

<b>Subject:</b>	<b>Draft Housing Allocations Policy</b>		
<b>Date of Meeting:</b>	16 November 2016 – Housing & New Homes Committee <b>8 December 2016 – Policy, Resources and Growth Committee</b>		
<b>Report of:</b>	<b>Executive Director, Economy, Environment &amp; Culture</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>James Crane</b>	<b>Tel: 29-3316</b>
	<b>Email:</b>	<b>James.crane@brighton.hove.gcsx.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

1.1 In September 2015 the Housing & New Homes Committee approved a review and consultation of the council's Housing Allocations scheme, with a new Allocation policy to be brought back to committee for approval. We have now completed this work as follows:

- City wide consultation was carried out from 1<sup>st</sup> December 2015 to 29<sup>th</sup> February 2016.
- Based on all the feedback we developed the new draft Allocation Policy.

1.2 Over the past 5 years the Housing Register has continued to grow and now stands at over 24,000 applicants. In the last financial year just over 800 properties were let to people on the Housing Register. Figures of the growth over the last 10 years are contained in table 1 below. The number of applications remained static for the period April 2007 to April 2010. From this point on there is an increase year on year to the end of the last financial year to 23,419.

1.3 In table 2 the data is shown by the current allocation bands. Bands A & B show that the numbers in these bands are relatively static over the period. This would be expected as these bands have a higher priority over others on the housing register. The increase in numbers is within Bands C & D on the register. This will reflect the lower priority given.

Table 1

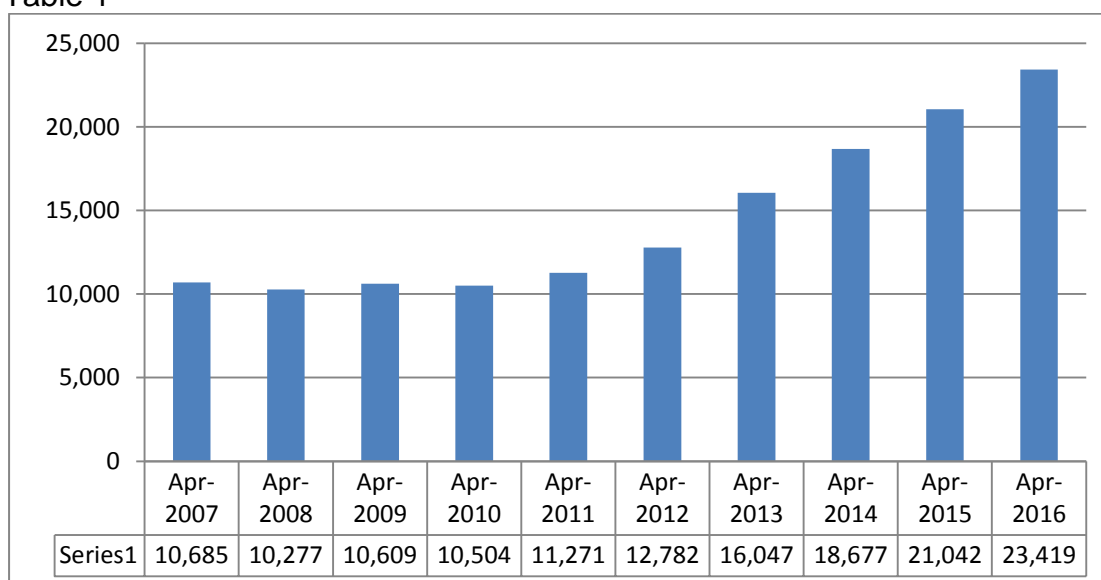
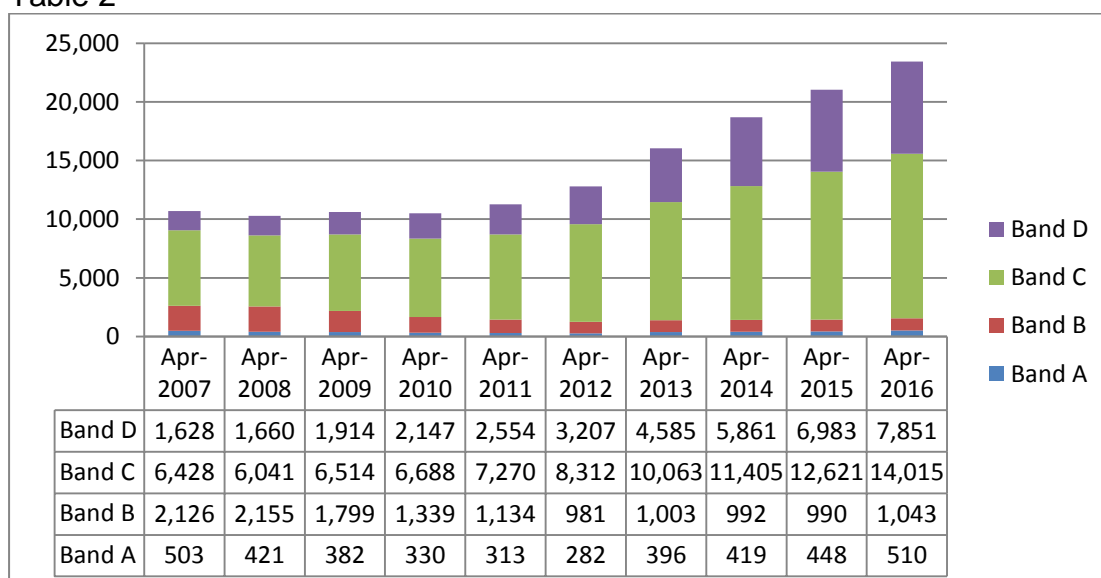


Table 2



- 1.4 This means that there are a significant number of people that the council will never be in a position to assist with social housing and therefore it is not a realistic housing option for many people in the city. In addition, as the majority of households will not obtain housing, the amount of staff needed to manage such a large Housing register is not the best use of resources.
- 1.5 The Council is obliged to have an allocations scheme to determine who it will allocate social housing to (allocations to council tenancies and nominations to its registered housing partners).
- 1.6 In framing the allocations scheme the Council has to take account of the Housing Act 1996 Part VI (as amended by the Homelessness Act 2002) and the accompanying Code of Guidance which sets out who is eligible for social housing and which groups should be given “reasonable or additional

preference” . In addition There are freedoms and flexibilities set out in the Localism Act 2011 to determine who is a qualifying person, which have been taken into account along with statutory instruments regarding housing for forces and ex-forces personnel, which grant reasonable preference to ex-forces personnel who have left military service for longer than five year and additional preference for those that have left within the last years.

1.7 The draft allocations scheme also takes account of new provisions of the rights of social tenants who have the right to move from another local authority area under the right to move scheme introduce in 2015.

