

Temporary Accommodation Allocation Policy

2024

1. Introduction

- 1.1. This Policy details how West Lindsey District Council (the “**Local Authority**”) will allocate temporary accommodation to people who are homeless or owed a homelessness duty by the local authority.
- 1.2. The Local Authority will allocate temporary accommodation in a fair, transparent and effective way, that makes best use of the temporary accommodation available.
- 1.3. The Local Authority will allocate temporary accommodation to people who are:
 - a. Homeless and have a priority need for accommodation, owed the interim accommodation s.188 duty.
 - b. Homeless intentionally and have a priority need for accommodation, owed the s.190 duty to be provided with accommodation for a reasonable period.
 - c. Not intentionally homeless and have a priority need for accommodation, owed s.193 (main) duty to be provided accommodation.
 - d. Homeless and where there is no duty owed but the local authority is providing emergency accommodation under a power to do so. An example of this would be when accommodation is provided under the Severe Weather Emergency Protocol.
- 1.4. People who make an application (an “**Applicant**”) to the Local Authority for homelessness assistance, are also entitled to make separate applications for an allocation of social rented housing and also directly to any Registered Provider, where their own housing allocation rules and policies allow this.

2. Allocation of temporary accommodation

- 2.1. An “**allocation**” is defined as occurring when the Local Authority have a reason to believe that an Applicant might be homeless or threatened with homelessness and they are allocated a non-secure license held by the Local Authority, a Registered Provider or a private landlord.
- 2.2. Decisions about whether an Applicant might be homeless or threatened with homelessness will be made by the Local Authority in accordance with the law, statutory guidance and any policies and procedures the Local Authority have published.

3. Circumstance when temporary accommodation will not be allocated

- 3.1. Temporary accommodation will not be allocated in the following circumstances:
 - a. The Local Authority decide not to take an application for homelessness assistance, because there is no reason to believe the applicant maybe homeless or threatened with homelessness.

- b. The applicant does not wish to make a homelessness application.
- c. When the duty to provide accommodation has been brought to an end by the local authority.

4. Eligibility to be allocated temporary accommodation

- 4.1. Persons assessed as not eligible for homelessness assistance will not be entitled to be allocated temporary accommodation.
- 4.2. In most cases, the Local Authority will decide whether a person is eligible for homelessness assistance prior to allocating temporary accommodation. Decisions about eligibility will be made in accordance with the law, statutory guidance and any policies and procedures the Local Authority have published. If an allocation is made and the household is found to be ineligible after investigation the allocation will be ended.

5. Applicants

- 5.1. Anyone who might usually reside with an Applicant, or who might reasonably be expected to reside with an Applicant, will be considered a usual household member of the Applicant and as such will be entitled to occupy any temporary accommodation allocated to the Applicant.
- 5.2. A usual household member is a person who primarily or exclusively lives with an Applicant. People who usually live with the Applicant but are temporarily absent due to circumstances beyond their control (e.g. they are in prison, care of a local authority, hospital, armed forces, etc), are also considered a usual household member.
- 5.3. Upon deciding that an Applicant is to be offered temporary accommodation, the Local Authority will in writing:
 - Confirm under what duty or power an Applicant is being allocated temporary accommodation, confirming whether it is:
 - a. s.188 interim accommodation duty owed to those who are homeless and have a priority for accommodation.
 - b. s.190 duty owed those who are homeless intentionally and have a priority need for accommodation.
 - c. s.193 duty owed to those who are not intentionally homeless and have a priority need for accommodation
 - d. A discretionary offer of accommodation where no duty is owed
 - Confirm the best interests of any children that might need to be taken account of.

- Confirm what would constitute a reasonable offer of temporary accommodation, also explaining
 - a. Affordability will be determined in accordance with the criteria set out in Appendix A.
 - b. Bedspace entitlement of the household.
- Advise them of their right to request a review of any of the above matters.

