

## **Tonbridge and Malling Borough Council**

### **A review of the use of Temporary Accommodation**

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#### **Introduction:**

In October 2021 Andy Gale and Anna Whalen, housing consultants, were commissioned by Tonbridge and Malling Borough Council (TMBC) to undertake a review of the use of Temporary Accommodation (TA) for homeless households. The primary aim of the review was to set out findings and recommendations to assist TMBC to reduce the use of TA.

The review was commissioned to look at internal processes and procedures within the Housing Solutions Service and work with other TMBC Services, rather than the wider work in TMBC and Kent on homelessness. It is well understood that effective homelessness prevention work relies on partnership working and pathways for different groups of customers. Whilst partnership and joint working were touched on in this review, this aspect was not the primary focus.

The review is based on information drawn from:

- A series of meetings with different officers in the Council
- H-CLIC data on homelessness, which is routinely supplied by TMBC to the Department for Levelling Up, Housing and Communities (DLUHC)
- Internal reports and data supplied by officers of TMBC to support the review

This report is structured into 6 sections, followed by some recommendations, which are also set out in an action plan attached to this report.

The ability to effect change relies on action being taken across all of the areas we recommend, as the issues are inter-dependent and rely therefore on change across the piece. However, some are more 'quick wins', some clear priorities and some actions which can be taken in the medium term.

In some of the sets of recommendations we refer to tools/resources that we have provided to you separately, at nil cost, which if used as suggested, will assist you in improving your processes, taking swift action in some areas where needed.

As we write this report, TMBC are already underway with some of the most pressing actions, given that the report falls in the critical period in for forward planning in your budget cycle.

But we suggest you undertake a piece of action planning in terms of timescales, the ordering of actions to be taken, based on pressures and inter-dependencies, as well as the lead officers to deliver the specific changes.

The Sections are as follows:

**Section 1: An overview of TMBC's Housing Solutions Service.** This covers:

- Your local context re: work on homelessness
- Your performance against the regional and national performance
- The resources available to you
- Your structure for delivery
- Recommendations

**Section 2: Improving triage, management of casework and outcomes for customers.**

This looks at what happens now covering:

- The triage function
- Assessments and Personalised Housing Plans (PHPs)
- Prevention and relief of homelessness
- Decisions and notifications
- Recommendations

**Section 3: Temporary Accommodation – improvements in the management of TA.**

This covers:

- Local issues and challenges in use of TA in TMBC over the last 3 years, including current cost management and plans for procurement of new TA
- Recommendations

**Section 4: Temporary Accommodation – improvements in the procurement of TA**

This looks at:

- Options for TMBC to consider for its longer term TA procurement strategy
- Recommendations

**Section 5: Accessing the Private Rented Sector**

This looks at:

- Current position and challenges in work with private landlords
- Recommendations

**Section 6: Allocation of social housing as a tool for managing homelessness.**

This covers:

- The importance of updating the Allocations Policy
- A set of detailed recommendations specifically related to using your updated Allocations Policy to better manage homelessness.

## Section 1: An overview of TMBC's Housing Solutions Service

A combination of national and local factors have, over period of several years, led to a position where the Housing Solutions Service in TMBC has, at this moment in time, reached and gone beyond a 'tipping point'. Despite individual and team resilience to keep going, the collective capacity within the Housing Solutions Service to bounce back from this position is challenging. The journey leading to this point is important to understand, as it is the starting point of this Service Review.

There have been significant changes over the last 4 years which have impacted directly or indirectly on the Housing Solutions Service and how it operates.

The major drivers for this change have been national as well as some regional and local changes and include:

- The Homelessness Reduction Act 2017
- The Government's Rough Sleeping Initiative
- The Covid -19 pandemic
- The pressures within the housing market in the South East, impacting on affordability levels
- Changes to the welfare support system with the overall benefit cap and the roll-out of Universal Credit(UC) and reported concerns from landlords about rises in rent arrears from those in receipt of UC
- Budget reductions and pressures within other public sector services for vulnerable people, leading to rises in thresholds for services

**The Homeless Reduction Act**, which commenced on 3/4/2018, brought in the most significant changes to homelessness legislation for the last 30 years. It placed prevention of homelessness on a statutory footing, alongside a new duty to assist all eligible applicants to relieve their homelessness, regardless of any priority need for accommodation. The threshold for taking applications from people who may be threatened with homelessness was changed from 28 to 56 days, which meant more approaches overall were likely.

One of the other intentions of the new Act was to give single people more assistance, even if they do not have a 'priority need' for accommodation. This has resulted in many more approaches nationally from single people.

Based on the TMBC reporting to Government prior to the change in the legislation, it is notable that a very low proportion of households owed a homelessness duty were single people. It is likely that the extent of homelessness amongst single people was to a large extent masked as it was not being picked up through the statutory homelessness processes. This was not an unusual position in many local authorities, as single people were advised they would not have a priority need under homelessness legislation and were either offered a minimal service or, in some areas, offered practical support and services outside the statutory framework.

To illustrate the impact of the changes above on your numbers, in terms of overall customer demand and use of Temporary Accommodation, it is helpful, up to a point, to look the applications and decisions made, as well as the proportion of families owed duties before and after the changes to the homelessness legislation.

Note: given the significant change in the legislation described above, not all of what is outlined below is comparable, due to changes in the way homelessness tests are applied.

Area of decision or duty owed	Jan-March 2018 ( Q4 of the reporting year)	Jan-March 2021(Q4 of the reporting year)	Comment
Total applications made	46	64	Higher but not significantly so
Of total applicants, the number owed a Part 7 homelessness duty	20	64	All applicants were owed in duty in Q4 2021 v under 50% in Q4 2018
Of applications accepted, number and % owed a 'prevention duty'	N/A	20 ( 31%)	No Prevention duty in Q4 2018
Of applications accepted, number and % owed a 'relief duty'	N/A	44 ( 69%)	No Relief duty in Q4 2018
Number of households where a 'main duty' decision was accepted during the quarter	20	20	Same number but a lower rate per acceptance in Q4 2021, as new duties are now before the Main duty
Of those where the main duty was accepted, number ( and %) of households with dependent children	18 ( 90%)	11 ( 55%)	Many more single households owed the Main duty in Q42021
<b>Total in TA</b>	<b>35</b>	<b>133</b>	<b>Rise of 280%</b>
Of total in TA, the number owed the 'main duty'	17 ( 48.5%)	47 (35%)	Lower % , as expected nationally in Q4 2021, but a higher number
Of total in TA, the number pending a decision	18 (51.5%)	67 ( 50.4%)	Similar % but higher numbers
Of total in TA, the number placed at the discretion of the LA	0	18 ( 13.5%)	Use of this is possibly related to Covid-19 pandemic ?
Of total in TA, the number ( and %) of households with dependent children	26 (73%)	61 ( 46%)	Much higher % and number of single households in Q42021

Later in this section of the report we will outline your performance against the regional and national positions in some of the key areas of statutory homelessness.

**The Government commitment to end rough sleeping by 2024** has been supported through funding to local authorities, which started in 2018 and has consisted of various opportunities to bid for short term funding . This has given greater capacity within TMBC to address rough sleeping amongst single people more pro-actively through your work with Porchlight and other partners.

Many people within this group would also be owed statutory duties under the homelessness legislation. Key to note here is the policy spotlight nationally on housing for vulnerable single homeless people generally.

**The impact of the Covid-19 pandemic** on homelessness over the last 18 months in TMBC, like most areas, has been significant and continues to be so. Some of the drivers of homelessness were paused through Government intervention. Typically family homelessness has declined during the first 12 months of the pandemic due to temporary measures to extend eviction notice periods and suspend eviction action through the court. These protections have now ended and there is anecdotal reporting in local authorities that over the last 6 months, family homelessness is now rising again as notices expire and as more possession action re-commences.

Local authorities offered assistance during the first 6 months or so of the pandemic to those rough sleeping or at high risk of doing so through the 'Everyone In' programme. Homelessness presentations amongst single people rose as informal arrangements such as house sharing and sofa surfing ended during lockdowns. In summary, single people who would not, in other circumstances have been offered accommodation, were assisted.