1.8 The Housing Allocation Policy is to be referred to PR&G as there are significant financial implications which are set out in points 7.10 and 7.11.

## 2. **RECOMMENDATIONS:**

*That the Housing & New Homes Committee:*

2.1 Agrees upon the policy and agrees to refer the policy to Policy Resources & Growth Committee (PR&G) as set out below.

2.1.1 That the recommendations on page 125 of the agenda be amended by inserting an additional recommendation 2.1.2 as follows:

2.1.2 **Recommends to Policy, Resource & Growth Committee that the proposed new policy on refusing a suitable and reasonable offer of accommodation (page 194 of the agenda) be amended to read:**

*“Applicants will not qualify for social housing in Brighton & Hove and be (or remain) registered on the council’s housing register if they have refused **two** offers of suitable accommodation within the last two years made or arranged by the council and there has been no material change in their circumstances so as to make the earlier offer(s) clearly unsuitable in the light of the applicant’s changed circumstances.”*

2.1.3 That the Housing Allocations Plan is approved by the Housing and New Homes Committee;

2.1.4 That the initial Housing Allocations Plan set out on page 127 of the Committee papers be approved;

2.1.5 *That future* Housing Allocation Plans are approved by Housing and New Homes Committee on an annual basis, with any deviation of more than 5% of each allocation queue being reported to the committee

2.1.6 That this policy be reviewed at the end of the first Housing Allocations plan cycle, and that this review will consider

i) Any revisions to the Housing Allocation Plan

- ii) The possibility of reintroducing the working and positive contribution category
- iii) Feedback from applicants involved in the system

*That the Policy, Resources & Growth Committee:*

2.2 Notes the comments of Housing & New Homes Committee and agrees the policy subject to the amendments set out in resolutions 2.1.2 to 2.1.6 of the Housing & New Homes Committee above.

2.3 That an officer report is presented to Policy, Resources and Growth Committee considering the further draft Green amendments as follows :-

- Banding continues to be dependent upon assessment by a medical officer, as before
- That any applicants who have not bid in 12 months should be written to and asked if they wish to remain on the register, with a warning that failure to respond to the notification within 31 days will lead to their removal from the register;
- That the income cap be reduced, to exclude those who are able to afford private renting of the appropriate sized property (those for whom renting consumes less than 50% of their income)
- That the savings cap be increased, to enable individuals to retain sufficient funds to cover for 8 months rent for a property in the private rented sector –covering for 6 months rent in advance plus 2 months to cover damage, moving costs and charges
- Rent arrears: That exclusion not be automatic should a person have a record of ‘failure to pay rent’, except where the person has outstanding debt liabilities to the council (excluding rent arrears) and is deemed not to be making satisfactory arrangements to repay those debts;
- That the bidding time limit be set at 6 months rather than 3;
- That the criteria for being a qualifying person include those who have lived in the area continuously for five years preceding the date they make their application, and at least 2 years immediately preceding this date (with the same exceptions provided for in the draft policy)
- That the policy explicitly state that ‘there will be provision of a cooker and a sink in their home,’ rather than referring only to ‘access to cooking facilities,’
- That whilst internet based applications are encouraged as default in the policy, that the policy will allow paper based applications, should these be requested by the applicant.
- That Housing Allocations assist genuine and informed bidding by making fuller property information available to bidders (with images of aspects of the property)
- That applicants excluded for refusing an offer be excluded for one year, not two.

## 2.4 Officer report as per 2.3 above:

### 2.4.1 Banding continues to be dependent upon assessment by a medical officer, as before

A District Medical Officer used to advise officers and when this service was ceased, a medical adviser was appointed by the council. In the current policy only the medical adviser can assess this part of a person's application. However the high number of applications that require assessment cannot be managed within existing resources. Hence the proposed change that the medical adviser advises officers, who then complete the assessment.

Resource Implications: This would require additional staffing resources of 1 FTE Medical Assessor plus a more senior officer to undertake reviews of their decisions.

Financial implications: £0.049pa

This would be an additional service pressure on the general fund of £0.010m and the HRA £0.039m.

Consulation: None

### 2.4.2 That any applicants who have not bid in 12 months should be written to and asked if they wish to remain on the register, with a warning that failure to respond to the notification within 31 days will lead to their removal from the register;

Applicants who have not bid in 12 months will be informed they must be actively bidding. They will be given one written warning giving them a further month to place a bid. If they still fail to bid the applicant will be removed from the Register. The applicant has a right to a review of this decision. If applicants who are not bidding and there is good reason (e.g. the property type they have been assessed as requiring such as an adapted property hasn't become available), they are allowed to remain on the register. This will also reduce the ability of the council to manage the numbers on the register and hence make it difficult to reduce it to a manageable size.

Resource implications: we will require a large team to continue to administer a very large register and manage expectations.

Financial Implications: We will not be able to deliver future staff savings if the Register remains high.

Consultation: None.

- 2.4.3 That the income cap be reduced, to exclude those who are able to afford private renting of the appropriate sized property (those for whom renting consumes less than 50% of their income).

Reducing the total household income cap will impact on the proposal in the Living Wage Joint Venture which proposes to use the allocation policy as a vehicle for nomination to those properties. If the cap is too low, then those on the register will not be able to afford the Living Wage properties. Reduction of the income cap as per the above amendment would result in the following change:

Current proposed household income cap amended proposal cap

Studio/ 1bed need	£30k pa	£22k pa
2 bed need	£55k pa	£30k pa
3+ bed need	£60k pa	£44k pa

Resource Implications: none

Financial Implications: none to implement but would have consequences if the policy is delayed whilst further consultation is undertaken. Finance have assessed that had we been able to implement the policy in November then in year savings would have been £143k. Delays erode the savings by approximately £28.5k per calendar month.

Consultation: yes – this will require re-consultation as the original consultation was based on the proposed figures which was supported. This will take a further 6 months in total to complete and would delay the savings that would be derived from adopting the policy.

Green Party also considered that this amendment could be considered as part of the review at the end of the Allocations Plan in March 2018. This would offer a good compromise to enable the policy to be adopted now and for the consultation to be aligned with the review for March 2018.

- 2.4.4 That the savings cap be increased, to enable individuals to retain sufficient funds to cover for 8 months rent for a property in the private rented sector –covering for 6 months rent in advance plus 2 months to cover damage, moving costs and charges

Resource implications: None

Financial implications: None to implement but as per above amendment would have implications if the policy is delayed whilst further consultation is undertaken.

Consultation: yes – as per above as amendment substantially different to that which the council consulted on. As with previous amendment, the Green Party also considered this could be looked at as part of the review at the end of March 2018.

