

Report for: Cabinet Member Signing

Item number: n/a

Title: Amendment and extension of the Rough Sleeper Discretion Policy to 31 March 2021

Report
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Ward(s) affected: All

Report for Key/
Non-Key Decision: Key Decision

1. Describe the issue under consideration

- 1.1. Haringey Council (the Council) is the Local Housing Authority, and, under the Housing Act 1996, has a duty to provide accommodation to certain homeless people who are eligible for that assistance and have a priority need. It should be noted that many homeless people are not owed that duty.
- 1.2. In the context of the Covid-19 pandemic and the lockdown imposed in England, the Government wrote to local authorities on 26 March 2020 requesting them to provide accommodation to anyone rough sleeping, or at risk of rough sleeping. This became known as the 'Everybody In' approach. The Council therefore used its discretion to provide accommodation to people to whom it did not owe this duty under the Housing Act 1996. In doing so, the Council is likely to have saved lives and improved outcomes for some of the borough's most vulnerable residents.
- 1.3. On 28 May 2020, MHCLG asked local authorities to develop exit strategies for those who had been placed in emergency accommodation, and also develop locally appropriate strategies to determine who would continue to be provided with accommodation. Further to this, on 29 June 2020, MHCLG issued an update to the statutory Homelessness Code of Guidance for local authorities, instructing them to take into account people who have vulnerabilities making them particularly at risk of serious illness from Covid-19.
- 1.4. The Council adopted a Rough Sleeper Discretion Policy on 27 July 2020 in order to continue to provide accommodation to specified categories of vulnerable homeless people falling outside the Housing Act duty who present themselves to the Council. To date, twelve vulnerable people have been accommodated under this policy.
- 1.5. It was agreed that the Discretion Policy would run to 30 September 2020, to allow officers to review its impact. Having considered the effect of the policy, and given the continued threat of Covid-19, especially over the winter period, it is proposed to extend the Discretion Policy to 31 March 2021; and to add homeless people with

Covid-19 symptoms as an explicit category of people to whom discretion will be applied for the duration of their illness.

2. Recommendations

2.1. It is recommended that Cabinet

2.1.1. Adopts the Rough Sleeper Discretion Policy attached at Appendix 1 as amended in red.

2.1.2. Delegates authority to the Director of Housing, Regeneration and Planning, in consultation with the Cabinet Member for Housing and Estate Renewal, to amend this policy to give effect to changes in legislation or statutory guidance, or directives or requests of a similar character issued by Government.

2.1.3. Extends the period of application of this policy to 31 March 2021, unless terminated earlier or extended beyond this date by Cabinet / Cabinet Member decision.

3. Reasons for decision

3.1. On 27 July 2020, the Council adopted the Rough Sleeper Discretion Policy to ensure that where homeless people vulnerable in the context of Covid-19 asked the Council for assistance they would continue to be accommodated. This policy was in the first instance to run until 30 September 2020, in order to assess its impact on the numbers of people accommodated. Having assessed this, and with Covid-19 a growing and significant risk, extending the policy to 31 March 2021 is appropriate, as is adding another category of people to whom discretion will be applied: homeless people who have symptoms of Covid-19.

4. Alternative options considered

4.1. The first alternative option is to return to the approach that was taken from 26 March 2020 to 27 July 2020: that is, to offer accommodation to anyone in the borough who is sleeping rough, or at risk of sleeping rough. The reason this option is not recommended is that local authorities have been directed by MHCLG to adopt locally appropriate policies, and the cost of continuing to provide emergency accommodation and welfare support to everyone sleeping rough, or at risk of sleeping rough, would be unsustainable.

4.2. The second alternative option is to return to the approach taken prior to 26 March 2020: that is to offer accommodation *only* to those to whom the Council owes a statutory homelessness duty. The reason this option is not recommended is that this would mean that a number of very vulnerable people who are at high risk from Covid-19 would not be provided with accommodation; and that even though there are anticipated to be only a relatively small number of such people, this would constitute a risk to public health.