Over the last 3 years , a combination of the changes in the homelessness legislation, Rough Sleeping Initiative (RSI) funded work in TMBC on rough sleeping and the impact of the pandemic has resulted in a far greater proportion of TMBC resource being spent on single people than prior to April 2018, as well as continuing to assist homeless families.

Many other local authority areas have experienced similar trends and resulting pressures. But the ways in which TMBC need to respond to and mitigate some of the challenges above, in terms of homelessness and housing need, are specific to your own local context.

There are other factors which have contributed to the pressures currently being experienced in the Housing Solutions Services:

- There is an increasingly challenging housing market in Kent and the South East generally. The overheated housing market is both driving homelessness for many households TMBC works with and is also the leading solution for homeless households. In terms of making the effective use of the housing supply for applicants, this is covered in more depth in Sections 4 and 5.
- Demand outstrips supply in the lower end of the market, which is pushing up both property values: the property price to earnings ratio in 2020 was 11.8 in TMBC, whilst the national average was 7.8. In turn this pushes up rents to beyond the affordability levels for most homeless households that TMBC work with.

- Social housing is in high demand, as set out in your draft Housing Strategy 2021. For those on low incomes, there are limited options within the private rented sector (PRS) within TMBC, although some neighbouring areas are more affordable.
- Budget reductions in other public services is not unique to Kent or TMBC, but should be noted as a feature which feeds into the overall picture. Where people are not meeting thresholds for accessing services in health and social care services, their housing can be placed at risk. With little or no support from other agencies, local authority homelessness services have become one of the few places where vulnerable homeless people can get some sort of services. Some single people are being picked up through the Rough Sleeping Service. Many of the people within this group have complex and multiple needs – for example a combination of mental health issues, substance misuse, offending behaviour and homelessness.

## **An analysis of the performance in TMBC compared to the regional and national position for England**

The Government has published data for the first 3 years of the new Homelessness Reduction Act changes. It should be noted that the first 2 years of published data is classified as ‘experimental data’ due to the introduction of the new recording system, HCLIC, which is the system which records homelessness applications, outcomes and information concerning support needs.

In common with many other authorities, TMBC may have some ‘teething problems’ with the way in which data is inputted into your new system by staff and then drawn into reporting via Delta to Government. The rest of this section should be treated with some caution therefore, in terms of absolute accuracy, but despite this caveat it is useful to look at the picture.

### Numbers of homelessness applications taken:

Based on reporting to DLUHC, the table below shows the number of homelessness applications taken over the last 4 years, 1 year prior to and 3 years after the commencement of the new homelessness legislation.

	<b>2017/18</b>	<b>2018/19</b>	<b>2019/20</b>	<b>2020/21</b>
<b>TMBC Homelessness decisions made</b>	162	397	301	306

There was a **145 %** increase in statutory homelessness assessments during the first year of the new legislation. However, applications dropped by 24% between 2018/19 and 2019/20 and based on that position, the increase of applications compared to the 2017/18 year dropped to 86%. Even so, the TMBC increase in applications of 86% is above the 25% rise which the Government predicted and TMBC may have planned for initially.

It should be noted that the threshold for taking applications from people who may be threatened with homelessness has changed from 28 to 56 days, and this change may account for some of the rise. The Government’s intention was to offer more assistance in terms of prevention and more help to single people and as noted earlier, this plays out in the number of applications take and is a feature in all local authorities.

Our view is that the move from taking an application at 28 days to 56 days is not likely to explain this rise by itself, and that you have seen a rise due to some other factors, including the previous low numbers of single people receiving assistance, some internal changes and wider structural factors.

The number of applications in 2020/21 was similar to 2019/20, however this was the first year of Covid-19 pandemic and the trends in homelessness over the 12 months were different due to Government interventions to suspend evictions and assist single people who were either rough sleeping or at high risk of doing so.

### **TMBC 2020/21 performance against the national and regional positions**

Your data returns show some trends which are of concern, because in some key areas, TMBC lag behind other local authorities and the South East region generally. This situation is not peculiar to 2020/21 and has been building for a few years, but it is one which can be addressed.

Below are some of the most significant fields to look at routinely when assessing the performance of a statutory homelessness service.

### **Based H-CLIC returns for 2020/21 with some comment on the previous year's statistics**

<b>H-CLIC field with some explanation/comment</b>	<b>England %</b>	<b>South East %</b>	<b>TMBC %</b>	<b>Note on trends in TMBC stats in the previous year (2019/20, prior to Covid pandemic)</b>
<b>S195 Prevention duty owed</b> <i>Authorities can more effectively manage their services if a higher proportion of households are owed the 'prevention duty' rather than the 'relief duty',</i>	42.3	42.7	31.7	Was 43.9% in 2019/20 - 7% lower than the SE average. The gap in 2020/21 has increased to 11%
<b>S189B Relief duty owed</b> <i>See above</i>	52.8	50.4	68	Was 43.2% - 11% higher than the SE average
<b>% of S195 which are families</b> <i>Generally more families approach at 'prevention duty' than singles. High performing councils tend to encourage applicants to approach at 'prevention' stage not when in crisis ( see below)</i>	37.5	41.8	55.7	Was 58% - 11% higher than SE average
<b>% of S189B which are families</b> <i>More single people tend to approach when already in crisis</i>	25	20	29	Was 33% - 10% higher than SE average
<b>S195 prevention duty ended positively</b> <i>This is a key measure for DLUHC – duties can end positively with assistance to retain existing accommodation (the ideal outcome) or move elsewhere . The 2 types of outcomes are reported on by local authorities</i>	59.4	55.6	41.3	In 2019/20 this was around the SE average, at 55% but has now fallen to 41.3% which is a concern.
<b>% who became homeless where the s195 prevention duty ended</b> <i>This measure also indicates the extent of success in prevention activity</i>	16	17.3	30.4	In 2019/20 this was 26% - 5% higher than the SE average, but in 2020/21 this had risen to 30% of cases where the prevention duty had ended being due to becoming homeless, possibly indicating a deterioration in effective prevention casework.
<b>S189B relief duty ended positively</b> <i>The ideal is to end as many relief duties positively as after 56 days, an eligible homelessness household which has a 'priority need' for accommodation and is</i>	39.8	35.4	23.9	In 2019/20 25.9 % of cases were ended positively - this is 7% lower than SE average and the figure has deteriorated to 23.9% whereas the % success of relief duty figure for the South East has risen to 35.4% leaving a performance gap for TMBC of over 11%

<i>not 'intentionally homeless' will be owed the Main duty</i>				
Relief duty % still homeless after 56 days + See above	38.5	41.7	54.9	In 2019/20 the figure was 60.2% - 13.4% higher than SE average

Whilst in itself it is not the cause of the rise of TA, understanding your data and using it to manage the performance of the Service is critical moving forward. This is currently an area of weakness in TMBC, as no officer has a clear grip of performance. This can be addressed relatively easily and will assist the Service and TMBC more widely in terms of performance management and forward planning.

### The resources available to meet the needs of the statutory homelessness function

#### Funding for the statutory service:

The specific grant funding from the Government for statutory homelessness is set out below and does not include the funding that the Council has already committed through its core funding or the funding TMBC receives in grant form for work on rough sleeping:

Funding type	2018/19	2019/20	2020/21	2021/22
FHSG*	£201,662	£189,227	£189,227	n/a
New Burdens/Homelessness Reduction Grant	£33,836	£35,795	£115,625	n/a
Homelessness Prevention Grant (line in RSG)	£56,286	£56,286	£56,286	n/a
Homelessness Prevention Grant	n/a	n/a	n/a	£382,715
<b>Total</b>	<b>£291,784</b>	<b>£281,308</b>	<b>£361,138</b>	<b>£382,715</b>

In addition to the DLUHC funding noted above, TMBC is allocated an amount of Discretionary Housing Payments (DHP) annually by DWP, which can be used for prevention of homelessness.

Below is are the last 3 years of DHP allocation, against last financial years' allocation and actual spend:

TMBC	DHP awarded	DHP spent
2019/20	208,883	£208,137
2020/21	267,941	£268,441
2021/22	148,227*	n/a

\*DHP allocated by mid-year point by DWP

It was noted that there is strong and positive joint work between the Benefits and Welfare Service and the Housing Solutions Service. It is also important to note that all of the available DHP has been spent by TMBC, which will ensure future DWP allocations to TMBC will not attract any reductions based on failure to fully utilise DWP funding.

