

Exceptional Homelessness pressures on Housing

Report to be considered by:

Full Council

Date to be considered:

City Mayor Briefing : 7th March 2024

Full Council: 21st March 2024

Lead Member: Cllr Elly Cutkelvin

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Useful information

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1. Summary

1.1 This report sets out positive actions and steps that are proposed to be taken to support families and people facing Homelessness in Leicester which help address very challenging Homelessness pressures.

1.2 As has been the case across the Country, Leicester has experienced significant increasing numbers who are homeless and require temporary accommodation.

1.3 As well as the obvious impacts on those who experience homelessness this has led to an overspend in homelessness services. The general fund revenue budget for 2023/24 recognised this pressure with additional budget of £1m being made available and the 2024/25 budget includes a further £10.6m, this reflecting the plan as set out within this report. The additional cost (net of housing benefit) of increased numbers in temporary accommodation was £2.3m in 2022/23 and is expected to be over £7m in 2023/24.

1.4 Government took a decision to speed up Asylum decisions in their National Asylum Support Service (NASS) population for certain nationalities. Upon evaluation the impact of this on Leicester City is that 1,000 people and families will receive a decision on their asylum claim (positive or negative) between November 2024 and Spring 2025. This will and is impacting upon services across the Council, primarily Homelessness but also more widely on Community Safety, Adult Social Care, Public Health, schools and Health services. It is estimated that the impact of the Streamlined Asylum process (SAP) on Leicester City Council could be in the region of £15m per year (equating to £30m over the next two years) if the Council does not do anything.

1.5 The combining pressures could equate to a financial pressure on the Council of up to £23m in 2024/25.

1.6 Senior Council officers have met with the Home Office about the matter whom have advised they are aware of this significant pressure but to date no Central Government funding has or is being made available towards the pressure. The Council continue to press the Minister for Asylum and the Home Office for this pressure to be fully funded by Central Government.

1.7 To enable the Authority to meet its statutory responsibilities and be able to continue to operate we need to;

- Increase service resources to meet demand
- Increase the level of temporary accommodation
- Increase the level of permanent accommodation
- Work with partners to collaborate in the response to this pressure locally
- Collaborate with other Local Authorities to challenge government for additional funding for this work.

1.8 A Project Board has been set up chaired by the Strategic Director of City Development and Neighbourhoods to oversee this significant risk and financial pressure to the Authority.

1.9 This paper sets out the business case to increase the number of council-owned properties by 225 to aid tackling temporary accommodation budget pressures in the Council's General fund. Examples of where other Local Authorities have taken the same action as this report is proposing are contained within Appendix 1.

1.9.1 To be clear, how the Council defines temporary accommodation is as;

Temporary accommodation is a broad term that describes temporary housing for people who are homeless, it is somewhere to live for a short time (although this is determined by the availability of more permanent accommodation) while a person/family look for permanent accommodation. This accommodation is normally emergency shelters, hostels, hotels, bed and breakfast, and transitional housing and is provided under a licence arrangement. A person or family continue to retain Housing priority to support them to secure more permanent accommodation.

1.9.2 The aim will be to secure this accommodation within the City of Leicester. The aim will be to secure vacant accommodation that does not displace existing residents. The identified make up and requirements of the units are set out below;

Temporary Accommodation: 225 units

- A mix of sizes:
 - HMO/1-bed flat units – 69 units
 - 2-bed houses, flats, or maisonettes – 91 units
 - 3-bed houses, flats, or maisonettes – 55 units
 - 4-bed houses, flats, or maisonettes – 10 units
- Essential: size will be considered on a unit by unit purchase
- Essential: 5% of the above needs to be DDA compliant
- Essential: Freehold purchases
- Essential: HMOs should not be in clusters more than 12
- Desirable: Family accommodation should be ground floor or have lift access to other floors
- Desirable: Parking would be preferable for families.
- Desirable: accommodation is close to decent bus routes

1.10 The paper also sets out a proposal to lease 125 permanent homes.

1.10.1 Again the aim will be to secure accommodation within Leicester City. The identified make up and requirements of the units are set out below;

Permanent accommodation: 125 units

- A mix of HMOs & 1-beds for singles and small (SP1 – very young child) families, and 2bed for other families – average family size is 4, so 2-beds will be suitable in almost all cases.
 - HMO/1-bed units – 55 units
 - 2-bed houses, flats, or maisonettes – 50 units
 - 3-bed houses, flats, or maisonettes – 20 units
- Essential: 5% of the above needs to be DDA compliant
- Essential: Leases
- Essential: HMOs should not be in clusters more than 12
- Desirable: Family accommodation should be ground floor or have lift access to other floors
- Desirable: Parking would be preferable for families.
- Desirable: It would be useful if the accommodation is close to decent bus routes

