

Placing homeless households out of area: local authority guidance and best practice



Introduction

NHAS provides this guide to our members, both local authority housing options teams and advice sector members, to enable you to carefully consider the most appropriate policy and practice in placing homeless households in accommodation out of area, where there is no suitable accommodation available in the relevant local authority area. We hope that frontline advisers can use this guide and checklist in their day to day work with homeless households, to either help determine whether an out of area placement is appropriate, or from an advice provider's point of view, talk through all the implications and any potential to request a review with the household where that might be appropriate.

The guide makes reference to the relevant legislation, Code of Guidance and the recommendations from *Nzolameso v Westminster* (Supreme Court, June 2015).

The guide also includes existing best practice from local authorities and we are grateful for their contributions. The best practice findings are taken from broader research on out of area placements, conducted by Shelter.

The best practice for local authorities is summarised as follows:

- ✓ Notify host local authorities
- ✓ Maintain contact with households placed out of area
- ✓ Ensure thorough suitability screening, including across other local authority services
- ✓ Accommodate in-area while suitability is properly assessed
- ✓ Give greater flexibility for families on location of out of area accommodation
- ✓ Employ a housing officer where there is a high concentration of out of area accommodation
- ✓ Equip families with complete information on their new area
- ✓ Check the suitability of school and nursery places in new area
- ✓ Provide support with travel and removal costs
- ✓ Conduct an equalities impact assessment for each move
- ✓ Ensure households are aware of their right to review

If you need help and advice on an individual case in relation to an out of area placement, you can use the NHAS Consultancy Line telephone 0300 330 0517, open Monday to Friday, 9am to 6pm, or email NHASConsultancy@shelter.org.uk

1. Legal duties for local authorities when placing out of area

As far as reasonably practicable, local authorities should avoid making out of area placements for homeless households, and use this option only as a last resort when no accommodation in the local area can be procured.

Before offering out of area temporary accommodation (TA) to homeless households, local authorities have a statutory responsibility to determine whether such accommodation provided is suitable. In determining whether accommodation is suitable, local authorities must take into account the location of the accommodation.

The criteria are set out in the Homelessness (Suitability of Accommodation) Order 2012 as follows:

- Distance from the home borough.
- Disruption caused by location on the employment, caring responsibilities and education of the household.
- Proximity and accessibility of the accommodation to medical facilities and other support that are currently used or provided to a member of the household, or are essential to their wellbeing.
- Proximity and accessibility to any local services, amenities and transport.

The factors relevant to the lawful discharge of the authority's duty were amplified in a 2015 Supreme Court ruling (*Nzolameso v City of Westminster*)¹ on out of area accommodation. The main recommendations put forward by the Supreme Court were:

- Distance is key: If accommodation cannot be procured in area, then attempts must be made to find a suitable alternative as close as possible to where the household were previously living. The search for accommodation must be evidenced.
- Decisions must be based on a case by case assessment of the household and their needs. The principal needs of the particular household must be acknowledged, including adults and children, and assessed both individually and collectively when determining the location of accommodation. For example, enquiries should be made about the availability of suitable school placements in the other area for each of the children.
- Written evidence should be recorded and the reasons for the authority's decision should be explained on a case-by-case basis when making out of area placements, acknowledging each household's collective and individual needs.
- Households must be given sufficient time to make a decision on an out of area

¹ [2015] UKSC 22 <https://www.supremecourt.uk/cases/uksc-2014-0275.html>

offer, when no alternatives are available, and thorough information regarding the proposed area must be provided. Currently, in some cases local authorities are requesting that families make a decision on the same day that the out of area offer is made.

- Local authorities have a particular duty under s.11 of the Children Act 2004 to have regard to the need to safeguard and promote the welfare of children. The Supreme Court stated that it was not enough for the local authority simply to ask whether any of the children were approaching external examinations. It had to identify and have regard to their needs, though it did not have to treat those needs as the paramount consideration.

The Supreme Court also suggested that local authorities adopt the longer-term approaches to making out of area moves more transparent and accountable. These included policies for procuring sufficient units of TA for a 12 month period, and a policy for allocating TA units, which would be used to explain the individual factors that have been taken into account when offering such accommodation to households.

2. Best practice

The law concerning out of area accommodation, set out in the regulations, the Code of Guidance and the case law, places certain minimum requirements on local authorities. Research by Shelter has identified that some London local authorities have adopted specific practices that help to ensure that out of area placements are used appropriately. All of these practices are carried out by at least one borough. In addition to meeting the minimum legal requirements for placing out of area, local authorities should implement the following practices. This practice is intended for cases when making an out of area offer is entirely unavoidable, taking into account all of the above considerations.

a. Notify host local authorities in a timely manner

It is a statutory requirement under section 208 of the Housing Act 1996 for a placing local authority to notify the host local authority when placing a homeless household in their area, whether this is a TA placement or a discharge of the 'full housing duty'. The notification must be given within 14 days of the accommodation being offered to the household. The notification must contain the specific household and accommodation details set out in the Act.