### The structure for delivery of statutory homelessness services

The **Housing Solutions Service** is made up of:



A Housing Solutions Manager

1 Senior Housing Solutions officer

3.8 Housing Solutions Officers managing cases of those households who are homeless

1 Prevention Officer working with cases threatened with homelessness

There has been some increase in the staffing levels of the Service since the commencement of the Homelessness Reduction Act. However, this may not have been significant enough to enable the Service to manage the new burdens placed on TMBC. In December 2017 there was an increase in staffing of 2.6FTE in response to the Homelessness Reduction Act. Two of these posts were Accommodation Officers (within the Housing Improvement Team as mentioned below) and they have inevitably been focused on management of temporary accommodation with the increasing numbers and the purchase of our own stock. Thus, additional resources to focus on new prevention duties and accessing the private rented sector was limited.

There are other TMBC services which support the work led by the Housing Solutions Services:

**The Customer Service Centre** take calls from the public, including those who may have a housing need or an enquiry. Since 2020 all calls for the Housing Solutions Service have been routed through the Customer Service Centre. This has removed the direct line to the Housing Solutions Service, reducing the time spent on incoming enquiries via the phone.

**The Housing Improvement Team** inspect and book homeless households into nightly let accommodation in TMBC or more usually in surrounding Kent authorities. This is not their only function, but it is a significant part of their workload, as each unit of accommodation is inspected in person by an Accommodation Officer.

**The Benefits and Welfare Service** work closely with the Housing Solutions Service with housing benefit claims and will consider DHP applications made by households threatened with homelessness or where DHP can be utilised to assist in relieving homelessness.

There are other services locally which are commissioned by TMBC or through other Kent authorities on behalf of TMBC and support work on preventing or relieving homelessness:

- The Rough Sleeping Service, jointly managed with Tunbridge Wells Council
- Porchlight are commissioned to work on rough sleeping in the West Kent area, including 1 post working in TMBC with 'non priority' single people at risk of homelessness
- Supported housing within TMBC for homeless single people who also have support needs
- A Domestic Abuse worker/advocate working across West Kent
- Change Grow Live ( CGL ) provide a substance misuse service
- Cross Lights provide a money advice service

Your partnership working was noted as a strength and whilst not the primary focus of this review and report, is important to state, as effective prevention and relief of homelessness relies on other agencies/services working alongside the statutory service.

## Recommendations

**Agree an overall TA reduction target.**

We suggest this should initially be to reduce TA to 80 households by October 2022. You may wish to consider having a 'threshold' target, which would be within the parameters of acceptable by the summer of 2022. We suggest no more than 100 households but the ambition should be to aim for 80 households in TA by October 2022. It is important that there is clear understanding that TA numbers do fluctuate and will require on-going close management by caseworkers and managers.

**Agree a TMBC performance framework** to cover types of decisions and ending of duties on:

- Prevention
- Relief
- Main duty
- Reduction in the use of TA , including costs

**Restructure your meetings to ensure monitoring the Housing Solutions Service performance** with the focus on the action plan and progress to meet the TA reduction target.

A fortnightly, moving to monthly high-level 'Performance Board' meeting refocused on the TA reduction target. This meeting should include the Director of Planning, Housing & Environmental Health, the Head of Housing & Environment Health, the Finance Service Accountant and/or Chief Financial Officer, the Administration Manager, the Housing Solutions Manager, the Housing Improvement Team Manager, and anyone else it is decided should attend.

**Undertake an exercise to set the base budgets for the Housing Solutions Service and in particular temporary accommodation correctly.**

Please see the Action Plan attached and following sections of this report for other recommendations including those on additional capacity within services to support your work.

## Section 2: Improving triage, management of casework and outcomes for customers.

### The triage function

Most statutory homelessness services have some form of triage or screening function. In TMBC initial contact from customers regarding housing need and homelessness come through 2 main routes:

- The Customer Service Centre takes calls from the public. The general view is that this is effective and saves the Housing Solutions Service some time. Due to the generic nature of the Customer Service Centre, there is no specific script to follow nor is there any capacity currently for this to be more specialist. The Call Centre staff will contact the Housing Solutions Service for advice if needed or make contact through the generic Housing Solutions email.
- Customers can also fill out the Locata 'initial assessment form' on line which is emailed directly into the Housing Solutions generic email.

In addition, some referrals may come into the Service from other professionals via email, including referrals made by public bodies under the 'duty refer' people who are or may be at risk of homelessness.

Additional detail on the triage function:

- Most customers are filling in the Locata Initial Assessment form, either directly through the website or when advised by the Customer Service Centre to do so. A small number of cases circumvent the form via the Customer Service Centre route each week. Some of these are where the customer needs to be contacted directly as they aren't able to complete the online form or where the Customer Service Centre officer believes the customer/household is homeless that day and the case is urgent.
- Until recently there was a full time Triage Officer in post, who would deal with the incoming emails and work with the Customer Service Centre. This post was deleted to create a full time Prevention Officer post.
- All staff, including the Manager and the Senior officer in the Housing Solutions Service now spend part of their working week managing the triage function. This is viewed as daunting. The staff on duty try to contact people but if not successful after a reasonable number of days they will close the enquiry down. If they have reason to believe a household is threatened within 7 days then the case is marked for assignment to a case officer.
- The majority of approaches via the Locata Initial Assessment form trigger a homelessness application. There is 1 Prevention Officer who picks up all the cases where homelessness is threatened. The prevention cases are anecdotally reported to be the majority of the cases, although the statistics do not bear this out, with most applications being those from households who are already homeless.
- The view of the Housing Solutions Service staff is that there is some confusion regarding what the purpose of the form, which is generating unnecessary work. Their view is that some people are simply filling it in regardless of homelessness – for example, if they have a query about the Housing Register.
- Cases coming in via the triage route remain unassigned until the Senior Housing Solutions Officer has checked them and then she will assign them to either the Prevention Officer, or if they are already homeless, a Housing Solutions Officer.

### **Observations on the triage function:**

- The role of the Customer Service Centre in filtering calls is helpful. Following a 'script' and additional basic training on homelessness would further improve this.
- Currently most enquires or approaches are channeled into the homelessness system through the online 'Initial Assessment' form too readily. This is 'failure demand' as all the Locata questions lead to a presumption that the customer is homeless or about to be. In some instances staff told us that customers are drawn down the homelessness route when they need more general advice or another housing advice service. Homelessness applications may be 25% more than should be taken due to the online initial assessment form prompting people who may have a housing problem to consider themselves as homeless.
- The actual number of homelessness applications being taken has not risen in 2 years. At a national level and locally as well this is likely to change due to higher levels of debt and arrears, with a spike likely in the first quarter (January – March) of 2022. Implementing a new Triage approach is urgently needed in TMBC to relieve pressure on the Service and ensure those who are at risk of homelessness get advice and/or assistance as quickly as possible.

### **Assessments, Personalised Housing Plans, Casework and Decisions**

In all statutory homelessness services, including TMBC's Housing Solutions Service, the following process takes place:

Officers routinely undertake enquiries to firstly establish eligibility and confirm if an applicant is homeless or threatened with homelessness within 56 days.

Following this, all eligible applicants who are homeless or threatened with homelessness will have an assessment of their housing circumstances, their housing and other support needs. This forms the basis of a Personal Housing Plan (PHP) which set out the 'reasonable steps' the local authority will take and the applicant and any other relevant party, will take to prevent or relieve homelessness.

What follows after this, or in some cases, alongside the drawing up of a PHP, is case work to prevent or relieve homelessness.

There are some prevention tools and services available and these include:

- £25,000 'Prevention' pot
- £30,000 rent deposit scheme
- Access to Discretionary Housing Payments to pay off arrears
- The Cross Light agency provides money advice /debt work
- Some family mediation is available
- A range of supported housing is available within TMBC for single people with support needs

TMBC have the 'Entitled To' tool that sets out for applicants the realities of housing options locally - including affordable private rented options and the lack of supply of social housing. It is reported that this makes little difference and that applicants are prepared to wait, often in TA, for social housing offers.