1.11 This business case is in addition to all of the steps currently being taken to tackle these pressures, such as;

- an improved Private Rented Sector (PRS) landlord offer,
- an increase in the level of LCC dwelling stock used for this cohort,
- increased levels of finance in to discretionary Housing benefit payments to support people in their current tenancies and to find new tenancies in the PRS and
- The commitment to build and acquire 1,500 new Affordable homes in Leicester City

1.12 The combined budgetary pressure arising from the existing growth in the use of temporary accommodation and the SAP is expected to be in the region of £23m for 2024/25. The proposals set out within this report are expected to mitigate between £5m and £6m of this pressure

2. Recommended actions/decision

Full Council are recommended to:

- i) note the significant service and Council pressure arising from the increase in homelessness;
- ii) note and comment on the actions being proposed relating to the below recommendations in this report;
- iii) Agree to proceed with leasing 125 units of accommodation at an estimated annual net cost of £0.3m;
- iv) Agree to proceed with the acquisition of up to 225 units of accommodation at an estimated capital cost of £45m and annual revenue cost of £1m in 2024/25 (and £2m per year thereafter).
- v) Approve the addition of £45m to the Council's capital programme, to be financed from Prudential Borrowing.

3. Background

3.1 Picture of homelessness in Leicester

We are experiencing a trend of increasing homelessness (indicated by quarter 2 figures below). This appears to be the picture across the country as highlighted in national papers and journals.

“Extra 40,000 people in England homeless this Christmas taking the total to 309,000 –
The Guardian 14th December 2023

“UK Homelessness on the rise as rents soar” – Financial Times 18th September 2023

“Record temporary accommodation figures as nearly 80,000 households face homelessness “ – Inside Housing 25th July 2023

“Shelter warns of surge in homelessness as cost-of-living crisis bites” Inside Housing 10 November 2022

Indicator	Provisional* Oct-Dec 2023	Ave. Q1-2 2023	Ave. Q 2022/23	Ave. Q 2021/22
Number of approaches <i>% change</i>		1296 ▼5%	1303 ▲14%	1141 N/A
Num homeless applications taken <i>% change</i>		701 ▲2%	691 ▲1%	682 N/A
Success - prevention of hlessness <i>% change Target operating model</i> <i>% distance from target operating model</i>		54% ▼7% 65% ▼11%	61% ▼3% 65% ▼4%	64% N/A 65% ▼1%
Success - recovery from hlessness <i>% change</i> <i>Target operating model</i> <i>% distance from target operating model</i>		34% ▼17% 55% ▼21%	51% ▼17% 55% ▼4%	68% N/A 55% ▲13%
Ongoing service caseload <i>% change</i> <i>Target operating model</i> <i>% distance from target operating model</i>		1719 ▲4% 1200 ▲519	1649 ▲33% 1200 ▲449	1237 N/A 1000 ▲237
Families in Temporary Accommodation (TA) at end of period % change	337 ▲50%	225 ▲121%	102 ▲38%	74 N/A

3.2 Summary of position for families facing homelessness

Wherever possible homelessness officers seek to prevent homelessness (so temporary accommodation is not required). Homelessness, prevention, and support staff provide families with solutions to prevent homelessness in over 70% of cases. Prevention options include exploring access to the private rented sector (PRS) (support available for deposits and help to identify landlords willing to let for at least 12 months), direct lets of suitable council properties, giving households the highest priority banding on the housing register & asking if they can stay with friends and family.

Currently 40% of all available properties from the housing register are ring-fenced for homeless families (either to prevent them from requiring temporary accommodation (TA) or as a move-on option from temporary accommodation). This is constantly reviewed but at the moment it is needed to try and manage down the numbers and average length of time spent in temporary accommodation. Also, all acquisitions are ring-fenced for homeless families. The acquisitions programme in 2022/23 delivered a total of 48 2 and 3-bed properties. In 2023/24 there are likely to be a minimum of 82 acquisitions, brought into Council stock. We have a wide PRS offer to attract properties for use for families facing homelessness and 117 properties were secured in 2021/22 and 200 in 2022/23.