- 2.4.5 Rent arrears: That exclusion not be automatic should a person have a record of 'failure to pay rent', except where the person has outstanding debt liabilities to the council (excluding rent arrears) and is deemed not to be making satisfactory arrangements to repay those debts

Each case is considered on its merits and so it is not an automatic or blanket approach. There will be guidance for officers which accompanies the policy.

- 2.4.6 That the bidding time limit be set at 6 months rather than 3.

When the time limit is exceeded, officers will intervene to take over bidding, having regard to the household's requirements and housing that becomes available. This is where we have identified that a household have an urgent need to move. Earlier intervention recognises the urgency of the need to assist a household to move.

Resource implications: None

Financial implications: None

Consultation: None

- 2.4.7 That the criteria for being a qualifying person include those who have lived in the area continuously for five years preceding the date they make their application, and at least 2 years immediately preceding this date (with the same exceptions provided for in the draft policy).

We understand this means that a person who has lived in the city previously for 5 years at any time in their life and then returns for 2 years, would qualify. This is a very complex criteria which would be difficult to validate.

Resources: Additional staff resources required to undertake such checks and validations

Financial implications: £0.027pa ( 1 additional staff resource) This post has not been budgeted for, so the cost will be a service pressure for the general fund (£5,000) and the HRA (£22,000).

Consultation: none

- 2.4.8 That the policy explicitly state that 'there will be provision of a cooker and a sink in their home,' rather than referring only to 'access to cooking facilities,'

The term cooking facilities aligns with legislation in Private Sector Housing under the Housing, Health and Safety Risk Regulations

- 2.4.9 That whilst internet based applications are encouraged as default in the policy, that the policy will allow paper based applications, should these be requested by the applicant

The Council is modernising the way it conducts business to reduce costs. Paper based applications are expensive. Those people who need assistance will be helped as per the digital inclusion for vulnerable groups.

Resources: printing and posting out forms and scanning them in upon return. Staff resources and costs of printing, posting.

Financial implications: Difficult to quantify but would increase cost per paper based application in line with above costs

Consultation: none.

2.4.10 That Housing Allocations assist genuine and informed bidding by making fuller property information available to bidders (with images of aspects of the property)

This requires significant investment in IT development which isn't available to us currently. This is aspirational as we don't currently have capability in our IT systems.

Resources: enhanced IT system in partnership with registered providers who advertise their social housing via Homemove. This would be a longer term proposal as any system would need to be specified, procured, contracted and then implemented which would take a minimum of 2 years.

Financial Implications: New IT system estimate £50k - £100k plus staff costs of IT procurement and implementation.

Consultation: yes with our partner Registered providers as there would be financial implications for them too.

2.4.11 That applicants excluded for refusing an offer be excluded for one year, not two.

This is covered by the amendment in 2.1.2.

### **3. CONTEXT/ BACKGROUND INFORMATION**

3.1 Councils are legally obliged, under the Housing Act 1996 Part 6, to have a policy that must be followed when they allocate social housing both within its own stock or where they nominate to a housing association. In 2011 the Government introduced further legislation that, subject to certain groups having a "reasonable preference" in any allocations policy, the council would be free to make local decisions on how best to allocate housing resources that meets the need of local people.

3.2 The Government issued a Code of Guidance to which the council must have due regard to when formulating its Allocation Policy. A Code of Guidance was issued by the Secretary of State for Communities and Local Government in June 2012. This guidance was updated in December 2013 and 2015 to give further guidance on residency and local connection.



- 3.3 The Allocation scheme must also have procedures that include details of who makes decisions under the policy.
- 3.4 Members agreed in September 2015 that there was a need to carry out a fundamental review of the current Allocations Policy. It is recognised that the current scheme at it stands is not necessarily housing our residents in the greatest housing need. It is also important to note that as demand far out weighs supply in this area that by including vast numbers of applicants onto the housing register the council are building up unrealistic expectation that the council is unlikely to be able to assist most households unless they are in very high need. The growth in the numbers of applicants leads to an increase in administration as people seek to increase their banding on the system. This in turn leads to higher levels of complaints, enquires and bureaucracy that does not lead to any higher number of households being offered housing solutions.
- 3.5 The draft Allocations Policy looks to reduce the numbers of people on the housing register and in doing so looks to exclude those with resources that can therefore resolve their own housing situation. It is also based on assisting those that the council has a statutory duty to provide accommodation such as the homeless, care leavers and other applicants with high housing needs
- 3.6 Although the council has some control over the allocation of accommodation there are a number of factors that the council has to include in order for the allocations scheme to be considered lawful, i.e. the legislation sets out who we have to give reasonable preference and additional preference to. For anyone to be allocated accommodation they will have to be considered eligible under the Act.
- 3.7 The current allocations policy was written at a time when housing in the city was in lower demand and supply was also higher. Over time the housing stock has reduced and the council as landlords; have increasing success in supporting existing tenants to sustain their tenancies and therefore the number of properties that have become available for letting have reduced.
- 3.8 This policy will be applied immediately following approval at Full Council. All new applications to join the housing register will be assessed against the new policy in addition to all allocations (or offers) of accommodation immediately after approval of the policy. Running concurrently there will be a reassessment process carried out on all current applications that is expected to take until March 2017
- 3.9 The anticipated result of this process is that the Housing Register will reduce in size from the current 24,000 applications to a more manageable register where those who are included will have a more realistic chance of being offered accommodation. Those that have very low or no housing need will not be able to join the housing register but will be offered housing options advice on alternative options that can help them resolve their housing situation
- 3.10 The housing register currently contains very high numbers of applicants that have applied to join the register and then have not gone on to make any bids for accommodation or have failed to make any bids within the past twelve months. There are also a high proportion of applicants who have not made any bids for

over five years or more. The proposed policy will remove those households unless there are extenuating circumstances

3.11 The new draft allocations policy has made a number of key changes that were consulted on widely with residents, community group, service providers and applicants. The key changes are:

- Change to local connection : increased to five years residency from the current two, with a number of exemptions required
- Exclude people with no housing need under the allocations policy
- Exclude home owners
- Introduce an income cap based on bedroom size
- Exclude people with rent arrears or other related debt to the council, with some exceptions?
- Exclude people who have disposed of a property purchased from the council under the right to buy
- Remove applicants if they have not made a bid within 12 months
- Remove applicants who refuse one offer of suitable accommodation
- Remove band C Minor Medical and Band C sharing facilities & Minor disrepair
- Introduce anti fraud checks prior to offering a tenancy
- Introduce a digital service for applications and other processes
- Introduce an allocation plan \*
- Introduce reciprocal agreements with other local authorities to allow increase social mobility.
- Removal of working positive contribution due to a recent judicial review against another local authority.