5. Background

The 'Everybody In' approach

- 5.1. On 26 March 2020, in response to the increased risks faced by vulnerable people during the pandemic, Luke Hall MP (Minister for Local Government and Homelessness at the Ministry of Housing, Communities and Local Government) wrote to all local authorities requesting them to accommodate anyone who was, or was at risk of, rough sleeping. The letter also advised local authorities to focus on others living in accommodation where it would be difficult to self-isolate, such as dormitory style night shelters and assessment centres. This request from MHCLG became known as 'Everybody In' and advised that local authorities needed to use alternative powers and funding to assist those who would not normally be eligible for homelessness assistance.
- 5.2. In Haringey, the Council worked with Homes for Haringey and partners across the borough in order to ensure that anyone who was, or was at risk of, sleeping rough was accommodated. As a result, over 700 people were placed in emergency accommodation. This change in approach was noted in a report signed by the Leader on 6 April 2020, outlining financial interventions made by the Council to help the borough and residents with the impact of Covid-19. On 30 April 2020, a decision was made by the Leader accepting the recommendations of a report including an update on efforts to provide accommodation to everyone in the borough sleeping rough, or at risk of doing so.
- 5.3. The application of 'Everybody In' in Haringey has, at the least, improved outcomes for, and at the most, saved the lives of, a number of Haringey's most vulnerable residents. Indeed, Covid-19 and Luke Hall's directive has enabled the Council to engage with a number of people who are both vulnerable and hard to reach, and ensure that these people have been receiving support from a range of services – as well as accommodation, the Council has been providing those it has placed in emergency accommodation with food and hot meals, and facilitating engagement with health services. The Council has also committed to working with these residents to ensure that they are supported to continue living in settled accommodation once they move on from their emergency accommodation. The Council has provided accommodation for over 700 individuals since March 2020.
- 5.4. Haringey's Borough Plan 2019-2023 commits the Council to ending rough sleeping by 2023: the interventions that have taken place since March 2020 have been significant in helping this target be met. In May 2020, the lowest ever number of people (9) were recorded as sleeping rough.

Changes in guidance and direction in May and June 2020

- 5.5. In May 2020, MHCLG requested that local authorities develop locally appropriate policies and strategies both to move people on from emergency accommodation and to determine who should be provided with accommodation going forward, moving away from the previous blanket approach.
- 5.6. The Council developed an Exit Strategy, to move people on from emergency accommodation to more settled accommodation. There are a number of strands to the Exit Strategy, in order to meet the needs of different groups of people, but broadly

its aim is to ensure that those housed by the Council in emergency accommodation from March receive support from the Council to find appropriate settled accommodation.

- 5.7. Further to this, on 29 June 2020, MHCLG issued an update to the statutory Homelessness Code of Guidance for local authorities. Paragraph 8.44 specifies that 'Housing authorities should carefully consider the vulnerability of applicants from COVID-19'. Paragraph 8.45 specifies that 'Housing authorities should also carefully consider whether people with a history of rough sleeping should be considered vulnerable in the context of COVID-19, taking into account their age and underlying health conditions'. This represents a move away from the emphasis upon emergency provision and the incorporation of Covid 19 risks as an element of a "new normal". It should be noted that this guidance applies only to those meeting eligibility and intentionality criteria of the Housing Act 1996.

The Rough Sleeping Discretion Policy

- 5.8. On 27 July 2020, the Council adopted, by Cabinet Member Signing, the Rough Sleeper Discretion Policy. This identified the key circumstances in which discretion may be applied. This policy concerns people who are not covered by the Council's existing duty. The Rough Sleeping Discretion Policy provides for accommodation to be provided to certain CHAIN verified people. CHAIN – Combined Homelessness and Information Network – is a multi-agency database recording people sleeping rough in London, commissioned by the Mayor of London and delivered by St Mungo's, and helps to ensure that people sleeping rough are receiving the most appropriate support from local authorities and other agencies. The circumstances in which discretion are currently applied are as follows:

5.8.1. Where someone is CHAIN verified, is eligible for assistance but would not ordinarily be considered to have a priority need, the Council will consider whether they are currently at additional risk if they were to contract Covid-19. This would include people who have been told to shield, people with health conditions leading to a greater risk of serious illness from Covid-19 infection, and people who have characteristics that have been linked to a higher risk of serious illness from Covid-19 infection, including race.