The main reasons why families seek assistance from homelessness prevention and support services are:

- end of their private rented tenancy (46% of all cases in 2021/22)
- family is not willing or able to accommodate them (23% of all cases in 2021/22).
- Over the last years domestic violence has been increasing as a reason for homelessness (in 2021/22 this became the third main reason for families to seek assistance (11.1% of all cases).

The Council have a duty to secure accommodation for unintentionally homeless households in priority need under Part 7 of the Housing Act 1996. Families with dependent children are considered as being in priority need. Households might be placed in temporary accommodation pending the completion of inquiries into an application, or they might spend time waiting in temporary accommodation after an application is accepted until suitable secure accommodation becomes available.

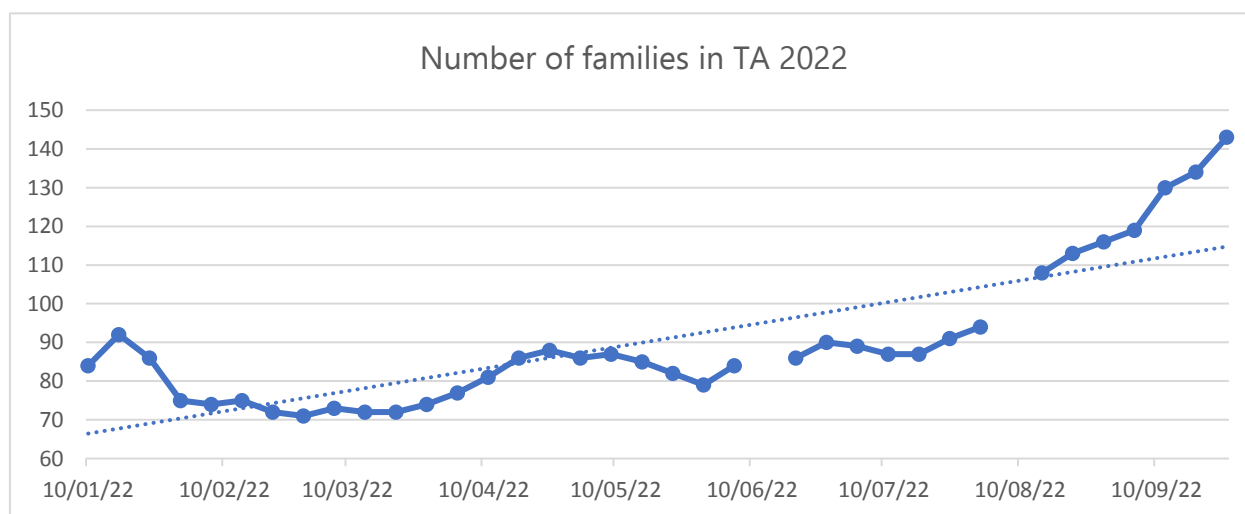
From the start of August (w/c 01/08/22) there were a total of 94 families in temporary accommodation, of which:

- 14 LCC Units
- 50 Housing Network self-contained paid nightly accommodation
- 16 Other self-contained accommodation
- 14 Bed & breakfast

The snapshot from w/c 9/1/23 there were a total of 176 families in temporary accommodation of which:

- 13 LCC Units
- 68 Housing Network self-contained paid nightly accommodation
- 37 Other self-contained accommodation
- 58 Bed & breakfast

This is an **87% increase** from the start of August 2022 to the start of January 2023.



This pressure has continued since January. As at 11th December 2023 the Authority had 332 families in TA.

The pressure on the provision of temporary accommodation is not a local one, and one that most authorities are facing. The table below is taken from local authority statutory returns for temporary accommodation for September 2021 & March 2022.

Local Authority	Number of families in TA		
	Sep 2021	Mar 2022	Oct 2023
Nottingham	353	424	599
Coventry	276	318	Not available
Derby	70	80	Not available
Leicester	64	88	306

We expect these upwards trends to continue for some time because of the lack of affordable housing available, cost of living pressures, court backlogs still clearing.

Demand for temporary accommodation is rising. The pressures include:

- Difficult to achieve prevention solutions with a partial staffing establishment.
- Slow move on of cases as a result of pressures on the housing register and increases in market rents within the private rented sector.
- With the lack of move on, the average length of stay is increasing, now at 103 days, which also means longer average stays in B&B and cost per night accommodation.

The lack of affordable housing options means that those in temporary accommodation with LCC are spending much longer time periods in B&B and hotels (2 or more months is not uncommon). This type of accommodation is unsuitable for long term occupation. These stays can have a negative effect on people's lives especially if they are required to leave the area they have lived and have social bonds. It can affect the family unit and also people's health and wellbeing.