Shelter's research shows that in many cases, some placing local authorities are repeatedly not notifying host local authorities. This is to the detriment of both the host local authority and the household. For homeless households, it decreases the chances of the right level of support being provided where it is needed.

As a matter of good practice, all boroughs should notify the host borough of a new placement within 5 days. They must provide all of the household and accommodation

details specified in the Act.

Notifying the host local authority benefits all concerned. For example, housing officers in the host local authority are likely to advise on rogue landlords, which will benefit future procurement of accommodation in that area.

Local authorities should adopt a strict timeframe for notification to demonstrate best practice in this area, for example, within 5 working days of placing a household out of area.

b. Maintain contact with out of area household and host local authority

One off notifications (s.208) alone are not sufficient to provide a good service to households placed out of area. Shelter's research suggests that some households and host local authorities struggle to make or maintain contact with the placing local authority once the move has taken place. This could cause problems if a household's circumstances change while they are in TA, or if they have an issue with the accommodation that needs to be resolved.

Placing local authorities should ensure that the host local authority knows how to make contact with someone who can resolve any issues. This is to ensure that any specific needs can be addressed in conjunction with the host local authority.

Notifications should be made by a single, named contact – ideally a senior housing officer at the placing local authority. This avoids the risk of notifications not being made properly and in a timely manner, or of host local authorities not knowing who to speak to if a need arises around a particular household.

c. Ensure thorough suitability screening

Local authorities have a legal responsibility to consider the impact that an out of area move would have on a household, with particular reference to education, employment, caring responsibilities and access to services that are essential to relieving specific needs. Distance from the home borough is also key, and this should consider travelling time and access to transport.

Shelter's research has highlighted cases of extremely vulnerable families being placed out of area and far away from services that they were reliant on in or close to their home borough. Housing officers need to carefully consider how location would affect access to essential services before placing families in TA

The regulations and the Code of Guidance do not cover every scenario in which it may not be suitable to move a family long distances from their local area. Local

authorities need to take responsibility for ensuring that all needs are picked up in a suitability assessment, which should be completed before an offer of accommodation is made. These factors should be the prime determinant of a decision on whether to place out of area.

Local authorities should check for involvement with other services and hold a screening interview in which the household has an opportunity to describe the support they draw on and how it affects their daily life.

d. Accommodate in area prior to making an out of area offer

We found evidence of local authorities offering out of area accommodation and requiring households to move on the same day that households presented as homeless and in need of TA. This was typically in cases where a household had presented to their local authority as homeless early on in the process, but had been told to come back on the date of their eviction.

This gives households no time to plan for the move, or for the authority to make adequate arrangements to ensure the accommodation is suitable and complete the required assessment of suitability of accommodation before it places households out of area.

We recommend that if self-contained accommodation is not available immediately in borough, local authorities should consider placing homeless households in a form of emergency accommodation for a short period of time (no more than 6 weeks), but long enough for suitable accommodation in or out of borough to be explored. Shared accommodation will not be a suitable long-term option, even if in-borough. For a short period it would allow time for the right housing option to be found.

This longer timeframe for offering out of area will also allow the local authority to work with the household to help them understand the rationale for this decision and to make all necessary plans for a move to another area.

In all cases local authorities should be trying to prevent or relieve homelessness as early as possible, therefore broadening the scope of the housing options made available before out of area is considered.

e. Give families greater flexibility of choice on the location of out of area accommodation

In all cases, the local authority should be taking into account the distance of the out of

area placement from the home area, as well as the proximity to local services.

Shelter's research suggested that homeless households are given little choice when placed out of area, and often end up in areas that they have no connection to or links to friends or family. Being close to support networks can make a significant difference to families coping when placed out of area. Shelter's research has also highlighted that families accommodated out of area can settle into that new area. Giving households more flexibility around where they are placed out of area is more likely lead to a positive situation.

Local authorities must give consideration to reasonable household preferences when looking at options out of area. Being close to friends and family can be crucial to basic, everyday support, and forms a key basis for enabling the household to settle and sustain accommodation in the medium term.

f. Employ housing officer(s) in areas with a higher concentration of out of area accommodation

Local authorities should be procuring TA as close to their borough as possible, as emphasised by the Supreme Court in *Nzolameso*. Yet budget and supply pressures may create the need to procure TA in high concentrations in certain areas. Where one local authority has a high concentration of out of area TA in one place, they have employed a housing officer in this area to support households placed in that area.