## Observations on assessments, Personalised Housing Plans and case work

- Successful prevention and relief outcomes, as noted in Section 1, are well below regional and national averages.
- The biggest operational challenge for TMBC is that Housing Solutions staff have caseloads which are too high, which results in 'light touch' casework in most instances. Caseloads are averaging 60 – 80 per full time officer, including the new Prevention Officer, meaning that other than eligibility enquiries and the assessment and creation of a PHP, there is little time for meaningful casework to prevent or relieve homelessness. Nor is there time to undertake rigorous enquires into whether an applicant is homeless especially where the case is presenting from parents or extended family. The result is some families will enter TA where a decision would have been reached that no duty, or a prevention duty was owed if time was available to make these critical enquires.
- There is no national benchmark information for average caseloads for a statutory homelessness service, but from experience of working with many local authorities since the introduction of the Homelessness Reduction Act, average manageable caseloads should be between 30-40. Where caseloads are high, officers do not have sufficient time to carry out all of the tasks required to assess cases and take prompt actions to prevent homelessness.
- Due to the volume of cases, and lack of time to do effective casework, officers describe feeling that they are 'failing' in their work and have low morale as a result. However, there is still a strong commitment to keep going, with a shared motivation to try to assist homeless households.
- Officers are not making timely decisions due to having very high caseloads. This is having a major impact on the TA numbers and the legal basis on which households are placed. This is covered in the Section below on Temporary Accommodation.
- Most homeless applicants in TMBC say their preferred housing option is social housing. This is not unusual and is understandable, as it is cheaper and more secure than private rented housing. But the paucity of social housing locally and high demand means that many PHPs will set out a 'reasonable step' for an applicant to seek private rented accommodation as well, including looking out of TMBC where rents are cheaper. The general view of the staff team is that the majority do not do so but are waiting for a social housing offer, including households in your TA.
- Staff report that they have no time to find private landlords willing to consider a tenant on low income who is homeless. Staff are aware the of the incentives that can be offered to private landlords and believe a team/someone to just focus on that role would be beneficial.
- We have not looked at the quality of the assessments and PHPs. Whilst we are not therefore able to make any recommendations on this, it is an area you may wish to consider focusing on internally in the future, through using a simple case file audit tool and some analysis. It will feed into your ability to improve your performance on prevention and relief outcomes. Service managers stated that the completion of good quality PHPs has been set as a priority. Although this is important, at this stage it is more important to tackle the case backlog and complete investigations.

- All PHPs should be reviewed at some point during the 56 day period of either prevention or relief activity to discuss with applicants the actions they and the local authority have taken to prevent or relieve their homelessness, for example, by looking for private rented accommodation. This is reported by the staff team to be rarely happening due to other priorities.

## **Recommendations arising from this section:**

### **Use the Homelessness Prevention Grant to fund additional growth in staff resources**

Our view is there is no need to undertake another re-structure, which would distract from the actions that will have an impact on homelessness prevention and relief casework. But there is a need for additional capacity within TMBC, both in the Housing Solutions Service and the Housing Improvement Team in order to improve casework outcomes and significantly reduce the flow of households into TA.

Establish 2 year contracts for the following posts:

1 x Triage Officer

1 x additional Prevention Officer

1 x additional Housing Solutions Officer

1 x Private Rented Officer located within the Housing Improvement Team

Also consider short term role of a 'Welfare Officer' role to visit households in TA, ensuring occupancy and any change in circumstances which would affect the types of offers that can be made to end duties.

### **Stop using the Locata 'Initial Assessment' form as your main triage tool and replace this with:**

- an option for email into the Service directly (using a Triage form which we will provide) or
- a phone call via Customer Service Centre who could be asked to complete the new triage form with the person with a housing problem.

**The role of the new Triage Officer** needs to be defined clearly and we suggest it is to pick up new enquiries via:

- the new email directly into the Housing Solutions Service
- contacts via the Customer Service Centre
- referrals from other agencies ( including the 'duty to refer' route)

and then to make decisions regarding:

- not threatened with homelessness - advice only
- likely to be threatened with homelessness within 56 days or around that – refer to Prevention Team
- likely to be homeless – refer to Relief Team
- referral/signposting
- closing down of enquiries where no response

**Manage expectations of those seeking assistance at either prevention or relief stages, as well as those in TA:** any offer of accommodation is likely to be the private rented sector and due to affordability, is likely to be outside TMBC. This links to recommendations in Section 6 on allocation of social housing as a tool for management of homelessness.

**Implement a new Prevention Casework Framework,** which is provided as part of this review.

The framework contains the scripts and resources to deliver more effective prevention outcomes by keeping people in the home they have presented from. The ability to prevent homelessness will rely on access to prevention tools including the funding to pay off arrears through DHP or via the 'Prevention Pot' where appropriate.

The Prevention Team need to contact households by phone directly to effectively deliver this.

The Framework will provide the Prevention Officers with a clear set of actions with back up resources, alongside DHP and the Prevention Pot of funding. The objective is by the end of June 2022 to:

- Move TMBC's overall prevention success rate to the South East average
- To increase the percentage of cases where homelessness is prevented in TMBC by keeping the applicant and their household in the accommodation they have presented from to 50%. Whilst TMBC does perform relatively well on this already as a percentage based on the 2020/21 statistics, the overall numbers are low ( 15 households in 2020/21) and any improvement in this will significantly assist in your overall ambition to reduce homelessness and use of TA.

See also the Section 5 recommendations for changes to the Allocations policy, which would support this area of your work.

### **Section 3: Temporary Accommodation – improvements in the management of TA.**

#### **The rise in TA numbers in TMBC**

Temporary accommodation had risen to approximately 160 at November 2021 which is having a significant negative financial impact on the Council.

The rise in TA is due to a combination of factors. Some relate to demand and supply pressures and are difficult to influence and control. This is a regional and to some extent a national issue. In terms of the cause of the rise in TMBC it is our view that:

- TA numbers in TMBC prior to the implementation of the Homelessness Reduction Act in 2018 were artificially low averaging 30 households at any one time. Some rise in TA was inevitable over time due to the new homelessness legislation. The rise amongst single people has also been exacerbated by Covid-19 pandemic.
- Whilst there was some investment in staffing (additional 2.6FTE) at the point of the changes to the homelessness legislation, there has not enough focus in some areas, in particular in prevention activity or work with private landlords to enable more access into private rented accommodation to end homelessness duties. This is covered in both Section 2 above and Section 5 below.
- That, on the assumption that there is effective control of case management, and that successful outcomes to the prevention and relief duties rise to the South East average, the correct level of TA in TMBC should be between 70-100 households.

#### **Observations on current practices which are impacting on higher TA numbers and recommendations**

- There is evidence that there is a relatively generous approach to granting temporary accommodation for single people and some families. There is a senior manager 'sign off' form and procedure before a placement can be made into TA, but having checked this, our view is that it isn't rigorous enough regarding the checks that need to be passed before a TA placement should be authorised.
- The main reason for families being placed into TA is a claim of homelessness from parent or extended family home. A requirement in common law for a period of reasonable notice to be given is not being negotiated in all cases and not being enforced. Once in TA from the parent or family home the chances of preventing homelessness by negotiating the applicant's return is unlikely at the best of times, but with the extent of your casework 'drift' this is even more so.
- The second main reason for households being placed into TA is the expiry of a valid notice. This is either a section 21 notice or Section 8 notice or a notice to quit for a social housing tenancy. There needs to be a consistent approach and procedure for assessing when a family with a valid notice that has expired should be placed into TA. Too many placements are being made at the point of the expiry of the notice and in some cases, the offer of TA can be pushed back towards the expiry of a possession order, rather than the expiry of a valid notice or the issuing of a possession order. The Homelessness Code of Guidance sets out all the considerations to be taken into account regarding this and a TA placement assessment framework will be provided to help officers determine the point at which TA should be offered.
- Around 45% of households placed into TA in TMBC are single people (based on the April – June 2021 HCLIC return to Government). The legal position is that households should be placed into TA either on the basis that they do have a priority need or that they may have a priority need, pending further investigation. In terms of the group of households placed in TA who 'may' have a priority need, there are delays in instigating further investigations, such as requests for information from GPs or other health professionals, or chasing requests where no response has been received. Inevitably, the longer the person remains in TA the less likely the team will feel able to make a 'not in priority need' decision. It has been several years since any training in TMBC on applying the 'core tests' of homelessness, including priority need.
- High caseloads are causing a significant delay in completing investigations. This results in some applicants remaining in TA longer than required. The longer an applicant remains in TA the more difficult it is to deliver a decision that no TA duty is owed.
- Based on the end of June quarterly HCLIC return, 36% of cases in TA were owed a main duty meaning 64% were undetermined. Anecdotally, officers reported that for over 90% of cases decisions on whether a long term TA duty was owed were being made late meaning beyond 56 days of the relief of homelessness duty. If decisions on those where no long term duty was owed were made a) At the start of the relief duty for single people not found to be in priority need and b) No later than 56 days for households found to be intentionally homeless, this alone would make a significant contribution to reducing the numbers in TA.