3.3 Current temporary accommodation costs

The gross costs of providing temporary accommodation for families in 2022/23 (above the 17 units provided by the Council) was £2.3m.

Some of these gross costs are offset by recoverable housing benefit (up to 18% of costs), and a number of grants and reserves are being used to manage the pressure as far as possible in 2023/24.

Pressures involving families continue to increase with 332 families now in TA & B&B's as at 11th December 2023. The gross spend for 2023/24 will be £7m with net spend of £6m before the use of grants and reserves.

3.4 Looking Forward

The Council have been made aware of a population of approximately 900 single-person households and 90 family-households who are planned to be issued.

Expected demand since this scheme commenced in Autumn 2023 has been as anticipated adding additional pressure to Homelessness services with almost all families approaching the Council and volumes of singles as predicted. Decisions are slightly delayed by the Home office and continue. The level of responsibility varies from an obligation to provide advice through to an obligation to provide temporary (and later, settled) accommodation. The level of obligation is dependent on the outcome of a vulnerability assessment under the Housing Act 1996, as well as local policies.

More specifically;

- All family households who present for homeless assistance will be eligible for advice and assistance and temporary accommodation, and the main

homeless duty, leading to an eventual obligation on the authority to make a reasonable offer of settled accommodation.

- Single households who present for homeless assistance and are assessed as holding a priority need will be eligible for advice and assistance and temporary accommodation, and the main homeless duty, leading to an eventual obligation on the authority to make a reasonable offer of settled accommodation. It is estimated that around 15% of presenting singles will meet this threshold.
- Single households who present for homeless assistance and are assessed as NOT holding a priority need will be eligible for advice and assistance only. For clarity, the assistance amounts to “reasonable steps to help the applicant secure that accommodation becomes available for at least six months.”

The Severe Weather protocol (SWEP) continues to operate and is implemented when night time temperatures drop to zero degrees or below across the Leicester, Leicestershire and Rutland area. At this point all those sleeping rough are eligible for temporary accommodation for the duration of the SWEP period.

3.5 Estimated pressure before staffing costs

There are a number of unknown variables that make arriving at a confident financial impact challenging, including:

- Expected presentation levels – although families are expected to present almost entirely in number, the levels of presentations expected of singles is not possible to estimate with any degree of accuracy. As such, a range between 40% and 70% has been used. These projection levels are proving to be correct but Home Office decisions continue so this remains an unknown.
- B&B costs – it is possible that market saturation as pressures build across the country will drive up pricing algorithms. As such, a range from current costs to +50% has been used..
- Degree of severe weather this winter, and as such the degree to which Severe Weather Protocol is triggered. As assumption has been made across the methodologies that it will be similar to last year.

The results provide the following estimates:

In total, temporary accommodation costs may fall within the range £2,190K to £3,454K per quarter. This would be on top of current business estimates around BAU TA pressures.

<u>Accommodation</u>	<u>Units Needed</u>	<u>Year 1 Pressure £000</u>
<u>Family estimate based on 95% presentation and 100% accommodation duty:</u>	<u>59</u>	<u>£2.4m to £3.8m</u>
<u>Single estimate based on 70% presentation and 15% accommodation duty:</u>	<u>69</u>	<u>£1.9m to £3.1m</u>
<u>Single estimate with cold weather addition</u>	<u>360</u>	<u>£28k to £44k</u>
<u>Single estimate with Enhanced RS offer addition</u>	<u>157</u>	<u>£4.4m to £7m</u>
<u>Accommodation Total</u>		<u>£8.7m to £13.9m</u>

It should be further noted that indirect costs to existing TA pressures are likely to arise from the additional pressure on systems and resources, and a slowing down of move on as a whole. This figure is not possible to predict with any degree of accuracy, and will be highly dependent on mitigation and contingency developed in response to these pressures.

Staffing pressures:

It is calculated that the following staff would be needed in order to meet the pressure. Without adequate staffing resources, service quality for all service users is likely to dip significantly as resource is diluted, which would give rise to additional risks to our ability to meet statutory duties and safeguard vulnerable individuals.