5.8.2. Where someone is CHAIN verified but is ineligible for housing assistance due to, for example, their immigration status (including those formally designated as having no recourse to public funds ("NRPF")), the Council will consider whether they would have had a priority need or have been considered at increased risk, as described above and will carry out individual statutory assessments to identify what powers are available (see 8.11). The Council will then, subject to that assessment, offer a placement supported through a funding settlement from MHCLG for implementing the 'Suspension of Derogation' which removes restrictions affecting EU-Nationals entitlement to support if affected by rough sleeping.

5.8.3. Where someone is identified as part of the MEAM30 cohort; a group of thirty vulnerable adults experiencing multiple disadvantage homelessness, who are supported by the Haringey "Making Every Adult Matter" partnership.

5.8.4. Only people with a local connection to the borough will be accommodated, with the exception of CHAIN verified people who have been found bedded down in the borough on two or more occasions within the last 12 months. Those without a local connection to Haringey will be referred on to the relevant local authority as soon as possible.

Effect of the Discretion Policy and proposed continuation to March 2021

- 5.9. The Exit Strategy adopted by the Council has had the intended effect, in that the Council is now providing accommodation to fewer people than it had been from March to July 2020.
- 5.10. The Discretion Policy has allowed the Council to accommodate the most vulnerable people who remained homeless on 27 July or have become homeless since then. Twelve people have been accommodated under the Policy. These people, like the cohort accommodated between March and 27 July, are provided with additional support alongside their accommodation and will be moved on in line with the Exit Strategy. It is therefore proposed to continue to apply the policy to 31 March 2021.
- 5.11. Officers have reviewed the policy and recommend clarifying it to refer explicitly to homeless people not owed a duty under the Housing Act 1996 who have an established connection to Haringey and are showing symptoms suggesting they have contracted Covid-19 as entitled to consideration for exercise of discretion. This cohort will be accommodated for the purpose of respite until they are well and no longer contagious unless they meet the other criteria within the policy in which case it will be continued. This is because these people should be living in safe and isolated accommodation for the period during which they have the virus, to manage the public health risk of an outbreak. The amended Rough Sleeping Discretion Policy, showing the changes in red text, is attached at appendix 1.

Cost

- 5.12. The change of approach means that the Council is likely be offering accommodation to more people than it was prior to March 2020.
- 5.13. It is difficult to accurately estimate the increased cost because the number of people presenting will fluctuate. However, a current estimate is an increased cost from the pre-March position of around £250,000 over 6 months.

6. Contribution to strategic outcomes

- 6.1. This policy helps meet the priorities and outcomes of Haringey's Borough Plan 2019-2023, in particular the outcome to 'work together to prevent people from becoming homeless, and to reduce existing homelessness' and specifically the objective to 'aim to end street homelessness by 2022'.

7. Statutory Officer Comments

Finance

- 7.1. This report is seeking to extend the amended Rough Sleeping Policy as amended in Appendix 1.
- 7.2. Approving this extension to the amended policy and its subsequent implementation will give rise to an additional financial commitment.
- 7.3. There have so far in 2020/21 been two additional budget allocations of £2m each for Rough Sleepers, totalling £4m. It is estimated that the cost of continuing to house the existing cohort, and the further people assisted from adopting the policy extension proposed in this report, will be £1.3m up to 31st March 2021. Of this estimated additional cost, £250,000 is associated with the additional people admitted via the policy extension, over the next six-month period.
- 7.4. The £250,000 cost of the additional people accommodated can be funded from the Next Steps Accommodation Programme announced last week by the Government of £260,000. The funding implications of the increased cost forecast relating to the existing cohort will be addressed later in the Quarter 2 Corporate Financial Monitoring report.