3.12 An allocation plan\* will be drawn up annually to make best use of the social housing stock so as to have regard to the council budget and seek to drive down those costs. The initial plan which will be in place from implementation until the end of 17/18 is as follows:

- |  |                    |
|--|--------------------|
| • Homeless households in temporary accommodation | 40%                |
| • Transfers                                      | 30%                |
| • General homeseekers                            | 20%                |
| • Council Interest<br>(Children's and ASC)       | 10% plus Brookmead |

There needs to be a 5% tolerance in either direction to enable officers to respond to changing demands and also a degree of flexibility is required if the right size/mix of properties do not become available.

We have initially proposed a high percentage of properties be allocated to homeless in temporary accommodation to enable us to manage the changes to the Temporary Accommodation management funding. These changes will have significant budget implications if no changes are made to reduce the number of households in temporary accommodation. In addition it will enable people to move on from temporary accommodation and become settled.

#### **4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS**

- 4.1 The draft policy has taken account of new provisions introduced such as the right to move scheme for people needing to move to undertake a permanent job and has also taken account of recent court judgements that have ruled that other local authority schemes were unlawful as they were breaching the Equality Act 2010 and section 11 Children's Act 2004.
- 4.2 Alternative options to reduce the number of applicants are limited due to the need for the council to have a lawful policy that includes those with a reasonable preference under the Housing Act. The policy does however take advantage of the flexibilities in the Localism Act 2011 to ensure that homes are allocated to those with a strong local residential connection and at the same time allow potential working arrangements with other local authorities to ensure that we maximise the potential to help people to move.
- 4.3 We have considered a range of alternative approaches to allocation such as a points based system or mixture of points and band but these were disregarded because of the need to introduce a scheme that would be simple and transparent and easily understood. We have also explored how other comparable local authorities are allocating their social housing and compared the different approaches.

#### **5. COMMUNITY ENGAGEMENT & CONSULTATION**

- 5.1 The Allocations Policy was developed following a consultation process on the major changes. The council conducted a three month consultation from 1<sup>st</sup> December 2015 to 29<sup>th</sup> February 2016. A total of 443 responses were received using the council's on-line consultation portal. A total of 88% of respondents live in the city with 11% responding from elsewhere in the country. The consultation responses were not just from individual respondents but a number of statutory and community & voluntary groups' views were captured.
- 5.2 The consultation was widely publicised using the on-line Sussex Homemove website to inform applicants of the consultation. The Council also used its own partnership contacts to promote the consultation with stakeholders across the statutory, voluntary & community sectors. A list of organisational respondents can be found in the consultation report.
- 5.3 A consultation report has been produced. This report shows that the changes that have been proposed are supported by residents, non residents, organisations, applicants and service providers.
- 5.4 Briefing sessions have taken place across the three main political parties both at the consultation phase and the development of the draft policy. Members of the Housing and New Homes Committee have also held a briefing on the draft policy to assist them with the process.
- 5.5 The Housing & New Homes Committee deferred agreement of the draft allocations policy at its meeting on the 21<sup>st</sup> September 2016, requesting that the draft allocations policy and consultation report was circulated to the Area Panel of tenants' representatives. A special Area Panel was convened on the 20<sup>th</sup> October

2016 at Leech Court. The meeting was well attended by 21 tenant and leaseholder representatives.

- 5.6 The representatives were very interested in the new proposed policy and asked lots of questions on the proposals. There was a good understanding of the issues facing the city and the impact of the changes. Comment on the policy included “it’s long overdue” “we have been working on this for years” and “This is a great piece of work”.
- 5.7 There was one minor concern about applicants who refuse one offer being removed from the list, but everyone agreed to overcome this it will be important to educate people and it could be something tenant representatives could help with. This could include informing people not to bid on properties that they did not want to live in, encouraging applicants to visit the area before placing bids, advising people that they do not have to use all their bids each issue. It was also understood that costs associated with wasted viewing could be better used elsewhere.
- 5.8 At the end of the meeting the tenant representatives were asked to indicate their support of the draft policy and this was accepted by 100% of the representatives present who also thanked officer for their hard work.

## **6. CONCLUSION**

- 6.1 The council has a statutory obligation to have a scheme in order to allocate social housing in the city. The draft Housing Allocation Scheme has been reviewed in order to make the housing register into a manageable number of applicants who have a realistic chance of being offered social housing in the city and to ensure we make the best use of the available social housing. This policy needs to acknowledge the high levels of needs within certain groups and to offer better housing options to those that do not qualify for social housing in the City.
- 6.2 The proposed draft Housing Allocation Policy balances housing those most in need with the Councils statutory duties to provide accommodation for certain categories of household in the city and hence seeks to make best use of the available Housing stock.

## **7. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 7.1 The Allocations Policy includes an Allocation Plan which will be agreed on an annual basis with targets for allocations to four client groups namely: transfers, home seekers, homeless households and those where the council has an interest (which includes Adult Social Care and Children’s Services clients). The draft policy states that targets will be set taking into account the council’s statutory obligations, financial considerations and the housing situation across the city. This should reduce costs for these services, thereby alleviating some of the existing budget pressures for 2017/18 and beyond. For the year to August 2016, 18.8% of social housing was let to homeless households. Were the Allocations Plan to include a higher percentage allocated to homeless households, for example 35%, this could make significant cost reductions for the

general fund estimated at £0.450m (but up to a maximum of £0.650m) for the year 2017/18 across Housing, Adult Social Care and Children's services. The month 5 2016/17 Housing General Fund temporary accommodation forecast reported to Policy, Resources and Growth Committee was a projected overspend of £0.820m which is being managed and reduced by a number of measures within the financial recovery plan resulting in a forecast net overspend of £0.277m (before offsetting against other underspends in Housing) If the new policy is agreed by this committee and implemented swiftly, it could also reduce costs in 2016/17 by up to £0.070m..

- 7.2 The Housing Allocations Policy is operated within the Neighbourhoods, Communities and Housing Directorate by the Homemove Team and is joint-funded by the Housing Revenue Account (HRA) and the general fund. The new policy proposes to reduce the number of people on the housing register thereby reducing the administration required to operate it. This will lead to efficiencies in this service. Also, the proposed changes to the bidding process should reduce the time that council properties are empty and therefore should increase rent collection for the HRA. The Council is required to make budget savings for 2017/18 and beyond and these efficiencies will be included in the integrated service and financial plans for Housing as budget savings in 2018/19 both for the HRA and the general fund.