Staffing & Running Costs	FTE's Required	Grade	Annual Cost
Additional Housing Options Case officers	8	4	£273,000
Additional Housing Options Team Leader	1	9	£58,000
Housing Options Services sub-total:			£331,000
Additional Singles Transitions Workers	6	7	£286,000
Additional HSO (for RS Team)	1	4	£34,000
Additional Single Transitions Team Leader	1	9	£58,000
Additional Family Transitions Workers	2	7	£95,000
Additional Family Transitions Team Leader	1	9	£58,000
Transitions Services sub-total:			£531,000
TAO	3	5	£114,000
Security	2	N/A	£151,000
Accommodation Services sub-total:			£265,000
Running cost - Translation costs	N/A	N/A	£25,000
Running costs sub-total:			£25,000
Staffing & Running Costs Total:			£1,152,000
Quarterly Costs:			£288,000

3.6 Enhanced Rough Sleeper Offer

Leicester's current Rough sleeper offer for singles far exceeds the statutory legal duty the Council have in this matter. The current position is set out below.

The existing enhanced rough sleeping offer remaining in place equates to £4.4m to £7m of the additional financial pressure set out in the projections.

The current policy in summary:

Who is TA available to?	Those with eligible immigration status who: <ul style="list-style-type: none">• are owed a statutory duty• are in the "Target Protect Group" required as part of the Rough Sleeping Initiative• are considered 'prolific' and/or 'entrenched' rough sleepers• are found rough sleeping by outreach
What is the policy when commissioned accommodation is full?	<ul style="list-style-type: none">• The policy remains, and B&B or other nightly paid accommodation is spot-purchased.
How long is TA available for?	<ul style="list-style-type: none">• Temporary accommodation is provided indefinitely, until a settled solution is identified, or until the accommodation is abandoned, or if behaviour leads to an eviction.

Currently, this approach is popular with partners and considered a very strong 'off-the-street' offer. However, it creates risks, albeit hard to quantify, around staged rough sleeping. Furthermore, the indefinite nature of the offer fails to manage expectations and individuals will often 'sit tight' for a social housing offer.

4.0 Mitigations

Beyond the staffing requirements set out to manage the situation there are a number of options open to the Council to mitigate the significant Homelessness Bed & Breakfast cost.

4.1 Lease Temporary Accommodation

The option to lease accommodation would enable the Local Authority to reduce down Temporary Accommodation costs.

Securing 125 units of leased properties would enable the Local Authority to place those we have a Housing duty for to be placed in more suitable accommodation including kitchen facilities which is a common issue when people are required to remain in B&B for longer periods of time.

This mitigation has been mapped out including the overall annual cost of this to the Council which would equate to £0.3m (this is a net cost after Housing Benefit has been claimed at Local Housing Allowance rate).

The expected cost mitigation this would achieve would be dependent on the speed of securing and deploying the accommodation. It is also dependent upon the timescale of permanent move on accommodation. However, the £3k annual net cost of a leased property could save up to £40k on B&B expenditure.

4.2 Buy additional Properties

While securing accommodation through leased properties would mitigate a proportion of additional financial pressure, it is proposed to buy 225 additional properties as a further route to manage these pressures. This is based on the legal duties to secure permanent move on accommodation for the individuals and families.

Note examples of other Council's that have taken the same action and decision are contained within Appendix 1.

The purchase of these units would enable up to 225 families to move from unsuitable Bed & Breakfast accommodation and remain in a much more suitable temporary home while they continue to receive priority to bid for suitable accommodation to secure a permanent home. This is a much stronger quality offer to families that would support them to continue to live their lives in good accommodation while waiting to secure a permanent offer of accommodation.

It is calculated that the proposed 225 units of accommodation would cost in the region of £45m to acquire, to be funded from Prudential Borrowing. The annual revenue costs associated with holding these properties will be £2m per year; (£1m in 2024/25) the principal costs for the Council include the interest cost of borrowing, minimum revenue provision for the repayment of debt, operating costs for managing the properties, and maintenance. Against these costs, the Council would receive rental income from families placed in the properties, assumed at the current Local Housing Allowance Rate.

6. Headline Risks

Risk	Impacts	Level	Mitigation considerations
<ul style="list-style-type: none"> Financial 	<ul style="list-style-type: none"> Levels as above Worsening of Council's overall financial position and heightened risk of s114 	<ul style="list-style-type: none"> High due to cost factor 	<ul style="list-style-type: none"> Planned response / additional resource and staffing to manage the increased demand Consideration of cost mitigation via block booking, or making other accommodation options available