## **Recommendations:**

**Strengthen the authorisation procedure for signing off any TA placement**



A new 'Placement into TA Manager Authorisation Checklist' for officers and managers to use should be adopted to ensure that the right checks have been made before a TA placement will be authorised. This will provide more consistency and rigor for when a TA placement must be agreed. The checklist and procedure includes questions and tests that must be passed for a TA placement to be authorised for each common presenting problem such as notice cases, family exclusions, relationship breakdown, reasonable to occupy housing conditions. A model has been provided as part of the review.

**To undertake more thorough assessments prior to placement into TA where the question of priority need is not clear cut. This may result in reducing the number of single people entering TA.**

With a thorough assessment interview combined with checking of other areas, such as any medication and the level of medical input it should be possible to make more decisions on priority need on the day the person presents, which is likely to reduce the number of TA placements. A new interview and assessment process for assessing the priority need vulnerability test will be provided and the team can be trained on applying the test.

It should be noted that alongside this, officers will still need to work on effective relief activities with applicants and other agencies, including the Porchlight non-priority case officer, where there may be a risk of rough sleeping. The securing of suitable accommodation is a critical part of this work, alongside applying the statutory tests.

**To address the backlog so that average caseloads are no more than 30 cases per officer and maintain these caseload numbers to no more than 30 per officer throughout 2022.**

This will be achieved through:

- Undertaking a specific backlog exercise as a matter of urgency in December 2021 and January 2022 to close all cases that can be closed down (provided as part of this review)
- Adopting the new 2022 Homelessness Template letters pack (provided as part of this review) and
- Implement the new Case Assessment and Interview Sheets Toolkit (provided as part of this review).
- These important new resources will mean faster and more accurate assessments of the core homelessness tests and faster decision making. It will cut caseloads and deliver more accurate, evidenced and legally defensible decisions and reduce the number of TA placements.

**Implement a comprehensive Temporary Accommodation control and monitoring sheet and associated procedure**

There is a need to implement a more effective process to manage and control the 'journey' and throughput of all residents in TA. This applies to everyone in TA either owed a Relief or Main Duty or where that duty has been brought to an end and action is needed to evict the occupant.

A TA control and monitoring sheet has been developed as part of the review to deliver this objective. It ensures every case in TA is monitored using over 30 questions or tests.

This is an essential tool for reducing the numbers in TA and thereby reducing costs and pressures on the service. It will also allow TMBC to better control TA numbers and more accurately predict how much TA the Council needs going forward.

The aim is to use the control and monitoring sheet to ensure that the right people are placed into the right accommodation and only occupy that accommodation for the shortest period of time they need it. It will assist through:

- Speeding up Part 7 inquiries by allowing for target dates to be set to finish investigations and identifying blockages where case investigations have stalled.
- 'Unblocking' cases where a duty has been accepted but something is stopping them being considered for a Part 6 social housing offer,
- Helping to speed up the process for removing households from TA quickly where no duty is owed.

Some of the most effective initiatives for reducing the use of TA are often the simplest. There is a need to keep on top of the cases in TA to ensure that applications are determined quickly and there are no blockages preventing cases from moving on. This simple administrative process could reduce numbers in TA by up to 20% if the checks below are implemented resulting in timely actions to resolve the issue identified and reduce the numbers remaining in TA.

**The need to bring together all of TA operational procedures and processes into a comprehensive operational procedure manual.**

At present in TMBC there are individual forms, checklists and some required procedures such as the out of area TA placement policy and a private rented sector discharge policy. There is a need to develop a comprehensive *Operational Procedure Manual* for temporary accommodation. A model *Operational Procedure Manual* will be provided as part of the review. It should be used as the basis for developing TMBC's TA procedure manual. This will ensure consistency in decision making for the TA team and defend the Service better from legal challenge.

## Section 4: Temporary Accommodation - improvements in the procurement of TA.

### Developing the Council's TA Procurement Strategy

The Homelessness Reduction Act 'pushes back' the main homelessness duty to the end of the process, giving authorities the flexibility to end homelessness earlier with the new prevention and relief duties by helping an applicant to secure any suitable accommodation retained or sourced of a minimum 6 month duration. If TMBC improves its prevention and relief performance as expected, this will reduce the number of families that are owed the 'Main duty' and who will therefore require longer term TA

This, in turn, alters the balance between the need for short-term TA and long-term TA. Fewer units of longer term TA would be needed because far fewer applicants will progress to a final 'Main duty' because the authority has a relatively 'long window' of 56 days under each of the 2 new duties to prevent homelessness or to source suitable accommodation of a minimum 6 months duration.

The current TA position as at December 2021 is:

- The Council has no low cost emergency accommodation option in the form of local authority owned hostels.
- This means emergency placements are predominantly placed into expensive nightly paid TA and most of these are outside of the Borough. The current profile of TA used is heavily reliant on costly nightly let arrangements through 3<sup>rd</sup> party companies.
- This expensive form of TA continues to be provided for families owed a main homelessness duty, increasing costs further
- 85% of TA is outside to the Borough
- There has been some improvement in delivering low cost in Borough TA. This includes:  
The purchase of 47 The High Street (6 units)  
The purchase of Pembury Road (which should provide 12 units of TA).  
There are also 6 units of TA provided through Clarion Housing Association

### Recommendations:

In developing TMBC's TA procurement strategy, the Council needs to take into account the anticipated demand for TA as well as the type of TA it will require and the net cost.

#### The guiding objectives for TMBC's TA Procurement Strategy should be:

- a) To reduce the net cost of TA from 1 million to no more than £200,000.
- b) To deliver the right balance between short term and longer term TA, which is applicable to TMBC's needs. The balance should be based on 1 third long term 2 thirds short term TA. (see the first bullet point below)
- c) To significantly reduce the number of units of TA outside of the Borough
- d) To have a balanced portfolio delivering sustainable TA without the need to rely on costly bed and breakfast or over-rely on nightly rate TA

There are a number of recommendations relevant to developing the Council's TA Procurement Strategy. These are:

**TMBC should plan for a 'normal' level of TA, based on demand and supply, of between 80-100 Units.**

**Ideally TMBC's TA portfolio should consist of two-thirds short-term TA and one-third longer term TA.**

**TMBC should aim to develop at least 40 units of low/nil cost short term Council owned hostel type accommodation** through converting multiple use shared accommodation such as lower demand sheltered housing or purchasing former multiple use homes. This will provide 'nil net cost' TA as hostels sit outside of the TA subsidy restrictions and are eligible for full DWP subsidy payable up to the level of eligible rent. Hostels could be procured through utilising s106 affordable housing contributions and exploring funding through the Homes England Affordable Housing fund should be pursued.

**A further 20-30 units of self-contained accommodation could be purchased if capital resources are available** to build on the units purchased at the High Street and Pembury Road.

**Discussions should be held with Clarion to obtain their commitment to providing a further batch of social housing units that can be used as TA** to build on the 6 units already provided.

Discussions are on-going with the aim to increase this figure to 20 units by the end of March 2021 with a further 20 units in 2022/23. The provision of a number of social housing units to be used for TA should form part of any partnering agreement when selecting development partners or supporting development bids including planning consent.

**The use of nightly rate accommodation should not be ruled out completely** (and is unlikely to be an option in the short term).

There are some advantages to using nightly let TA to perform an interim TA duty whilst a relief duty is owed. There are limited contractual obligations attached to those forms of TA and accommodation can be terminated with very little notice. Furthermore, a court order is not required to remove a household from the TA if, for example, a negative decision is reached on their homelessness application, or the Council wish to end their TA duty because an applicant has refused an offer of suitable social housing.