Finance Officer Consulted: Monica Brooks

Date: 21/10/16

Legal Implications:

- 7.3 The Housing Act 1996 as amended by the Homelessness Act 2002 requires Local Authorities' to have a Housing Allocation Scheme. Subject to reasonable preference criteria, and the ability to designate qualifying groups Local Authorities 's can set up their own local policies to recognise the different types of need for an allocation. They must have regard to the statutory guidance in making these decisions. The Localism Act 2011 introduced a significant amount of flexibility in to the decision making. I am satisfied that the proposals in the report are lawful in this regard.
- 7.4 This includes the qualifying person criteria for admission on to the scheme. This is subject as always to questions of reasonableness and proportionality is at the discretion of the local authority and can take in to account a range of factors in its formulation. This covers matters such as determining what constitutes a local connection and any associated timeframes. It is of note that the current formulation of Brighton and Hove is substantially more generous than schemes in many other local authorities.
- 7.5 It may also be of assistance to note that there is in existence the Housing and Planning Act 2016. The regulations relating to this are far from complete and so there is a lack of clarity around the impact it will have, but it will have to be taken into account with regards to some part of the scheme. The pay to stay financial thresholds are reflected within the scheme in relation to eligibility criteria.
- 7.6 Before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, a local housing authority in England must send a copy of the draft scheme, or proposed alteration, to every private

registered provider of social housing and registered social landlord with which they have nomination arrangements and afford those persons a reasonable opportunity to comment on the proposals. Whilst there is no statutory requirement to consult more widely, it is good practice to do so. In preparing a new scheme the council must have regard to their current homelessness strategy and their current tenancy strategy. Consultation has been more widespread than the statutory requirement. If further changes to the scheme are proposed then there would need to be a period of further consultation. The policy was subject to consultation with relevant partners from 1 December 2015 until 29 February 2016 in respect of the suggested changes put forward by the Council. The Council has taken into account the results of this consultation and has made some amendments to reflect the comments made.

- 7.7 A concern which has prompted the review and this proposed document was the potential unlawfulness of elements of the previous scheme and the ever changing legislative and judicial interpretation of obligations on the local authority in regards to its housing provision. Recently in the “Ealing Case” a comparable “working positive contribution” preference element was deemed to be unlawful for discrimination. The view of Legal then and now is that while Brighton and Hove would not breach equalities issues in terms of disability sexual orientation etc, there is a strong likelihood that without change that the scheme would be a breach of the equalities duty in relation to gender and specifically single parent women. There may also be an issue in relation to age based on information just obtained. The rationale in the case highlighted this group (single parent women and others which we do not believe apply) as being disadvantaged and therefore discriminated against because there was less chance of a proportion of that group being able to find work due to child care responsibilities. In order to avoid the current policy falling foul of this ruling, significant changes would be required to introduce exemptions.
- 7.8 It is noted that there is a proposal to reduce the number of offers to certain groups from 3 to 1. This would then bring more consistency to the policy as certain groups are already limited to 1 offer. Again the amount of offers is at the discretion of the authority. It is a legitimate purpose to reduce administrative cost and burden on the authority as long as it is reasonable and does not breach equalities issues. Care should be taken with vulnerable groups to ensure that they understand that they will have one offer and the consequences of refusal.
- 7.9 Financial limits are introduced for eligibility. This is a legitimate inclusion and the figures are approximately similar to those indicated to be applicable in the pay to say legislation. There must as in all cases be the ability to vary this in exceptional circumstances.
- 7.10 The Council’s constitution gives the Housing & New Homes Committee delegated powers to deal with Housing matters, including homelessness and allocations. However, that power has to be exercised having regard to the general rules in the introduction to the scheme of delegations to Committees. One of these rules, contained in paragraph 2 (a) provides that : “A Committee or Sub-Committee dealing with a matter that has corporate policy or corporate budgetary implications (e.g. committing the Council to expenditure that has serious impact on the overall finances of the authority) will refer the matter to the Policy, Resources and Growth Committee with recommendations. The Chief

Executive may issue practical guidance as to the application of this paragraph. Where the position is not clear, the Chief Executive (in relation to policy matters) or the Executive Director Finance and Resources (in relation to budgetary matters) will make the final determination

- 7.11 The Executive Director Finance and Resources is of the view that a decision to agree or not to agree the proposed changes will have significant enough financial/budgetary implications, given the current overspend which will be exacerbated by any failure or delay to agree the changes. This is therefore a matter that has corporate financial implications. It is for this reason that the report is to be referred to Policy, Resources and Growth Committee

*Lawyer Consulted: Simon Court and Liz Woodley Date: 08.09.16 and 31.10.16*

Equalities Implications:

- 7.12 The Council is obliged to have full regard to the Equalities Act 2010 is exercising its functions and has to have special regard to s149 the Public Sector Equality Duty. This policy has been developed to take account of Equalities and has specifically designed the policy when considering when people have a need to move based on social welfare consideration such as health and disability. The policy has specific regard to ensure that properties that are designed for people with mobility issues are those that will be allocated accommodation that meets their needs. A full Equalities Impact Assessment of the policy has been completed. Members are referred to the full text of s149 of the Equality Act 2010 – included at the end of this document as appendix X – which must be considered when making a decision on the matters set out in this report. A full Equality Impact Assessment has been completed and will be available in the Members' rooms prior to Housing & New Homes Committee.

Sustainability Implications:

- 7.13 Having a housing register with over 24,000 is not sustainable. The Council allocates approximately 800 units of accommodation each year and although there is a new house building programme this will not meet the current demand for all of those on the housing register. There is a structural deficient in the number of people who approach the council for accommodation under the Homelessness provisions of the Housing Act 1996 Part VII Applicants have many reasons to apply to the housing register for social housing. Any allocations policy needs to have regard to a person's ability to be ready to hold and maintain a social tenancy. The impact on granting someone a tenancy if they are not ready to do so can be felt by the individual who may face rent arrears and eviction proceeding. Communities can also be majorly affected if people are not ready to hold a tenancy and cause anti social behaviour that can blight people lives.

Any Other Significant Implications:

- 7.14 None

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Consultation Report
2. Draft Allocations Policy

### **Documents in Members' Rooms**

1. Draft Equality Impact Assessment
2. Allocations Policy Equality Impact Assessment Supporting Document

### **Background Documents**

1. None



## 149 Public sector equality duty

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) tackle prejudice, and
- (b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are—

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;

- sexual orientation.

(8) A reference to conduct that is prohibited by or under this Act includes a reference to—

(a) a breach of an equality clause or rule;

(b) a breach of a non-discrimination rule.

(9) Schedule 18 (exceptions) has effect.

**Housing Allocation Review & Consultation**  
April 2016

# **Consultation Report:**

## **Review of the Allocations Policy 2015-16**

# Contents

Contents page will be added when agreed by Full Council

## 1. About this Consultation Report

This report outlines the out come of the consultation that was held between 1<sup>st</sup> December 2015 and 29<sup>th</sup> February 2016.

This policy was developed in 3 key stages. The first stage was to obtain permission to consult on changes to the allocations policy. This was agreed by the Housing & New Homes Committee in September 2015. The second stage was to produce a consultation paper and hold a three month public consultation. This paper included our priorities and what we are proposing to change. The consultation lasted for three months.

