshire. The council has a statutory duty to house those who are unintentionally homeless and are in priority need, and a duty to understand and plan to meet local housing need. To meet the statutory duty to provide temporary accommodation to individuals who are unintentionally homeless, Herefordshire Council predominantly uses Bed and Breakfast (B&B) and Hotel accommodation. Temporary accommodation can be offered for a night or two, but many households are in temporary accommodation for six months or more.
5. The proposals in the report will enable the council to use a range of Temporary Accommodation as a source of emergency accommodation offered under the prevention and relief duties incorporated into Part VII of the Homelessness Reduction Act 2017 and Part VII of the Housing Act 1996 (as amended by the Homelessness Act 2002).
6. This policy will ensure that Herefordshire Council meets the recommendations of the Supreme Court judgement in the case of (TN) Nzolamenso v Westminster City Council (2 April 2015).
7. The Temporary Accommodation Policy sets out a fair, transparent and consistent policy to the procurement and use of temporary accommodation.
8. The council works with registered providers (RP's) of social housing to secure temporary accommodation. The council has had an agreement with Connexus, where access was given to 12 units of accommodation. This arrangement has had mixed success, as Connexus still undertake the housing management function and will not take tenants with rent arrears or a history of Anti-Social Behaviour. This arrangement does however provide much needed

accommodation for less complex cases of homelessness and forms an important part of the suite of temporary housing solutions.

9. The use B&B / Hotel accommodation is an important tool in the suite of temporary accommodation provision as it allows greater flexibility, especially while households are being assessed. It is however costly (circa £60.00 to £150.00 per room per night) and this coupled with where people are accommodated or venues located, potentially a politically sensitive issue. Due to ongoing high levels of demand for temporary accommodation, this form of accommodation is being increasingly utilised to supplement supply. This is not a phenomenon applicable only to Herefordshire but is occurring nationally on an increasing rate. It is anticipated to increase as the cost of living crises escalates.
10. Finding suitable non B&B or Hotel temporary accommodation for people who are in need of level access, or wheelchair accessible accommodation in Herefordshire is extremely challenging. Due to this people are sometimes placed out of county in order to meet their requirements, taking people away from their support networks and services. Placements out of county are also used to protect people escaping violence, such as domestic violence.
11. B&B / Hotel accommodation is primarily used for single / two person households, but is also used for families when no other accommodation is available. The homelessness code of guidance for local authorities indicates that families should only be placed in B&B / Hotel accommodation as an emergency measure, where no other suitable accommodation is available and they must not be in this form of accommodation for more than six weeks. This document also sets out criteria for suitability of temporary accommodation.
12. The court judgement of the Supreme Court in the case of (TN) Nzolameso v Westminster City Council (2 April 2015) recommended that all local authorities should have a policy that assesses need for temporary accommodation, explaining how the council will procure sufficient supply and explains the process that is followed to place people into temporary accommodation. This is not a statutory requirement, but considered best practice and may make it harder to defend our position if challenged.
13. B&B and Hotel gross accommodation costs to Herefordshire Council in 2020-21 were £157,299 and for 2021-22 were £311,889. It is projected to exceed £450,000 for 2022-23, based on actual spend in Q2.
14. New supported transitional accommodation has been developed by the Strategic Housing Team. These consist of:
  - a. 6 units in Hereford city centre (funded by Herefordshire Council);
  - b. 5 additional units at an existing provider of accommodation (funded by Herefordshire Council); and
  - c. 6 further units purchased off the open market, utilising funding from the Rough Sleeper Accommodation Programme.

In addition, units of accommodation have been secured from the private rental market, by identifying new landlords. This has provided an additional 15 units of temporary accommodation. These 32 units of accommodation are focused on people with high to medium support needs that have already been supported in temporary or emergency accommodation.

15. On average, there is a demand for an additional 40 units of temporary accommodation per night via B&B and hotel accommodation to meet wider demand.
16. The implementation of a framework agreement will not add to the cost of the service. It is possible that it will enable some cost reduction by creating some competition within the market.