The aim however, within 12 months should be to reduce the use of nightly let to no more than 20 units with a focus on the majority being 1 bedroom units, as the net cost (based on the local BMRAs) is less than for 2 or 3 bed units. This should run alongside plans to reduce use of nightly lets to families where possible, with short term use only.

**The Council may wish to consider being part of a Kent wide nightly let 'call off' procurement contract** in order to try and deliver lower nightly rates, **but the Council should not commit to taking units on a long term basis.**

**A small private leased scheme could be developed for up to 12 units with a recommendation that negotiations with Clarion to manage the units.** Any lease should be a non-repairing lease and include a break clause allowing the Council to exit the lease with no more than 2 months' notice. An example of such a lease can be provided if this is an option that TMBC wish to explore further.

**For single people any TA duty can be performed through accessing supported housing or HMO's inside or outside of the Borough.**

These units can also be considered for discharging duty. The Council should consider the potential pool of units that may be available to accommodate single people.

**TMBC should be extremely careful in considering whether to enter into a long term 40 year leasing arrangement which we believe is currently under consideration.**

There is a legal argument that leases over 10 years can be accounted for outside the Housing Revenue Account depending on the powers of acquisition used. This point will ultimately need to be decided as a question of law.

However, our advice is that leases of over 10 years have to be accounted for in the HRA. The Housing Revenue Account (Exclusion of Leases) Direction 1997 (the "Leasing Direction") stipulates that all leases for dwellings for a period of 10 years or less acquired by a Council for the purpose of providing accommodation under its homelessness functions are not to be included in the HRA during periods that they are used for those functions, but this exclusion does not apply to leases of more than 10 years. I have always understood that the reason that this direction was introduced was because any lease of over 10 years would have to be accounted for within the HRA.

In a role held by Andy Gale with DCLG in leading on the HB TA subsidy rules with DWP, this matter was discussed within the department and the view taken was that leases in England of over 10 years must be accounted for in the HRA "In England, accommodation leased to the LA for more than 10 years must be accounted for within the HRA and therefore subject to the HRA subsidy arrangements" (DWP HB Subsidy Circular S1/2011 appendix AGM14).

The DWP's subsidy rules (i.e. subsidy calculated at 90% of LHA at January 2011 rates) only apply to leases of under 10 years, confirmed in the circular that was applicable in September 2018 HB/S52017 3rd Revision. Therefore in theory a lease of over 10 years, if legally it could be accounted for in the general fund rather than the HRA, would fall outside of the current subsidy rules resulting in no subsidy limit on the rent charged.

Although superficially the leasing option is attractive, our recommendation is that if TMBC wished to consider entering into a 10 year plus lease for TA:

- The Council would need to be totally satisfied that such a lease could be accounted for outside of the Housing Revenue Account, and
- Receive assurances from the DWP that they would not seek to pass new regulations to close what is obviously a loophole and reintroduce subsidy limits similar to under 10 year leases.

**If the procurement actions as recommended above are successful a figure of 80-100 lower net cost TA units is likely to be delivered and may be exceeded.** The numbers can be scaled back if this is the case with the more expensive net cost options phased out.

## Section 5: Accessing the Private Rented Sector

### Low income households and the private rented sector

Within the overall housing crisis in England, typified by a lack of supply of suitable homes which can be rented by those on low incomes, there is a general concern amongst private landlords nationally regarding the risks of renting to those on low income and people who may have support needs.

The private rented sector is challenging in TMBC, with the ONS Index of Private Housing Rental Prices showing an overall increase in rents in England of 1.2% during the year ending August 2021, but with the South East having a higher rise of 1.8% overall.

Within Kent there is increased demand from other local authorities, notably London boroughs, as well as Kent County Council and other Kent housing authorities. The unrelenting competition for private rented housing, including specific resettlement schemes such as 'Everyone In' and for those seeking asylum, adds to pressures, fuels rent rises and makes the sector unaffordable for many people on low incomes in TMBC and the surrounding local authority areas in Kent.

The Chancellor announced in March 2020 that from April 2020 the rates of LHA would be revised so housing support from the benefits system would be sufficient to cover the cheapest 30% of all rental properties. Rates have now been frozen against the 2021/22 levels and there is no indication of when this will change.

The change was welcomed by all housing authorities and has had some impact in terms of affordability but this varies across local authorities and housing markets. It is not necessarily the case that households on low incomes requiring accommodation to prevent or relieve their homelessness can find accommodation in TMBC.

### TMBC per calendar month Local Housing Allowance Rates before and after the uprating in April 2020.

Number of bedrooms	High Wield		Maidstone		Medway and Swale	
	Pre April 20	April 20	Pre April 20	April 20	Pre April 20	April 20
1 room ( in shared house)	£364.36	£435.0	£314.77	£386.07	£291.48	£316.51
1 bed	£605.81	£695.02	£569.70	£650.00	£495.31	£594.99
2 bed	790.23	£899.99	£705.19	£814.99	£617.98	£749.99
3 bed	£969.81	£1,129.98	£807.61	£974.98	£705.41	£850.02
4 bed +	£1,463.56	£1,500.02	£1,022.91	£1,249.99	£913.24	£1,199.98

### Some observations on your work to access the Private Rented Sector

- The major route for reducing your households in TA and managing the throughput effectively over time will be through increased use of the private rented sector. Currently there is no specialist resource allocated to this work.
- Your work to get any kind of a foothold in West Kent is underdeveloped in comparison to a number of other local authorities in the Kent area and beyond. To counter some of the challenges set out above, TMBC have developed the 'Golden Hello' pilot which has run over the last year. To date this has not provided the quantity of accommodation envisaged. There have been virtually no lettings through this

route at the time of writing this report. This work currently sits within the Housing Strategy function and it may be better placed within an operational team which has more experience of working with landlords.

- Routine communication and engagement with landlords via a Landlord's Forum is not sufficiently positive to attract new landlords to approach TMBC as a route for finding new tenants.
- Housing Solutions Officers report that almost everyone seeking accommodation want to be offered social housing within TMBC and whilst offers outside the area can be made, they rarely are, due to both the low levels of engagement with landlords and the general (and understandable) resistance from households to move out of area. However, this will be the only feasible option for many.
- Other partners working with some of your customers are unlikely to 'get on message' with TMBC about suitable offers being made out of area, without some training/ discussion. There is a risk there may be some divergence in advice on moves out of area from other agencies, unless TMBC can communicate the importance of changing the culture regarding out of area offers and emphasise the right to review an offer.

## **Recommendations:**

### **Develop specialist capacity to procure PRS properties to use as discharge of duty and to be clear on the deal**

NOTE: These recommendations require some significant changes and therefore the rationale is set out below in some detail

There is an urgent need to get traction in the private rented sector. There needs to be one team and one point of contact for all the necessary procurement work and given the individual experience of landlord and lettings work in the Housing Improvement Team, our view is that the function should sit in that team.

This requires a refocus of the role and function of the Team to support the overall target to reduce TA by focusing on procuring private rented properties to use to discharge duty.

It is recommended that the Accommodation Officers within the Housing Improvement Team should lead for TMBC on increasing access to the private rented sector for households owed a homelessness duty who are in TA. This will build on the work of the 'Golden Hello' pilot, but importantly will help gain landlord confidence in a highly competitive market.

The additional PRS access officer recommended in Section 1 of the report and in the Action Plan should be recruited with a lettings experience

**The Housing Improvement Team cease routine inspections of all new temporary accommodation units** procured through a private landlord or agent in order to free up capacity to focus on delivering the number of PRS properties required to discharge duty.

An important issue to resolve is the delivery of resources needed for the team to work with private landlords and agents to procure properties. This can partly be achieved by adding a Private Rented Officer to the team (see the recommendation in Section 2 and the Action Plan on resources).

However, freeing up existing capacity for this critical task can also be achieved through amending the current practice of inspecting all properties whenever a TA placement is made should be reviewed. Although under Section 206 of the Housing Act 1996 there is an obligation to ensure that TA is suitable, neither statutory guidance nor case law to require a local authority to inspect TA provided by a third party to ensure that it meets all statutory standards. Third party accommodation, mainly in the form of 'nightly rate lets', are provided by a number of companies operating in and around TMBC.

