

Report for: Cabinet Member Signing

Item number: n/a

Title: Extension of the Rough Sleeping Discretion Policy

Report
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Lead Officer: Robbie Erbmann, Assistant Director Housing
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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.
- 1.2. In the context of the Covid-19 pandemic and the lockdown imposed in England, Luke Hall MP, Under Secretary of State at the Ministry for Housing, Communities and Local Government (MHCLG), 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 requested that local authorities develop exit strategies for those who have been placed in emergency accommodation, and develop locally appropriate strategies to determine who will 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 Sleeping Discretion Policy on 27 July 2020, in order to continue to provide accommodation to some of the borough's most vulnerable residents. It was agreed that the Discretion Policy would run to 30 September 2020, to allow officers to review its impact. On 29 September 2020, given the continued threat of Covid-19, especially over the winter period, the Discretion Policy was extended to 31 March 2021, and amended to add an additional category of people to whom discretion would be applied was also added.

- 1.5. On 31 March 2021, the Discretion Policy was extended to 14 July 2021, this would have been several weeks after the expected lifting of all Covid-related restrictions in England.
- 1.6. Given that the date for the lifting of all Covid-related restrictions in England has now moved to 19 July 2021, it is proposed to extend the Discretion Policy to 19 August 2021.

2. Recommendations

- 2.1. It is recommended that the Cabinet Member
 - 2.1.1. Approves the Rough Sleeping Discretion Policy attached at Appendix 1, as agreed in September 2020.
 - 2.1.2. Extends the period of application of the Rough Sleeping Discretion Policy to 19 August 2021 unless terminated earlier or extended beyond this date by Cabinet / Cabinet Member decision.
 - 2.1.3. Notes that following termination of the Rough Sleeping Discretion Policy some of those placed in emergency accommodation under the policy will remain there pending placement in move-on accommodation pursuant to the Exit Strategy at Appendix 2.
 - 2.1.4. 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.

3. Reasons for decision

- 3.1. On 27 July 2020, the Council adopted the Rough Sleeping Discretion Policy, to ensure that people who were at risk of rough sleeping and were vulnerable in the context of Covid-19 would continue to be accommodated. This policy was in the first instance to run until 30 September 2020, and was then extended to 31 March 2021, and then to 14 July 2021. Given that the circumstances under which it was introduced remain, it is proposed to extend this policy.

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, i.e. to offer accommodation to anyone in the borough rough sleeping, or at risk of rough sleeping. 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 rough sleeping would be an unsustainable cost to the General Fund.
- 4.2. The second alternative option is to return to the approach taken prior to 26 March 2020, i.e. to offer accommodation only to those to whom the Council owes a homelessness duty. The reason this option is not recommended is that this would mean that a number of at-risk people would not be provided with accommodation,

and it is likely that they would be disproportionately negatively affected by sleeping rough in the context of the Covid-19 pandemic; 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 500 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 report was signed by the Leader 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, it 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 1000 individuals since March 2020.
- 5.4. Haringey's Borough Plan 2019-2023 also 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.

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 to both move people on from emergency accommodation and to determine who should be provided with accommodation going forward, moving away from the previous blanket approach. 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 2020 receive support from the Council to find appropriate settled accommodation.

- 5.6. 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

- 5.7. On 27 July 2020, the Council adopted, by Cabinet Member Signing, the Rough Sleeping Discretion Policy. This identified the key circumstances in which discretion may be applied. On 29 September 2020, the Rough Sleeping Discretion Policy was amended to include another circumstance in which discretion would 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 is currently applied are as follows:

5.7.1. 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.

5.7.2. 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 Legal comments below). 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.

5.7.3. 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.

5.7.4. Where someone has contracted Covid-19.

5.7.5. 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 August 2021

- 5.8. The amended Discretion Policy and associated Exit Strategy have had the intended effect, in that the Council is now providing accommodation to fewer people than it had been from March to July 2020, but is still able to accommodate the most vulnerable. Given that contracting Covid-19 is still a risk, and that there are still restrictions in place with the aim of preventing the spread of Covid-19, and that the earliest date at which these will be fully lifted is 19 July 2021, it is proposed that the policy is extended to 19 August 2021, to account for any further delays to the lifting of all restrictions.
- 5.9. On termination of the Discretion Policy placements into emergency accommodation pursuant to it will cease although those so placed may remain until moved on in accordance with the Exit Strategy.

Emergency and settled accommodation

- 5.10. A number of commercial hotels continue to be used as emergency accommodation for people who have been accommodated by the Council since March 2020 to prevent them rough sleeping. The Council is continually moving people from emergency accommodation to more settled accommodation. This settled accommodation includes assured shorthold tenancies in the private rented sector, the use of Council-owned buildings as bespoke accommodation for single vulnerable adults and newly developed specialist accommodation, the first of which will be modular homes delivered at Ermine Road and housing delivered at Burgoyne Road.

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 Rough Sleeping Discretion Policy previously approved on 31st March 2021 and now extending this Policy from 15th July 2021 to 19th August 2021.
- 7.2. As noted in paragraphs 5.9 to 5.10, once this Policy ends the requirement for emergency accommodation will continue for a few months awaiting suitable move-on accommodation as outlined in the Exit Strategy.

7.3. To enable clients time to secure move-on accommodation the provision of emergency accommodation from 15th July 2021 until 30th September 2021 is £315,000. Sufficient funding to meet the estimated emergency accommodation costs of £950,000 from 1st April through to 30th September 2021 has been identified and earmarked from MHCLG grants; Homelessness Prevention grant and from existing approved Housing Related Support budgets.

Legal

7.4. The head of Legal and Governance has been consulted in the drafting of this report.

7.5. 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).

7.6. 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.

7.7. The Council has no duty, or indeed power, under HA96 to accommodate those who by reason of their immigration status are not eligible for assistance (s185 HA96).

7.8. The Council does however have powers in present circumstances pursuant both to s138 Local Government Act 1972 (giving the Council additional powers during emergencies or disasters) and to s2B of the National Health Service Act 2006 (giving powers to act so as to improve the health of those in the local community) to provide accommodation generally to those otherwise ineligible and these are the primary powers under which the Council can do so.

7.9. The Council also has 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 however subject to the outcomes of individual assessment to be undertaken by the relevant services.

7.10. 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. 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 extension.

7.11. 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 2.1.4. Amendments requiring policy decision however will be made by members in the normal way.

Procurement

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

Equalities

- 7.13. 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.

- 7.14. 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.

- 7.15. The proposed decision is to extend the 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.

- 7.16. 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.

- 7.17. 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](#)

[Appendix 2: Exit strategy](#)

9. Local Government (Access to Information) Act 1985