17. Commercial services have confirmed that hotel accommodation and other non-hotel services are both covered under the 'light touch regime' set out in Schedule 3 of the Public Contract Regulations 2015, enabling greater flexibility in the procurement approach. On this basis we are seeking to establish a four year framework for the purchase of B&B / Hotel accommodation as temporary accommodation, which can be opened at our discretion, as and when new suppliers are required. The framework will be ranked according to cost, but will also include details of the size and location of the property so that the most suitable accommodation can be selected from the list.
18. This policy will ensure that all landlords have access to the same, open, transparent and equitable process to offer their properties for use as temporary accommodation. It will facilitate a comparable pricing structure is used across the market.
19. It is not anticipated that this proposal will negatively affect people accessing Temporary Accommodation.
20. The Council's County Plan 2020-2024 supports the council's aspiration to create a pipeline of affordable housing. The development of council owned accommodation, will contribute to meeting the need of homelessness in the County and will assist in reducing the burden of revenue costs.
21. Timescales
  - a. January 2023 sign off on Governance including temporary accommodation policy.
  - b. March 2023 for procurement process to commence with a view to going to go live in April 2023.
  - c. Letter to Registered Providers, inviting offers of Temporary Accommodation to be sent in March 2023. Agreements to be issued following governance sign off in February 2023.

## **Community impact**

22. The Joint Strategic Needs Assessment, Understanding Herefordshire (JSNA) identifies the scale and breadth of homelessness need locally, along with the numbers of care leavers and a broad analysis of their needs. The needs of the small cohorts of very vulnerable people who are the focus of this report represent a level of specific detail within the broader data in the JSNA. The procurement of temporary accommodation will significantly contribute to the priorities in the council's County Plan through; enabling vulnerable adults to live in good quality housing, helping to ensure they are safe and live independent lives and allowing them to enjoy their home and neighbourhoods.
23. Housing also appears among priorities in the Herefordshire's Health and Wellbeing Strategy, including housing those with hidden issues and reducing health inequalities. Enabling people to live independent lives through provision of good quality affordable housing, and developing homes for life is also reflected in the strategy and would be advanced by this initiative.
24. The council is committed to providing a healthy and safe environment for all individuals affected by the council's activities. Therefore the council seeks to ensure that the work it and its partners undertake, does not adversely affect the health, safety or welfare of any homeless individuals. In acquiring or leasing property, the council operates to high standards of health and safety in all aspects of maintenance and management of premises. These standards will be applied to any properties acquired under this proposal and any associated arrangements for housing management.

25. The County Plan 2020 - 2024 aims to shape the future of Herefordshire and encourage and strengthen communities whilst creating a thriving local economy and protecting and enhancing the environment to ensure Herefordshire remains a great place to live, visit, work, learn and do business.
26. Delivering housing to help address the shortage of affordable housing in the County is intrinsically linked to the ambitions of the new County Plan 2020 – 2024:
  - Environment – protect and enhance our environment and keep Herefordshire a great place to live
  - Community – strengthen communities to ensure everyone lives well and safely together
  - Economy – support an economy which builds on the County’s strengths and resources
27. The published Housing Market Area Needs Assessment dated July 2021 has identified a need for all tenures within the county. Increasing the number of available properties will contribute to a balanced community providing additional accommodation of an alternative tenure to meet a wider cohort of residents in the county.

## **Environmental Impact**

28. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire’s outstanding natural environment.
29. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been made to minimise waste and resource use in line with the Council’s Environmental Policy. e.g., minimise waste, paper and energy usage, considering sustainable and active travel options by staff and service users.

## **Equality duty**

30. Under section 149 of the Equality Act 2010, the ‘general duty’ on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to –

  - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
31. The accommodation will add to the temporary accommodation that is available and will ensure best value, openness and fairness is achieved across all suppliers. This will allow future households who share protected characteristics to have access to appropriate accommodation. This demonstrates the council’s commitment to equality and that we are being pro-active in our approach to ensuring that the right properties are available.
32. An Environmental Impact Assessment Report has been completed - See appendices for a copy of this.