TMBC should take reasonable steps to ensure that all third party accommodation is safe but this does mean each unit of third party TA has to be inspected. This is not a requirement under the legislation pertaining to placements into third party TA. Nor is it a practice commonly adopted by the majority of local authorities.

Recent caselaw *Hajjaj v City of Westminster (2021) EWCA Civ 1688* is helpful in suggesting a way forward in TMBC. The case concerned discharging duty into a private rented sector property and whether 'Article 3 of *The Homelessness (Suitability of Accommodation) (England) Order 2012*' required a local authority to physically inspect the property before making an offer to discharge duty.

The decision was that where there was an inspection report provided to the local authority that demonstrated compliance with statutory standards this would meet the Article 3 requirement.

It should be noted that the Article 3 requirements do not apply to TA, only to accommodation used to discharge duty. However, the outcome of the case provides a sensible framework that TMBC may choose to adopt given the Council needs to be satisfied that TA is safe and suitable.

The suggested framework for third party TA is:

- a) The third party provider should provide to the authority a record that the property has been inspected and checked after the previous occupant had moved out of the TA.
- b) It should include copies of valid certificates for gas safety, EPC, and any electrical safety requirements.
- c) A statement that the property contains the required number of carbon monoxide alarms and that all furniture supplied meets the fire safety requirements
- d) Where the property is an HMO providing TA for single people, confirmation that it meets the relevant HMO requirements
- e) There should be a list of any minor repairs outstanding and a target date when they would be completed after the occupation of the next household.
- f) Where a new occupant complains about the property condition an inspection should take place.
- g) A small number of properties per provider should be selected for an inspection.
- h) There is a recommendation that occupancy checks should be undertaken by non-technically trained officers who should be trained in identifying any obvious category 1 defects, that require a property to be formally inspected.
- i) Each third party company responsible for providing and managing nightly rate TA should be subject to a 'fit and proper' person test.

### **What should the PRS offer be to maximise the number of properties procured to discharge a homelessness duty?**

One of the key supply actions required to contribute to meeting the TA reduction target is to increase the number of private sector properties that can be used to discharge duty for families and single households in TA. Recommendations for increasing and freeing up resources are outlined above.



There are a number of important recommendations aimed at increasing the overall number of private rented properties that can be used to directly discharge duty for families and some single households in TA:

- The team should quickly develop professional marketing material based on the offer agreed
- If any changes or tweaks needed to the 'Golden Hello' offer to make it more attractive to landlords, decisions should be the responsibility of the Director of Planning, Housing and Environmental Health
- There is a need to deliver private sector properties in significantly expanded numbers that can then be targeted at 'discharging duty' for applicants in TA owed the relief of homelessness duty, or the main homelessness duty. A target should be set for the number of properties to be delivered each month. The target should initially be 6 properties a month and reviewed after 3 months of the team being fully operational.
- All acquisition should be through the Housing Improvement Accommodation Team
- Properties acquired should be only used to discharge duty on families or single households currently in TA which means operationally some changes are required, namely:
  - At the 'Prevention Duty' stage – applicants will be expected to source their own PRS accommodation with TMBC providing a rent deposit or rent in advance funded by a DHP or Prevention Fund Payment.
  - At the 'Relief Duty' stage – PRS acquisitions of 6 months minimum should be targeted at families and single households in TA owed a relief duty and for whom there is no outstanding intentional homelessness assessment.
  - At the 'Main Duty' stage – PRS acquisitions of 12 months should be targeted at families and single households in TA owed a Main duty.
- The scheme should initially be set up as a 'tenant finder service' only and not set up as a social lettings agency. The evidence from the Ashford and Folkestone social letting agency is that there is a limited market from landlords who want their property managed by the Council. Developing a social lettings agency at this point could be counterproductive and impact negatively on the number of properties that need to be procured each month. Setting up a management service would be labour intensive and reduce the capacity needed to concentrate on landlords and agents seeking a let only.
- Properties should be sourced both in TMBC's area and in neighbouring Kent Councils with a larger PRS market. Suitable offers should be made to applicants in TA regardless of whether the property is in or outside of TMBC. The household in TA should have no 'veto' on whether to accept a PRS offer outside of TMBC, though of course, any offer must pass a rigorous suitability assessment regarding any impact on the household of being housed in a neighbouring district.
- There should be more work carried out to better manage the expectations of applicants who are homeless so that they should expect the duty to be discharged with a PRS tenancy and that tenancy could be outside of TMBC given the shortage of supply inside the Borough.

## Section 6: Allocation of social housing

### Observations on your current Allocations Policy as a tool for managing homelessness

- Making a number of changes to the policy will achieve a number of objectives. These are:
  - To support the action plan objective to cut the number of households in TA to no more than 80 by the end of September 2022.
  - To ensure that the policy supports prevention of homelessness casework thereby reducing the number of households that enter TA.
  - To ensure the policy is lawful and minimise risk of legal challenge.
- The Allocations Policy currently grants Band B for applicants who are owed a main homelessness duty by TMBC “*where we have accepted a duty to secure accommodation under part VII of the Housing Act 1996*”. Applicants to whom TMBC does not owe a Part 7 duty to secure accommodation, such as those who do not have a priority need, people who on the edge of rough sleeping, sofa surfing and intentionally homeless cases are granted Band C.
- The Allocations Policy was last reviewed in July 2016 and has not been updated to include the new prevention and relief of homelessness duties under Part 7 of the Housing Act 1996. Both duties under allocations legislation must be granted reasonable preference. The policy is currently unlawful and open to challenge as it only recognises 2 homelessness ‘groups’ under the banding scheme.

### Recommendations:

NOTE: There is significant detail set out in the recommendations below, in recognition of the need for TMBC colleagues to understand and be confident to present a clear, strategic and legal rationale basis for the proposed changes.

**Top slice 50% of nominations as an emergency measure** to help halve the number of households in TA for the next 6 months. This needs to be agreed with Clarion. Allocate these properties directly to households in TA owed a main duty, or owed a relief duty and likely to be owed a main duty. Sections 8.4 of 8.5 of the policy give sufficient authority to implement this measure along with the exceptional circumstances safeguard set out in the policy.

### **Include the 2017 Homelessness Reduction Act prevention and relief duties in the banding scheme.**

- Given that the Homelessness Reduction Act commenced in 2018, the Council should as soon as possible adopt a minor change to meet its legal duty to include in the policy the Section 195 prevention of homelessness duty and the Section 189B relief of homelessness duty, and
- The new prevention and relief duty cases should be allocated Band C and not Band B so the perception is not given that homelessness is a fast track into social housing.

### **Using discretion to make a direct offer in specific circumstances.**

This is already set out in 8.4 of the TMBC Allocations Policy. This enables a direct offer to be made to an applicant owed a homelessness duty and should be expanded to give the Council the maximum flexibility to make a direct

offer when it is the Council's interests to do so, to deal with any future spikes in temporary accommodation numbers and costs.

This will allow the Council to 'turn the tap' on if it needs to and 'turn the tap' off when TA is stable. The expectation is that if the recommendations in this report are fully implemented TA will fall and stabilize at between 80-100 households. The suggested wording for the direct offer change is set out below:

*In exceptional circumstances where there are considerable budgetary pressures on the Council caused by the number of households in temporary accommodation the Council may make a direct offer, outside of band and date order, to an applicant who is homeless and in temporary accommodation and owed a section 189B(2) Relief duty or 193(2) main duty in order to manage any budgetary impact.*

**Make amendments to the banding award for overcrowding and to consider tightening the adopted test for measuring overcrowding.**

Under the allocation policy applicants who are overcrowded are defined as needing "at least one more bedroom than their current home" and are allocated Band B along with applicants owed the main homelessness duty. Overcrowding is measured using the bedroom standard and this policy, which is relatively generous, and this policy results in Band B being dominated by households experiencing a low level of overcrowding, that are only 1 bedroom short as measured by the bedroom standard.

The effect is that households owed the main homelessness duty are competing with many more households with a low level of overcrowding (and the other Band B categories) for the estimated 15 general needs vacancies that occur each month. This impacts on the number of main duty cases that can move on.