Basing an officer out of area also assists the placing local authority with procuring TA, and making sure accommodation is of a good standard, from a fit and proper landlord.

This is a relatively small expenditure, especially given the difference it can make to families who have been moved a long way from their local area. If a number of local authorities are using one particular area to procure out of area accommodation, local authorities could consider joint employment of housing officers, through housing partnerships.

Where local authorities have a high concentration of out of area homelessness households they should be ensuring that practical support is available to these households. This could be by placing a housing officer in a region where many families are being accommodated. This officer helps families who are moved to this area, initially with settling into their new accommodation, but also with registering for essential services, such as housing benefit, GP surgeries and schools and answering questions that are important for the household.

g. Equip families with complete information on their new area

The level of information provided to homeless families being placed out of area is crucial to the resettlement process. Where households are expected to accept an out of area offer at short notice, typically on the same day, it is highly likely that they will not be given meaningful information. Shelter's research highlighted that families moved out of area will lack the support networks and local knowledge to connect to public services.

Households being placed out of area would benefit from information such as:

- Details of the accommodation that they are being offered.
- Information about their new local area, for example details regarding local authority services, health services, access to places of worship, or the ethnic and religious make-up of that area.
- Information on places where parents can get involved with community groups, social activities for their children, and other groups or networks of support.
- Information on travel and transport, especially back to their home area.

To support the transition to a new area, local authorities should support families before, during and after their move for a set period of time. This should include providing key information on their new area, and maintaining regular contact to ensure they have enrolled at schools, doctors surgeries, and importantly, that their accommodation has remained suitable for the household's needs.

h. Check the availability of school and nursery places close to an out of area placement

Local authorities have a legal duty to avoid significant disruption to the education of households placed out of area.

Shelter's research revealed cases of families travelling long distances to send their children to school, sometimes over 3 hours a day, because there weren't school places available in their new area. Some children stay with friends or relatives in their old area during the week, in order to attend their old school. These findings included children of GCSE age. Guidance suggests that households with children of GCSE level education should not be considered suitable for out of area moves. The Supreme Court ruling went further than this, and emphasised that s. 11 of the Children Act places a duty on local authorities to consider the interests of all the children, not just those taking exams.

Local authorities should check the availability of school places for all homeless families that they place out of area, either through the host local authority's school admissions team, or directly with schools in the local area. The availability of school places and good fit with the curriculum in the new school should contribute to the suitability assessment of out of area placement. In other words, not having a place available immediately, in a school that matches the educational requirements of each child in the household, would constitute significant disruption.

Host local authorities are also responsible for working with the placing local authority to ensure school places are available. Placing local authorities have reported that there is often a lack of cooperation from host local authorities on this issue.

i. Support with travel and removal costs

Evidence of the amount of financial support offered to help a homeless family move out of area is mixed between local authorities. In some cases, local authorities are not even covering the cost of an outward travel ticket for families moving out of area. In some extreme cases, local authorities are only offering unfurnished accommodation, and are also not paying for the removal of furniture. Government guidance on the use of Discretionary Housing Payments does permit councils to use this fund towards relocating homeless households.

Local authorities should cover the full cost of travel and the removal of vital furniture for out of area cases. Household possessions and furniture can go some way to helping a family settle into their new area, and give a sense of home amongst the upheaval of leaving their local area, friends, and family behind.

j. Conduct an equalities impact assessment

Local authorities that took part in Shelter's research had not always given full consideration to an equalities impact assessment on each homeless household placed out of area. It is important for local authorities to take into consideration the impact on homeless households with any protected characteristics. For example, Shelter's research found that there is little consideration given to the potential for households to be placed in areas of limited racial diversity, or for example where there was limited access to specific places of worship.

As with school places, local authorities should give serious consideration to the impact that an out of area move has on households with protected characteristics. Again, notifying and liaising with the host local authority will provide invaluable insights into the impact of an area in relation to the protected characteristics of a household moved out of area. This should be done where a local authority is placing significant numbers in one area.

Access to amenities that a household rely on forms part of the suitability assessment on out of area, and local authorities must evidence that this has been taken into account.

k. Ensure households are aware of their rights to review

Shelter's research has revealed that households placed in or offered out of area accommodation are unsure of their rights to challenge a local authority decision. Although the right to review should be highlighted clearly in a decision letter, it is clear that households are often overwhelmed by the experience as a whole, and will leave a local authority office unaware of their rights.

Local authorities should make sure that applicants are clear on their rights when they are offered out of area accommodation, by providing them with a letter that explains the next steps available to them and giving them a chance to ask questions. In-area emergency accommodation should be offered to households until a local authority level review is completed. This would avoid significant disruption to the household, otherwise caused by moving out of area during the period of a review.

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