## Resource implications

33. There are no direct resource implications as a result of the recommendations proposed in this report. The revenue funding costs to meet the needs of this process are met from existing Housing Solutions Temporary Accommodation and staffing budgets, which include the Homelessness Prevention Grant (HPG), Discretionary Housing Payments (DHP), accessing Local Housing Allowance / Housing Benefits and the use of Rough Sleeping Initiative Surge provision funding. This revenue funding is a combination of Herefordshire Council core base budget and the HPG which is provided by the Department of Levelling Up, Housing and Communities.
34. There are no capital funding implications presented by this policy.
35. B&B and Hotel gross accommodation costs to Herefordshire Council in 2020-21 were £157,299 and for 2021-22 were £311,889. It is projected to exceed £450,000 for 2022-23, based on actual spend at Q2.
36. The approach outlined should also support the council to recoup as much of the cost of temporary accommodation as possible through housing benefit payments and by continuing to work with other registered providers and secure new properties through private landlords. Whilst Local Housing Allowance rates, through housing benefit, do not cover the costs of accommodation rented by Herefordshire Council, Discretionary Housing Payments augment them. (The administrative burden aside – greater use could be made of this.) Costs of B&B / Hotel accommodation far exceed the Local Housing Allowance rates. This shortfall is currently met through Housing Solutions core budget and Homelessness Prevention Grant monies.

## Legal implications

37. The Council has clear statutory duties to assist individuals presenting as homeless, including the Homelessness Reduction Act 2017, the Housing Act 1996 and the Childrens Act 2004 as amended. Any policy should be clear on relevant legislation
38. Not having a fit for purpose service will leave the Council open to potential legal challenge.

## Risk management

39. There is a risk that not all the current B&B / Hotel suppliers will want to go through a formal procurement process. This could lead to a withdrawal of B&B / Hotel suppliers from the Temporary Accommodation market. To mitigate this : -
  - a. Commercial Services have offered to provide online training session to interested providers on how to access, register and navigate on our procurement portal 'Procontract' and also guide on how to complete a tender document.
  - b. To support transparency and in order to treat all providers equally and fairly -when the tender goes live all clarification questions from providers will have to be submitted through the portal. All questions and responses will be then shared with all participating providers.
  - c. The tender documentation will be kept as simple as possible, asking for all health and safety certification up front and include some tick box questions in order to assess quality. If the applicant provides the correct quality information, they can be added to the framework where they will be ranked according to price only.

Risk / opportunity	Mitigation
a. Legal challenge from Landlord / member of the public or other party.	a. This policy complies with recommendations of the Supreme Court judgement in the case of (TN) Nzolameso v Westminster City Council (2 April 2015) and with DLUHC best practice.
b. Landlords not wishing to go through this formal process and therefore removing themselves and properties from use as Temporary Accommodation.	b. Support to landlords to complete legal processes to access framework and register properties.
c. Costs of repair works – any cost on repair works will need to be met.	c. Costs currently met from existing Housing Solutions budgets – NO additional funding / budget required.
d. This framework creates the opportunity and makes the process transparent for any potential new supplier of B&B / Hotel accommodation for temporary accommodation purposes.	d. Nil

40. All risks will be added to Herefordshire Councils risk register and managed at a Directorate level.

### Consultees

41. Consultation has taken place by the Housing Solutions Temporary Accommodation Team with all the current landlords, who let their properties for use as Temporary Accommodation, about this policy, the framework and the process to access it by the landlords. The consultation took place by telephone direct with landlords.
42. These views have been incorporated into this policy.
43. A Political Groups Consultation took place on the 8<sup>th</sup> November 2022. Feedback from members was that upon completion of the framework implementation a media briefing is provided to local press.

### Appendices

None

### Background papers

- Linked to the previous decision report the following papers were material to the considerations.
- Background Data Temporary Accommodation Procurement Policy
- Final TA Policy Doc - 140922

- EIA
- Safeguarding and Equalities Statement of intent.

None Identified

### Report Reviewers Used for appraising this report:

Governance	John Coleman	Date 13/12/2022
Finance	Kim Wratten	Date 09/12/2022
Legal	Samantha Evans	Date 24/01/2023
Communications	Luenne featherstone	Date 09/12/2022
Equality Duty	Carol Trachonitis	Date 12/12/2022
Procurement	Carrie Deeley	Date 13/12/2022
Risk	Jo Needs	Date 13/12/2022
Approved by	Hilary Hall	Date 18/01/2023

**Please include a glossary of terms, abbreviations and acronyms used in this report.**