The recommendation is therefore that:

- Band B overcrowding should be reserved only for families that are 2 or more bedrooms deficient.
- Applicants who are 1 bedroom down should be placed into Band C
- Furthermore, given the high numbers that are overcrowded that are competing with homeless households, TMBC should consider options for tightening up the measurement of overcrowding standard and this is legally permissible as long as it is set out in the adopted policy. The options for change are:

Option 1: Tweak the bedroom standard to tighten it. This could be:

- One bedroom for applicant and partner/spouse (if any)
- One bedroom for any additional adult couple
- One bedroom for any two additional people of the same sex
- One bedroom for any two additional people of the opposite sex aged nine and under
- One bedroom for any additional person

Option 2: To count any second communal room as a bedroom when measuring overcrowding

**Tighten the local connection rules to qualify for the housing register.**

The local connection qualification rules adopted under the allocation policy are extremely generous. The current local connection rules in TMBC are set out as:

- a) Applicants currently living within our borough, and have lived here for at least the last 6 months; or*
- b) Were previously living within our borough for either 6 out of the last 12 months, or 3 out of the last 5 years; or*

- c) *Are employed (full time or part time) in our borough on a permanent basis, or need to move into our borough in order to take up an offer of permanent employment*
- d) *Have close family members (children, step-children, grandchildren, parents, step-parents, grandparents or brothers/sisters including foster siblings) who currently reside in our borough and have lived here for at least the last five years;*

TMBC has simply adopted the Part 7 homelessness legislation definitions for local connection into their Part 6 Allocation Policy. There is no requirement in law to do so and this has resulted in a set of generous rules that will increase the number of households in housing need who are able to join the register despite the fact that they do not have a strong connection to the Borough.

The policy means there are more households in housing need on the register than there should be and they are all chasing a small number of annual general needs lets (estimated at 240 a year in TMBC). There are a number of reasons why the local connection rules need to be tightened:

- The vast majority of Councils have adopted a residence rule of 2 or 3 years. Few, if any, we are aware of have adopted a rule based on 6 months of residence in the last 12 months. Families are being placed throughout Kent by London Councils who discharge a homeless duty by finding an applicant a 6-month private rented tenancy. Under TMBC's generous residence rules these applicants would be able to join the housing register after 6 months residency and compete with long term TMBC residents that are homeless.
- The rule allowing an applicant to join the register if they have previously lived in the Borough for 3 years in the last 5 will enable applicants who may have moved away from TMBC in the last 2 years to qualify to join the housing register.
- Up to half of Councils have no local connection rule for employment recognising that many people will have to commute into TMBC for work. Furthermore, the practice during the pandemic of home working for all or the majority of the working week is likely to become the norm post pandemic.
- Regarding the rule allowing applicants to qualify where they have close family that have lived in TMBC for 5 years or more, this is a generous rule when set against the shortage of social housing and the TA emergency. It means that families that do not live in TMBC who are homeless, or have a housing need due to severe overcrowding or medical or welfare reasons are able to join the TMBC register based on having close family living in the Borough and will be awarded a high band in recognition of their housing need for an address outside of the Borough. This rule should be amended so that applicants will only qualify where it is assessed there is an exceptional need to receive or provide essential support to or from close family living in TMBC.

**Include within the banding scheme a category that supports the prevention of homelessness casework.**

The intention with this recommendation is to remove as many 'newly formed' households from the homelessness and temporary accommodation system because they may be at risk of family exclusion. Family exclusion cases are the main reason why most families currently enter TA

*The current customer journey:*

It can be argued that 'family exclusion' cases applicants' fall into one of 3 groups

1. Those who are immediately homeless due to total family breakdown or safety issues (this will be a relatively small number).

2. Those who be likely to become homeless over a period of time, due to genuine tensions within the family home, but are not imminently homeless. This group may believe they have to contrive homelessness in order to receive assistance
3. Those where there is no risk of homelessness, but homelessness is contrived (no real intention to exclude) as this is perceived to be the way to obtain social housing

The circumstances of groups 2 and 3 can be characterised by the following factors:

- Unlikely to have been a private rented tenant in the past
- Will be more resistant to a private rented solution over social housing solution
- Relationship with parents/family remains strong, albeit with some tensions at times
- Perceive becoming homeless as the only way into social housing
- Often are quite selective in the areas they are willing to consider for social housing
- Once placed into TA, some will use the property infrequently and spend much of their time still in the parent/family home whereas some will see the property as the first stage to long term independent living whilst they wait for an offer of social housing
- Once TMBC agrees to place into TA there is 'no way back' to returning the household home.

The hypothesis is that the majority of applicants that fall into groups 2 and 3 would wish, and would be allowed, to remain in their parent/family home if there was 'a way out over time' into social housing.

#### *A proposed new deal for newly formed households at risk of parental/family eviction*

The new deal summarised:

- The new deal needs to be presented to both the family member seeking to exclude and the applicant.
- It is a more transparent approach that removes the need to collude to claim to be homeless.
- It may involve a much longer wait but a social housing outcome at the end of that wait and more choice over where that offer is. In contrast becoming homeless is likely to result in a private rented solution with no choice over the location

#### ***Stay and wait for an offer of social housing***

- Likely still to be a long wait for social housing (1year/2 year or more)
- Priority recognised through the banding on allocations scheme for being a new family unit living within an existing family.
- Solution is likely to be social housing
- More choice over areas and unlimited offers under the current TMBC policy
- Solution will be in Borough
- For those households who find during the period they cannot wait any longer there would be 'back up' support at that point to help the household make a planned move into private rented accommodation

#### ***Leave and become homeless now***

- Temporary accommodation would be provided
- The solution is almost certain to be a short-term private rented housing solution and not social housing as TMBC increase the number of private rented properties accessed for discharge of duty( see section 5)

- If social housing were to be offered there would be limited choice and 1 offer only
- Only 1 suitable offer would be made and if refused the homeless duty would be ended and the applicant removed from the housing register
- That private rented solution would be likely to be outside of TMBC

This model could significantly reduce future TA placements for family exclusion cases, this has worked in some London boroughs to great success – with some citing around 50% less families in TA.

The ‘new deal’ will need to give sufficient priority on the allocations scheme to ensure that applicants ‘hang on’ in the family home and wait for an offer of social housing rather than become homeless. It should be linked to the successful outcome of a prevention duty thereby contributing to improving TMBC’s performance as measured by the Government’s HCLIC returns.

Some precautions should be built into the new deal. These are:

- A household should not be offered the new prevention solution unless the officer is convinced that the circumstances are likely to result in them being excluded at some point in the near or medium term.
- The deal should not be offered as a matter of routine otherwise it would quickly become over-subscribed. There would have to be strong evidence that there is a not sustainable position before it is offered, and this based on a thorough investigation.
- The prevention banding should only apply to households whom the Council is satisfied are likely to have a priority need and be unintentionally homeless.
- Where accommodation is unsafe, or the applicant is unsafe the prevention solution should not be offered.

### ***Defining the new prevention solution category***

It could be defined as set out below:

*“A pregnant woman or applicant with a child or children who are sharing a home with family who are not part of their household and where:*

*a) They have no ownership or tenancy rights and the arrangement is short term and very insecure and only available whilst the applicant is actively seeking an offer of social housing or alternative accommodation with friends or in the private rented sector, and*

*b) They were owed a prevention of homelessness duty as they were assessed as likely to become homeless within 56 days, and that duty has ended because they have been allowed to remain at home whilst they bid for social housing with their Band C priority and it is likely that they can remain for at least a year, and*

*c) The family member with the interest in the home has agreed to allow the applicant to remain for at least a year.*

There are 2 banding options that TMBC would need to consider for the new Prevention Solution category:

Option 1: To allocate Band B so it is comparable with applicants owed a main homelessness duty.

Option 2: To allocate Band C that would rise to Band B after 6 or 12 months of the position at home being sustained.

Option 1 would mean that there is a level playing field between applicants owed the main homelessness duty and applicants awarded the prevention solution. They would be waiting the same time for social housing

Under Option 2 there would be a time delay of , for example 6 months or 12 months (depending on what time period is adopted) before the applicant would be able to join the higher Band B where they will then have a better chance of being allocated social housing. So under Option 2 applicants would wait longer for social housing than main duty homes cases.