- Stage 1: Permission from Member to review the current policy  
September 2015
- Stage 2: Consultation with the community and stakeholders November  
2015 – February 2016
- Consultation report and Draft Strategy to Members for Approval  
September 2016

This report is made up of two parts. Part one looks at who responded to the consultation including where people live and how long they have lived their, if they were responding as an individual or organisation, type of accommodation occupied, whether on the current housing register or not and equalities information.

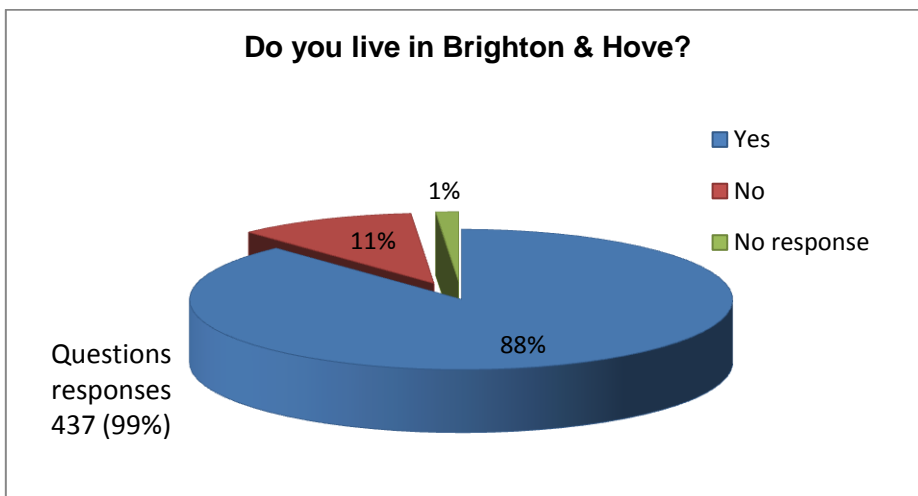
The second part of this report then looks at the actual consultation questions that were asked. In order to inform the decision making process the report will look at the responses received as a whole and for some questions these will be broken down in to sub sets of information such as people who are actually on the housing register or respondents who do not live in the city.

Each of the questions allowed respondents to make specific comments against the question being asked. This report does not contain every single comment but groups them around topics both

positive and negative. The reason not to include every comment in this report is that to do so would make the report extremely long and difficult to digest.

## 2. Part One

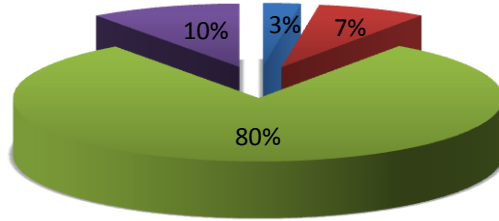
The council carried out a three month consultation on the proposal to comprehensively review the way that it allocates social housing in the city. In part one of this report we will look at who responded to this consultation in terms of where they live and some other personal attributes.



Yes	390
No	47
No response	6

A high percentage of respondents to the questionnaire live in Brighton and Hove with just under 11% of respondents living outside of the city.

### How long have you lived in Brighton & Hove?



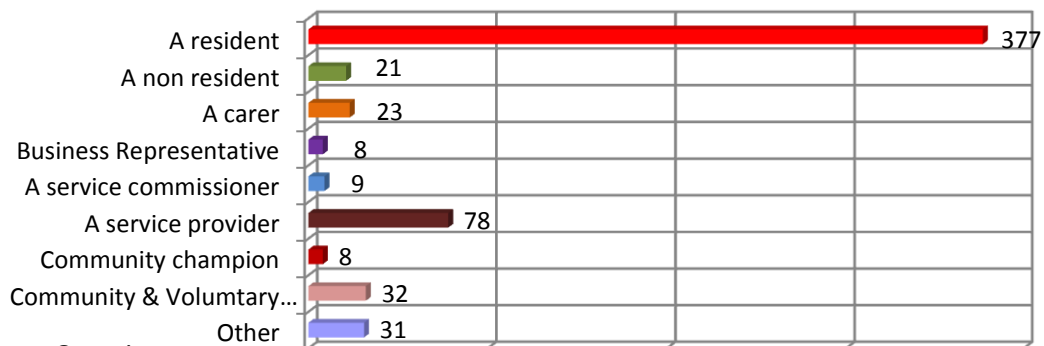
Questions responses  
339 (90%)



Under 2 years	11
Two to five years	32
Over five years	356
No response	44

The highest proportions of respondents have lived in the city for a minimum period of five years with 7% having lived here for between two and five years and 3% of respondents having lived in the city less than two years.

### Are you replying as?

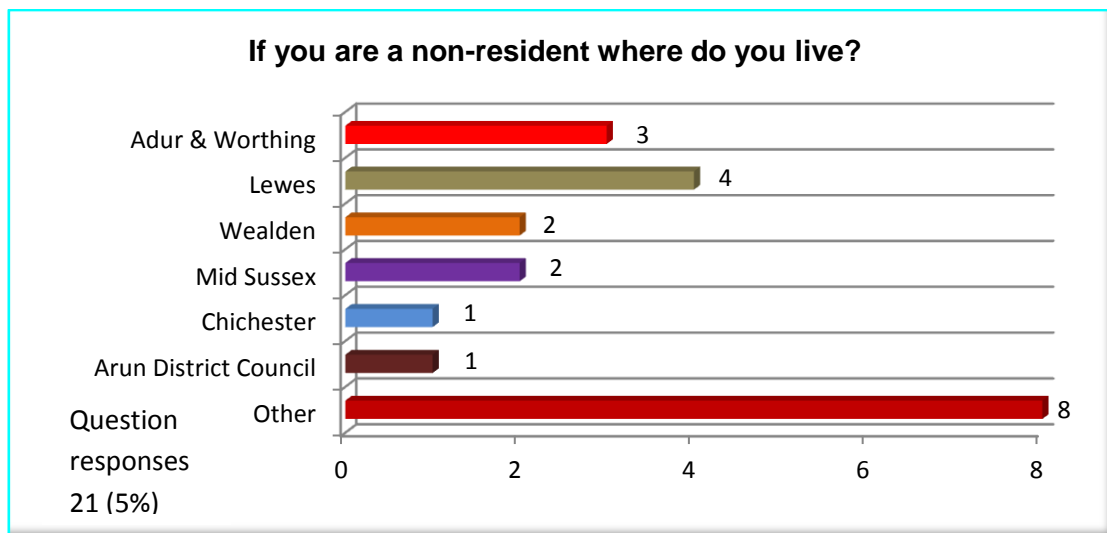


Question responses  
440 (99%)