<ul style="list-style-type: none"> • Not enough staffing, not mobilized quickly enough 	<ul style="list-style-type: none"> • Ability to meet statutory duties – legal challenge, reputational • Quality of service/work, increased error rate – reputational, potential safeguarding issues • Increased appointment times and worsening of prevention response – financial impact on TA, reputational 	<ul style="list-style-type: none"> • High due to reputational risks, and genuine risks to the LAs ability to meet statutory homeless duties 	<ul style="list-style-type: none"> • Recruitment team prioritise sourcing requirements • Moving around resource in CDN onto this work to avoid/reduce any time that would be spent on recruitment, or bridge the gap between the immediate need right now and successful recruitment of temporary/agency staff
<ul style="list-style-type: none"> • Not enough TA, unable to place/discharge duties and/or B&B costs soar due to market saturation 	<ul style="list-style-type: none"> • Increased financial pressure • Potential for pressure to exceed estimates within this report 	<ul style="list-style-type: none"> • High due to cost factor and likelihood 	<ul style="list-style-type: none"> • EBS source new leases • Hotel block bookings • Source accommodation out of Leicester • Source TA out of Leicester
<ul style="list-style-type: none"> • Not enough move-on 	<ul style="list-style-type: none"> • TA length of stay increases - impact on cost • Cannot keep up with pace of 1-in-1-our policy – snowballing/building costs 	<ul style="list-style-type: none"> • High due to cost factor 	<ul style="list-style-type: none"> • EBS source new accommodation leases / approval of GF • Accommodation business case

7. Next Steps and Milestones

Work post Full Council decision then commences on securing both temporary and permanent accommodation proposals – March onwards

The programme of work continues to be overseen by Strategic Director of City Development & Neighbourhoods and the Board – March24 onwards

Progress reporting is undertaken to the SAP Board on a monthly basis at Budget reporting periods and periodic political updates

8. Financial, legal, equalities, climate emergency and other implications

8.1 Financial implications

Given the number of variables which affect the total spend on temporary accommodation, it is very difficult to project future costs. However, the combined budgetary pressure of current homelessness needs and the Streamlined Asylum Process (including the staffing pressure at section 3.5) is expected to be in the region of £23m in 24/25.

This report proposes the purchase of up to 225 properties for £45m, to be fully financed using Prudential Borrowing. This includes the cost of Stamp Duty Land Tax. There is a revenue cost of purchasing and holding properties in this way, since the income from Housing Benefit will be insufficient to cover the revenue costs (interest costs of borrowing, minimum revenue provision, and property management & maintenance costs). In 2024/25 this cost is expected to be in the region of £1m (rising to £2m in future years), but will be heavily dependent upon how quickly the properties can be purchased. It is anticipated that the 225 units will mitigate up to £4.2m of the budget pressures (presenting a net cost reduction to the Council of £3.2m in 2024/25).

The other proposals within the report, including the leasing of 125 properties are expected to mitigate up to £2m of the budget pressures. If the government continues to pay Asylum Dispersal grant into 2024/25 then this may help to offset a further £1m.

The revenue budget for 2024/25 makes provision for an additional £10.6m of budget towards the increase in temporary accommodation costs. This reflects the plans and mitigations set out within this report. If the recommendations within this report are not adopted then this will have a significant impact on the Council's budget position, adding around £6m of unbudgeted costs in 24/25.

Stuart McAvoy – Head of Finance

8.2 Legal implications

Whilst it is permissible for a local housing authority to discharge its obligations to eligible homeless applicants by way of out-of-area placements, S208, Housing Act 1996 provides that, so far as reasonably practicable, it should secure accommodation within its own district.

This obligation does not apply in the case of eligible asylum-seekers where the local housing authority has a written agreement with another local authority that it may place asylum-seekers in its area.

The Homelessness (Suitability of Accommodation) (England) Order 2012 specifically requires a local housing authority to consider the location of accommodation, including –

- (a) where it is outside the authority's own area, the distance from that area.
- (b) the significance of any disruption to employment, caring responsibilities or education.
- (c) proximity and accessibility to medical facilities and other support currently used by or provided to the applicant or a member of their household that is essential to their wellbeing.
- (d) proximity and accessibility to local services, amenities and transport.

The Supreme Court has held that authorities should adopt policies relating to the procurement of temporary accommodation, which should be approved by members and

made available to the public; the policy should explain how accommodation will be allocated and what factors will be taken into account in allocating out-of-borough units; the authority can take into account the resources available to it and the difficulty in procuring affordable housing in its own area.

Provided there is no successful Judicial Review challenge to such a policy, an allocation to an out-of-borough unit cannot be challenged on the basis that there are in-borough units; it is lawful for the authority to reserve these for other applicants who will be entitled to an in-borough allocation pursuant to the policy.