5.7. The above steps will be repeated whenever the Local Authority notifies an Applicant of a change of duty or power under which they are being accommodated or the accommodation location is changing.

5.8. Decisions about allocations of temporary accommodation will be notified in writing, regardless of whether they are adverse or successful. Additional arrangements will be made for Applicants who might have difficulty understanding the implications of the decision to be informed orally (e.g. via a telephone call or in person.)

6. Reviews and suitability

6.1. The Local Authority will keep the suitability of all temporary accommodation placements under review, particularly when an applicant reports a change in circumstances which might affect the suitability of accommodation.

6.2. When there is a change in circumstances which might affect the suitability of accommodation the Local Authority will carry out a S202 review of suitability and issue a decision.

6.3. Applicants will be informed of their right to request a review, of any of the decisions shown below within 21 calendar days of receiving a decision about the allocation of temporary accommodation:

- A. The facts of an Applicant's case which are likely to be, or have been, taken account of when deciding whether or not to make an allocation of temporary accommodation, including whether or not they have a priority need for accommodation.
- B. The suitability of temporary accommodation for which an Applicant will be allocated.
- C. The extent of an Applicant's household.

6.4. The review will be a re-consideration of all the relevant facts and the legal requirements at the date the review is carried out and will be carried out in accordance with the law, statutory guidance and any policies and procedures the Local Authority might publish

6.4 The Local Authority will keep a record of Applicants who are in unsuitable temporary accommodation and will make efforts to fulfil the duty to provide suitable accommodation. The local Authority will take steps to reduce the impact of unsuitable accommodation on the household until a suitable offer is made.

This might include but is not limited to:

- Approaching housing providers
- Considering arrangements with registered providers to use available stock
- Increasing priority on the housing register for people in unsuitable temporary accommodation
- Considering temporary aids, adaptations or support
- Providing additional security measures
- Transferring applicants between temporary accommodation placements to make best use of available accommodation. Moves will be prioritised for those households already in unsuitable accommodation rather than those with a necessity to move in the short or medium term.

All records held will be in line with the West Lindsey Retention and Disposal schedule which can be found at <https://www.west-lindsey.gov.uk/sites/default/files/2022-11/Retention%20and%20Disposal%20Schedule.pdf>

7. Making allocations of temporary accommodation

- 7.1. The Local Authority will inform Applicants of the process if they refuse an allocation of temporary accommodation.
- 7.2. An offer of temporary accommodation will be considered reasonable if the property being offered will meet the housing needs of an Applicant, having had regard to the following matters at the date when the offer is made:
- a. Whether the Applicant and their household would be statutory overcrowded or under-occupying. As a general rule, allocations will be made so that a property is fully occupied. If this is not possible, under-occupation will be considered, subject to an affordability assessment.
 - b. Affordability of the property when compared to the Applicants' income and expenditure, see Appendix A for the methodology that will followed to determine whether a property is affordable.
 - c. Location of the property in regard to essential journeys the Applicant needs to make.
 - d. Public sector equality duty in Equality Act 2010, section 149.
 - e. When there is a child or children in the Applicant's household, the duty to safeguard and promote the welfare of children in the Children Act 2002, section 11.
 - f. In respect of school-age children, the duty in the Human Rights Act 1989, that no person should be denied the right to an education (Notwithstanding

this, an offer of accommodation might necessitate a child having to move school).

- g. Space and arrangement of the property (e.g. whether the Applicant and usual household members could physically access the property and suitably move around inside and use all of its features, in particular taking account of any medical and/or physical needs).
- h. The general condition of the property (e.g. that it is in a reasonable state of repair, there are suitable fire safety and carbon monoxide precautions and a current gas safety record, the property is free from damp and mould growth, there is reasonable hygiene, sanitation and water supply, etc).
- i. The specific health needs of the Applicant or their usual household members.
- j. The proximity and accessibility of family support.
- k. The proximity and accessibility of medical facilities and other support services which are currently used by or provided to the Applicant or the usual family members that are essential to that persons' wellbeing.
- l. The proximity of alleged perpetrators or victims of domestic abuse, or other types of abuse or harassment.
- m. Space will be available for a cot for each child aged under 2. Where households with babies and young children under 2 do not have access to a cot when placed in temporary accommodation we will consider what support is available for the provision of a cot.