Legal

- 7.5. The Assistant Director of Corporate Governance has been consulted in the drafting of this report.
- 7.6. The Council's duty to accommodate the eligible homeless at the point of presentation as such is limited to those whom the Council has reason to believe are homeless and have priority need, and whom the Council is not satisfied are intentionally homeless (s188 Housing Act 1996).
- 7.7. The Council does however have a "relief" duty (ss189A and 189B HA96) to assess those who have become homeless (irrespective of priority status or intentionality) and assist them in obtaining accommodation according to an agreed personal homelessness plan. The Council is not required to provide accommodation in discharge of that duty; but it does have a power to do so (s205(3) HA96). It is this power that the Council has been exercising and proposes to continue to exercise in accommodating those who are eligible but to whom it owes no duty to provide accommodation.
- 7.8. The Council has no duty to accommodate those who by reason of their immigration status are not eligible for assistance (s185 HA96).
- 7.9. The Council does however have power to accommodate non-eligible households with children in need under s17 Children Act 1989 and also households that do not meet the requirements for care and support under the Care Act 2014 but where the provision of accommodation is necessary to avoid breach of their human rights (s1 Localism Act 2011). The exercise of these powers is subject to the outcomes of individual assessment to be undertaken by the relevant services.
- 7.10. The Council is entitled to review its use of its powers from time to time. In so doing it must take account of the impact of any changes upon those in favour of whom it is

exercising its powers, but it is also entitled – required - to ensure that its limited available resources are used to best effect in a changing situation.

- 7.11. This Council would normally undertake consultation before adoption of new policy. This report however recommends extension of a policy more favourable to those affected than were the policy ended; and an amendment clarifying the application of the policy. The policy after the proposed amendment still treats all those affected more favourably than in the absence of the policy. Consultation would in any event be impractical on the timescales involved. In these circumstances, there is no legitimate expectation that the Council will consult on this amendment.
- 7.12. Under the Council's Constitution policy and key decisions must be made by Members (either the Leader, Cabinet, or a Cabinet member upon delegation by the Leader). It is open to Members to delegate authority to make the changes specified at Recommendation 3.1.2. Amendments requiring policy decision will be made by members in the normal way.

Procurement

- 7.13. Strategic Procurement notes the report and confirms there are no procurement implications from the proposed change in policy.

Equalities

- 7.14. The Council has a Public Sector Equality Duty under the Equality Act (2010) to have due regard to the need to:
- Eliminate discrimination, harassment and victimisation and any other conduct prohibited under the Act
 - Advance equality of opportunity between people who share those protected characteristics and people who do not
 - Foster good relations between people who share those characteristics and people who do not.
- 7.15. The three parts of the duty applies to the following protected characteristics: age, disability, gender reassignment, pregnancy/maternity, race, religion/faith, sex, and sexual orientation. Marriage and civil partnership status apply to the first part of the duty.
- 7.16. The proposed decision is to adopt the amended Rough Sleeping Discretion Policy. Those affected by the decision are people in Haringey who are street homeless or are at risk of becoming street homeless. Among this group, men are significantly over-represented. BAME people, people from countries other than the UK, older people, and people with long-term health conditions are also significantly represented among people who are street homeless in Haringey.
- 7.17. The objective of the proposed decision is to enable ongoing support for people who are at higher risk of COVID-19. We know from national data that BAME people, and Black people in particular, are more at risk, as well as men, people with disabilities, older people, and people from minority religious groups including Islam, Judaism, Sikhism, and Hinduism.

7.18. Implementation of the policy can reasonably be expected to reduce the risk of COVID-19 faced by people who are vulnerable to it. In this way, the Council is acting to prevent health inequalities among people who share protected characteristics. As such, the proposed decision represents a measure to advance equality of opportunity and prevent indirect discrimination on the basis of protected characteristics.

8. Use of appendices

Appendix 1: Rough Sleeping Discretion Policy (amended 30 September 2020)

9. Local Government (Access to Information) Act 1985

Not applicable