Jeremy Rainbow – Principal Lawyer (Litigation) – x371435

Acquisition issues

1. Generally local housing authorities acquire land and property for the provision of housing accommodation pursuant to Sections 9 and 17 of the Housing Act 1985 (as amended). When properties are acquired under Section 17, they are held within the confines of the HRA (this applies whether the Council acquires freehold or long leasehold interests in property).
2. Part 7 of the Housing Act 1996 subsequently imposed statutory duties on housing authorities with regard to the provision of accommodation for the relief of homelessness. Under section 206(1) of the 1996 Act the Council may discharge its homelessness functions “*by securing that suitable accommodation provided by them is available*”. However, there is no specific power of acquisition within the 1996 Act.
3. The Council has a general power of acquisition under section 120 of the Local Government Act 1972 which was substantially broadened by the enactment of the Localism Act 2011. Under the 1972 Act, properties can be acquired utilising the General Fund and held within the corporate estate. Thereafter the properties could be made available for homelessness/temporary housing purposes but there is a risk that the properties acquired could be deemed to have been acquired for “housing purposes” and therefore within the HRA. In order to alleviate that risk, the Directors of EBS and Housing may seek to put in place inter-departmental arrangements to enable Housing to utilise corporate estate property for temporary accommodation.
4. The question of funding via the General Fund rather than the HRA has also been discussed with other authorities and counsel’s opinion has been sought. On the one hand counsel’s opinion concluded that the acquisitions would fall within the 1985 Act. Counsel was of the opinion that the only situation whereby housing accommodation used for homelessness purposes would fall outside the 1985 Act would be where the accommodation was provided by a third party not the local authority itself. On the other hand, reports indicate that other local authorities are making acquisitions for homelessness purposes through their General Fund and a large local authority confirmed in discussions that they are acquiring properties via General Fund with the support of Government funding.
5. The difficulty arises in that the acquisition power under Section 17 is a very broad acquisition power for “housing purposes”. However the Government’s own guidance “*General Fund Revenue Account General Guidance Notes*” includes references to “*homelessness costs*” and “*Accommodation within the authority’s own stock (non-Housing*

Revenue Account)” within the General Fund guidance notes. In addition is the Government’s guidance “*Operation of the Housing Revenue Account ring-fence*” in which DLUHC considers properties held on a permanent basis for temporary accommodation purposes should be accounted for in the General Fund.

6. The proposed approach set out in this business case is therefore not without legal risk. Ensuring that the model includes a support element for the families in the temporary accommodation and appropriate inter-departmental arrangements will help mitigate this to some extent.

7. The Council could seek a further direction from the Secretary of State under sections 74(3)(d) and 87(1) of the Local Government and Housing Act 1989. However, there is no guarantee as to the length of time this process might take nor that such a direction would necessarily be ordered, particularly if this is the only Council making the application. However these sections apply to the Council’s duties in relation to the Housing Revenue Account and such a Direction may therefore be inappropriate if the Council purchases utilising funds from the General Fund.

8. The Constitution and Scheme of Delegation currently reserves acquisition powers under the 1972 Act to the Director of Estates and Building Services (or the City Mayor where the value of the transaction exceeds £500,000).

9. Should acquisitions (whether freehold or leasehold) subsequently be approved, a full due diligence exercise would be required for each property acquired under the Business Case. That exercise would reveal, amongst other things, any potential risks in terms of planning and building regulation compliance or the need to obtain retrospective approval, defects in title, planning enforcement action and any restrictive covenants that may prevent a property being acquired for the purposes detailed in the report. Legal advice/representation on each transaction would be required.

10. Where any acquisition is funded through prudential borrowing, the Council has widely construed powers under the Local Government Act 2003. The 2003 Act provides each local authority with a discretion to borrow and invest provided it is doing so for a purpose within its functions, as part of the prudent management of its financial affairs and within its affordable borrowing limit.

11. An investment decision made by the Council must have regard to proper accounting practices and relevant CIPFA Guidance including the Local Authorities (Capital Finance and Accounting) (England) Regulations 2003 and CIPFA Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes and Prudential Property Investment published in November 2019.

12. Any acquisition will also have to take account of the Council’s fiduciary duty to its tax-payers in relation to proper stewardship of public monies. Valuation advice and a Red Book valuation would be required for each property.

13. Properties acquired under the homelessness requirements would be occupied under the homelessness duties of the 1996 Act and non-secure, short-term tenancies granted, thereby ensuring that the properties remained within the Council’s ownership. Tenancies granted under the 1996 Act homelessness provisions are expressly excluded from the definition of secure tenancies under the 1985 Act and, as a result, excluded from the Right to Buy provisions.