A resident	377
A non resident	21
A carer	23

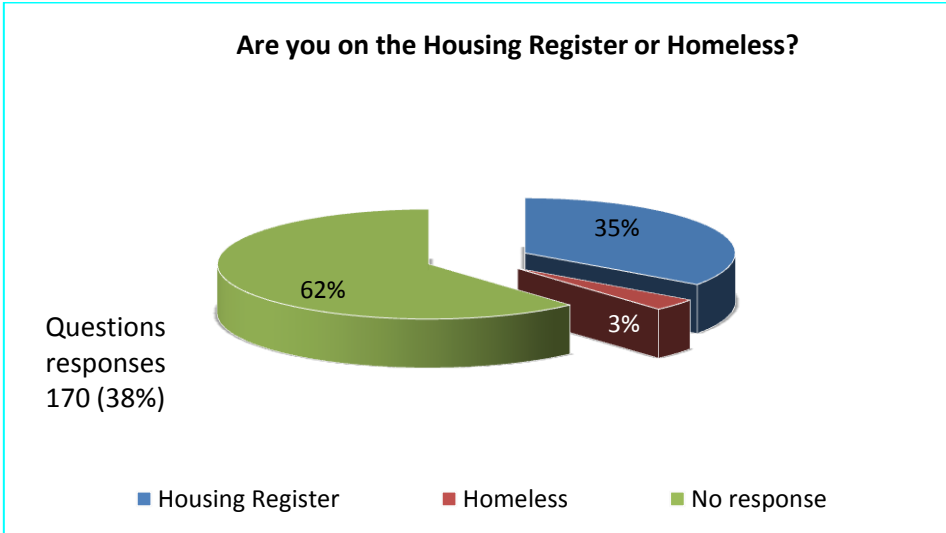
Business Representative	8
A service commissioner	9
A service provider	78
Community champion	8
Community & Voluntary Sector Org	32
Other	31

The table above looks if the respondents are resident or have responded from an alternative view point such as service providers in the community and voluntary sector or a community champion. The highest proportion of respondents were residents of the city and there was also a good return from organisations that work with people facing housing difficulties.



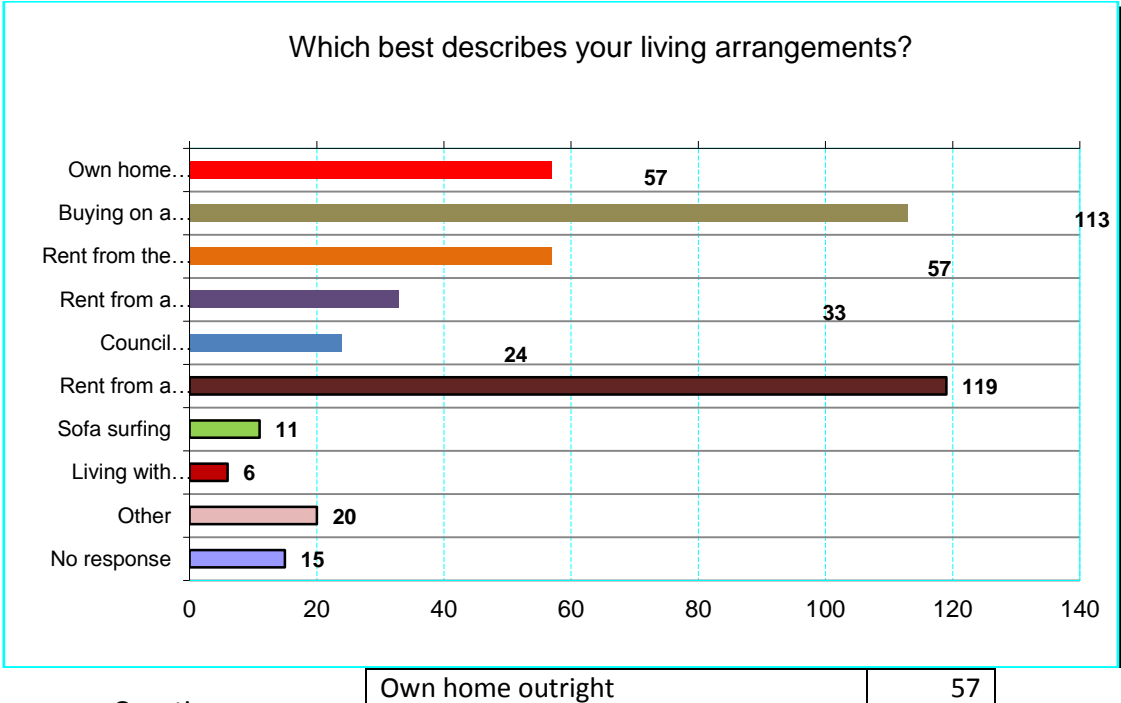
Adur & Worthing	3
Lewes	4
Wealden	2
Mid Sussex	2
Chichester	1
Arun District Council	1
Other	8





Housing Register	154
Homeless	16
No response	273

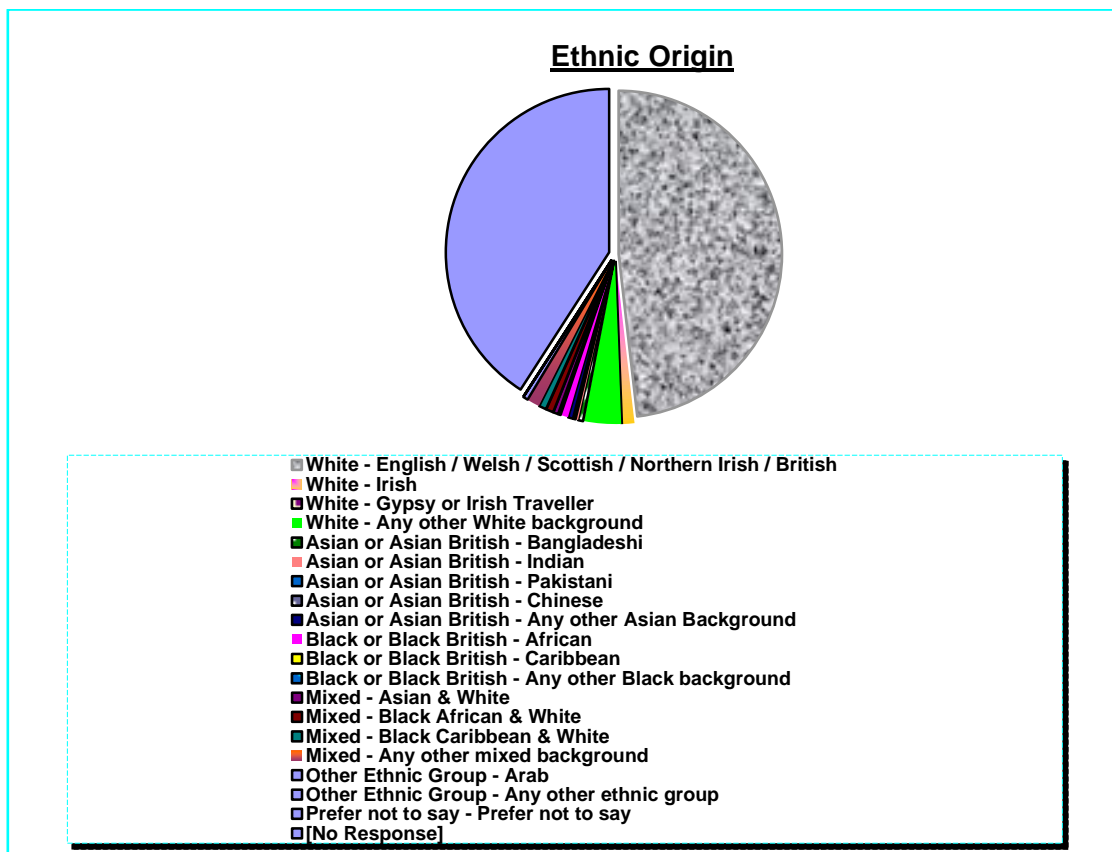
35% of respondents were from people who are on the housing register. The consultation was advertised on the Sussex Homemove system where people have to log onto to place their bids. The consultation was open for 3 months and therefore covered 13 bidding cycles. There was a 3% response from people that stated that they were homeless, although some people that responded as being on the housing register may also be homeless at the same time.