7.3. Following an allocation of temporary accommodation by the Local Authority, Applicants will be given a reasonable period to properly consider whether to accept it. Typically, this will be 24 hours, however, the personal circumstances of each Applicant will be considered, including those who are vulnerable Applicants, in hospital or other special circumstances. Any longer timescale will be based on the specific circumstances of an Applicant.

7.4 The letting of temporary accommodation will be handled by the Local Authority's Homelessness Prevention Officers or a registered provider or a private landlord, who will complete the letting and provide landlord services, such as:

- A. Repairs and maintenance
- B. Rent and service charge collection
- C. Tenancy management
- D. Assistance with benefit applications (if applicable)

7.5 Applicants who receive support from a carer who does not live with them and who is required to stay overnight, will have their need for a spare room taken account of whenever possible.

- 7.6 Properties on the ground floor, with an accessible bathroom or an additional bathroom or toilet, will be offered to Applicants who have a medical need for such a dwelling over an Applicant who has no need for such accommodation.
- 7.7 Any particular needs of elderly Applicants will be taken account of.
- 7.8 A health or social care professional with direct knowledge of the Applicant's condition may be contacted by the Local Authority for an opinion of the Applicant's health and the impact on their housing needs when evidence, submitted by an Applicant, requires clarification either on a point of accuracy or of the prevailing circumstances of their condition.
- 7.6. Applicants will be informed when an allocation of temporary accommodation is made whether the property will be furnished or unfurnished.
- 7.7. Applicants can expect temporary accommodation to be fit for occupation at the date it is allocated, or that any repairing obligations imposed on the Local Authority, or a registered provider, or a private landlord, will be met within a reasonable time of commencement of occupation of the dwelling.
- 7.8. Applicants whose circumstances change once they've been allocated temporary accommodation must notify the Local Authority of such changes immediately. If as a result of a change in circumstances the temporary accommodation provided to an Applicant is no longer suitable, another allocation of temporary accommodation will be made.
- 7.9 If an Applicant breaches any occupancy conditions of temporary accommodation allocated by the Local Authority to discharge any homelessness duty, and the Local Authority subsequently evicts the Applicant, they shall cease to be entitled to an allocation of temporary accommodation.

8. Equality & Diversity

- 8.1 The Local Authority is subject to the Equality Act 2010 which has been duly considered when formulating this Policy. A separate *Equality Impact Assessment* has been completed and copies can be requested from the Local Authority.
- 8.2 To ensure compliance with public sector equality duties, arrangements will be made by the Local Authority for each individual Applicant with a relevant protected characteristic, such as persons who have a disability to be provided with information on a property's accessible features. At the stage of an allocation of temporary accommodation is made, to allow extra time, (of a duration relevant to the circumstances of any given case) to determine whether or not to accept the allocation.

- 5.2. The Local Authority will advise Applicants that equalities information will be collected, to enable a better understanding of peoples' housing needs and to ensure that no one is discriminated against as a result of the way this Policy has been formulated, or during the administration of it. Applicants will be informed as to how such data will be used, handled and stored.
- 8.3 The Local Authority will carry out appropriate checks on an Applicant's eligibility for homelessness assistance, but will ensure these checks are not discriminatory on the basis of race, nationality, ethnic origin, or any other protected characteristic as defined by the Equality Act 2010. The Local Authority will train its employees about homelessness law and practice and the duties and responsibilities under the Equality Act 2010.
- 8.4 The Local Authority shall ensure that language and interpretation support is available for Applicants who have difficulty reading or speaking English.