Zoe Iliffe - Principal Lawyer (Property, Planning & Highways Team)

Updated legal advice (February 2024)

Further legal assurance was sought regarding the lawfulness of proposal to acquire the 225 units of accommodation through the General Fund (GF) rather than the Housing Revenue Account (HRA). The conclusion of this thorough further review of legal powers concludes that the Council can lawfully acquire and retain the units of accommodation in the GF utilising the GEPOC (General Power of Competence) conferred by section 1 of the Localism Act 2011. A non-legal risk pertains to this route – namely the risk that the Department for Levelling-Up, Housing and Communities (DLUHC) may, through the Secretary of State, issue a Direction that such stock must be treated as being within the HRA. Given the engagement that officers have had with DLUHC and CIPFA over this very issue, and the scale of such purchases being replicated elsewhere in the Country, it is felt that the risk of such a Direction being issued is low.

(Kamal Adatia, City Barrister)

8.3 Equalities implications

Under the Equality Act 2010, public authorities have a Public Sector Equality Duty (PSED) which means that, in carrying out their functions, they have a statutory duty to pay due regard to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act, to advance equality of opportunity between people who share a protected characteristic and those who don't and to foster good relations between people who share a protected characteristic and those who don't.

Protected Characteristics under the Equality Act 2010 are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The report updates on the pressures placed on services arising from the Streamlined Asylum Process (SAP). This includes the Government decision to speed up Asylum decisions in their National Asylum Support Service population for certain nationalities. Inevitably there will be direct equality implications on people who share a protected characteristic, particularly around race, age and potentially disability. If those in the SAP are supported to integrate into society, it could also help advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

Given the vast impacts on people it must be recognised that this work might be specific to people with certain protected characteristics and as such the equality implications on those protected characteristics should be monitored. As the workstreams described in the report develop an Equalities Impact Assessment (EIA) should be considered for each one. The EIA process can support the Council and its partners to predict possible issues and take appropriate action such as removing or mitigating any negative impacts, where possible, and maximising any potential for positive impact.

Kalvaran Sandhu, Equalities Manager, Ext 6344

8.4 Climate Emergency implications

Housing is one of the largest sources of carbon emissions in Leicester, responsible for 33% of emissions. Following the city council's declaration of a Climate Emergency in 2019, and its aim to achieve carbon neutrality, addressing the emissions from housing is vital to the council's efforts to reduce carbon emissions. This is particularly important within the council's own housing provision, where it has the a greater level of control.

When leasing or purchasing new accommodation, consideration should be given to opportunities to ensure that this housing is as energy efficient and low carbon as possible. This could include consideration of the levels of insulation, use of low energy lighting and appliances and the installation of low carbon heating and renewables and potential improvements that could be made. Alongside reducing carbon emissions, achieving a high level of energy efficiency would reduce ongoing costs through lowering energy bills, and could also increase comfort levels for occupants.

As service delivery generally contributes to the council's carbon emissions, any further impacts of changes can be managed through measures such as encouraging sustainable staff travel behaviours, using buildings efficiently and following sustainable procurement guidance, as applicable to the service and any changes implemented.

Aidan Davis, Sustainability Officer, Ext 37 2284

Appendix 1

Examples of Other Authorities Which Have Undertaken Property Acquisitions

The following table lists other authorities which have undertaken the purchase of property into their General Fund. The exact circumstances of each individual Council may differ, but the motivation in each case is to alleviate the pressure being caused by the cost of external temporary accommodation. These are only examples, and it does not represent an exhaustive list.

Birmingham City Council	In February 2022, Cabinet approved a £60m addition to the capital programme for the purchase of 230 properties, for use as temporary accommodation. In June 2023, a further £400m was approved for the purchase of 1,500 properties into the General Fund.
Medway Council	In January 2024, £42m was added to their capital programme for the purchase of up to 150 properties into their General Fund.
Sutton Council	Sutton has a programme of acquisitions which was set up with £38m in March 2017 for 100 properties, to be held in either the HRA or General Fund.
Cornwall Council	In September 2021, Cornwall Council added £15m for interventions, including the acquisition of properties into the General Fund.
Coventry City Council	In March 2022, £13m was added to their capital programme for the purchase of 50 properties.
Peterborough City Council	In October 2019, Cabinet approved the purchase of £13.4m of properties for use as temporary accommodation into the General Fund.
Plymouth City Council	In December 2023, Cabinet approved the addition of £10m to purchase properties.