9. Information about this Policy

- 9.1 The Home Choices Team Leader will be responsible for minimising the risk of employee fraud and errors, including the vetting of junior employees and randomly checking and validating decisions on allocations of temporary accommodation.
- 9.2 This Policy will be reviewed by the Local Authority at least every two years (and more often if required, for example due to legislative or regulatory changes). Minor amendments can be made to the policy with delegated authority for sign off to the Director for Planning, Regeneration and Communities. Version control for amendments will be included below.
- 9.3 Should any further amendments be made to this Policy, the Local Authority will take such steps as it considers reasonable, within a reasonable period of time, to bring to the attention of those likely to be affected by:
- A. any subsequent alteration to this Policy that would affect the relative priority of a large number of Applicants; and
 - B. any significant alteration to any associated procedures for administering this Policy.

10. Legislative framework

- 10.1 This Policy has been formulated with regard to the law and regulatory requirements, including:
- Housing Act 1996
 - Homelessness Act 2002
 - Localism Act 2011

- Homelessness Code of Guidance for Local Authorities
- Data protection Act 2018

- 10.2 Case law from the English and Welsh Courts has also been taken into consideration.
- 10.3 Applicants will be informed of their right to seek assistance from the Equality and Human Rights Commission, if they believe the Local Authority has breached the Human Rights Act 1998, by contravening their human rights or unlawfully discriminating against them.
- 10.4 When formulating this Policy, the Local Authority has considered and taken full account of the need to safeguard and promote the welfare of children, in accordance with the Children Act 2004, section 11.
- 10.5 When making decisions about allocations of temporary accommodation, the best interests of any children involved will be treated as a primary (but not overriding) consideration. Active involvement from the Lincolnshire County Council's Children Services department will be sought when making decisions about allocations of temporary accommodation where there is involvement with an Applicant or a usual member of their household with the Local Authority's Children Services.
- 10.6 This Policy and the administration of it will accord with the objectives and actions set out in the Local Authority's Homelessness Strategy.

11. Data Protection Legislation

- 11 The Local Authority is subject to complying with the Data Protection Act 2018 when disclosures of information are required. The administration of this Policy will ensure compliance with this legislation. For further information please reference the West Lindsey District Council Data Protection Policy. Applicants will be advised of their right to make a complaint to the Information Commissioner's Office if they believe the Local Authority has failed to fulfil its obligations and responsibilities as set out in the Data Protection Act 2018.

12. Temporary accommodation owned by private landlords or non-registered providers

- 12.1. The Local Authority might decide on a case by case basis to allocate temporary accommodation to an Applicant for a dwelling owned by a private landlord or non-registered provider. An agreement will be made between the Local Authority and a registered provider are outside the scope of this Policy.

- 12.2. An Applicant will hold a non-secure license with the Landlord. Landlord services will be provided by the owner of the dwelling, unless an alternative arrangement has been agreed.
- 12.3. The Local Authority will agree an information sharing protocol that accords with data protection legislation. The Local Authority will require written consent from an Applicant to share their information with a registered provider or a private landlord.

13. Fraud

- 13.1 Every Applicant will be provided with advice about offences in relation to fraud. Applicants might be prosecuted, if they deliberately withhold information, provide misleading information, or do not notify the Local Authority of any change in circumstances (e.g. change in household formation). A warning will include the following facts: a person guilty of such an offence could be liable to pay a fine (with no maximum) and may also face prosecution for fraud which can result in imprisonment.

14. Additional considerations

- 14.1. The Local Authority is permitted to contract out the administration of specific public law homelessness functions, including the management of temporary accommodation, to a third party. Any such arrangements that might be in force are outside the scope of this Policy. Where such arrangements have been established, any reference made in this Policy to the Local Authority automatically extends to any third party appointed to undertake such administration.
- 14.2. The Local Authority will decide when temporary accommodation is allocated, whether an Applicant is allowed to keep pets at the property. Registered providers and private landlords will have will have their own policies on pets.

Appendix A – Determining an Applicants’ ability to afford temporary accommodation

- A.1. Any allocation of temporary accommodation is conditional on an Applicant being able to pay any charges (e.g. rent and/or services charges) levied for occupying a dwelling, otherwise it shall satisfy legal requirements for temporary accommodation to be suitable for Applicants.
- A.2. Any amount an Applicant is charged for occupying a dwelling e.g. rental charges must be demonstrated to be affordable for them.
- A.3. What an Applicant can afford to pay will vary according to the type of dwelling and their personal circumstances.
- A.5. When determining affordability, the Local Authority shall consider whether an Applicant can afford the housing costs of the temporary accommodation they are to be allocated, without being deprived of basic essentials, such as food, clothing, heating, transport and other essentials specific to their circumstances.
- A.6. All income should be taken account of when determining an Applicants’ reasonable living expenses, other than rent, having regard to any children who might reside with them (local authorities have a duty to promote and safeguard the welfare of children under Children Act 1989, which is relevant in the matter of determining affordability) or any child which is financially dependent on them, but does not reside with them. The following will be considered income for the purpose of an affordability assessment:
- A. Salary
 - B. Compensation, including fees, commissions, fringe benefits, etc
 - C. Gains derived from dealing in property
 - D. Interest
 - E. Rents
 - F. Royalties
 - G. Dividends
 - H. Annuities
 - I. Income from life insurance and endowment contracts
 - J. Shares
 - K. Income from a trust
 - L. Welfare benefit entitlements
- A.7. If an Applicant is unable to pay any or all of the housing costs, the Local Authority might arrange for another source of funding (e.g. Discretionary Housing Payment). In cases involving a child, this might be from the Local Authority’s Children Services under Children Act 1989 section 17. After housing costs, a tenant should be left with sufficient income to pay all other reasonable costs.
- A.8. An Applicant shall have the right to request a review of an affordability assessment, this should extend to the right to a review of any charges levied for occupying temporary accommodation. Should an Applicant remain dissatisfied, they shall be informed of their right to make a complaint to the relevant ombudsman and/or pursue judicial review.

- A.9. The following formula shall be followed to determine whether charges for a dwelling are affordable
- A.10. Evidence for an Applicant:
- A. Total income from all sources, including earnings, fees, other payments, savings, welfare benefits they are in receipt of or would be entitled to claim
 - B. Total debts, including priority and non-priority debts
- A.11. Once the above factors have been ignored, take note the total amount of outstanding income.
- A.12. To determine whether a prospective tenant can afford the housing costs of the property that has been allocated to them:
- A. Take note of their total income
 - B. Deduct from the total income received, housing charges they would be liable to pay for the temporary accommodation that shall be allocated to them (including rental charge and any service charge)
 - C. Deduct from the total income received, other reasonable living expenses, equal to Universal Credit standard allowances, for items such as,
 - a. food,
 - b. clothing,
 - c. heating,
 - d. transport,
 - e. other essentials, specific to the circumstances of the prospective tenant (and any other person that lives with them, or might be reasonably expected to live with them)
 - D. Deduct from the total income received, relevant expenditure to nurture and keep safe any child that lives in the household or which is financially dependent on the Applicant
 - E. Deduct from the total income received any priority debts, such as,
 - a. tenancy related debts, Ignore any:
 - i. tenancy related debts that are statute barred
 - ii. not accrued by the tenant
 - iii. accrued as a result of financial abuse
 - b. court fines,
 - c. council tax,
 - d. TV license
 - e. child maintenance,
 - f. gas and electricity bills,
 - g. Income Tax, National Insurance and VAT,
 - h. mortgage and any loans secured against a home owned by the Applicant (and any other person that lives with them, or might be reasonably expected to live with them),
 - i. hire purchase agreements if what has been purchased is essential

A13 From the remaining amount of income, a calculation can be made as to whether the Applicant can afford the housing costs of temporary accommodation that will be allocated to them.

A14 Where two or more people will hold a non-secure licence jointly, income and debts from all persons should be taken account of.