Question responses  
428 (97%)

Buying on a mortgage	113
Rent from the Council	57
Rent from a Housing Association or trust	33
Council provided temporary accommodation	24
Rent from a private landlord or agent	119
Sofa surfing	11
Living with relatives	6
Other	20
No response	15

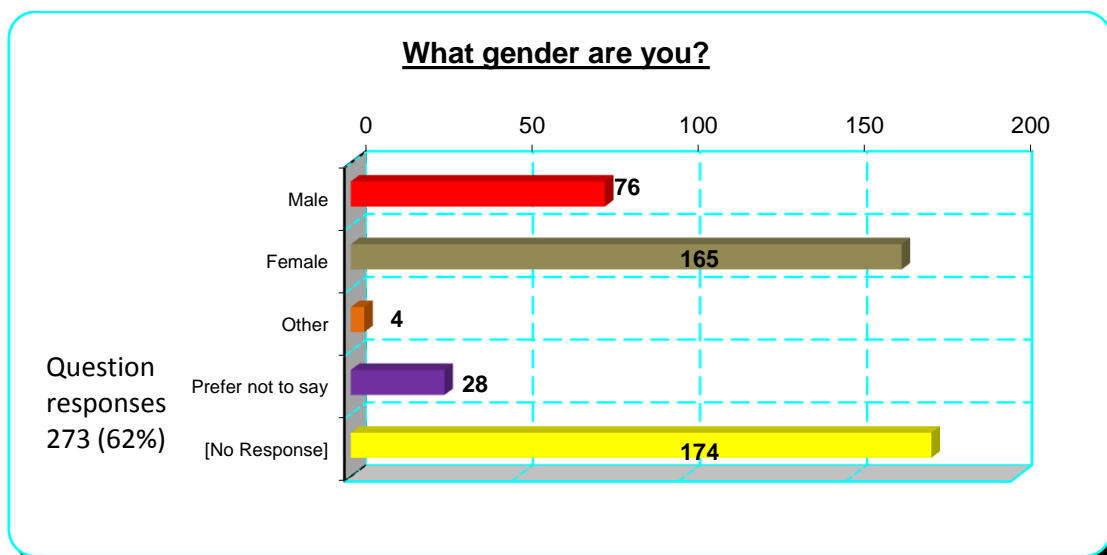
The council carried out an open consultation and table above indicates a respondents current living arrangements. The highest response rate was from people living in the private rented sector followed by people who own their own home with a mortgage on the property.



White - English / Welsh / Scottish / Northern Irish / British	198
White - Irish	5
White - Gypsy or Irish Traveller	0
White - Any other White background	15
Asian or Asian British - Bangladeshi	2

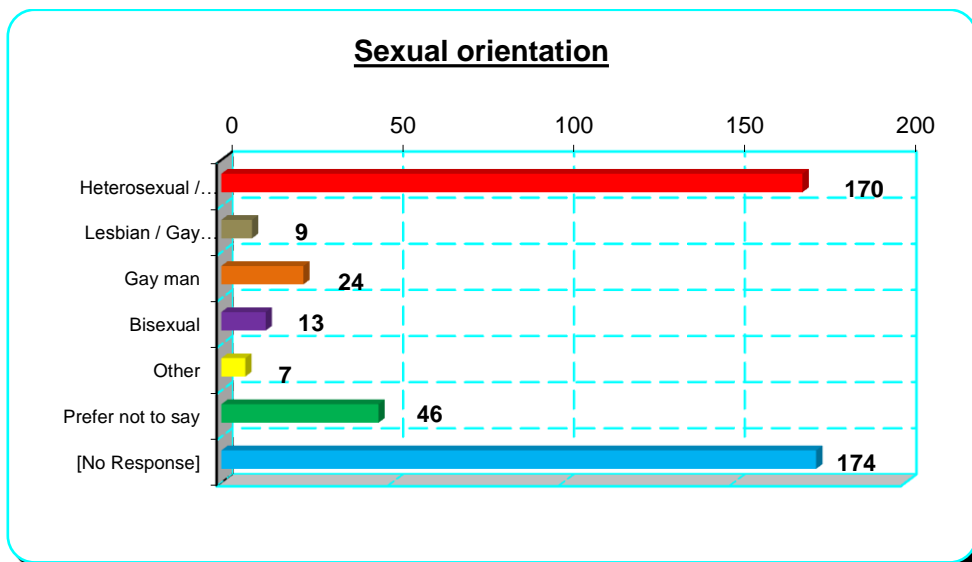
Asian or Asian British - Indian	1
Asian or Asian British - Pakistani	1
Asian or Asian British - Chinese	0
Asian or Asian British - Any other Asian Background	2
Black or Black British - African	3
Black or Black British - Caribbean	1
Black or Black British - Any other Black background	0
Mixed - Asian & White	2
Mixed - Black African & White	3
Mixed - Black Caribbean & White	3
Mixed - Any other mixed background	5
Other Ethnic Group - Arab	2
Other Ethnic Group - Any other ethnic group	0
Prefer not to say - Prefer not to say	0
[No Response]	168

The table above looks at the respondent's ethnicity. The highest response rate received was from white British respondents. There were low or no responses from a number of BME groups. There was also a very high percentage of people who preferred not to answer this question. This could be in part due to the fact that respondents from organisations did not reply to this question as they were providing a community response and not an individual response.



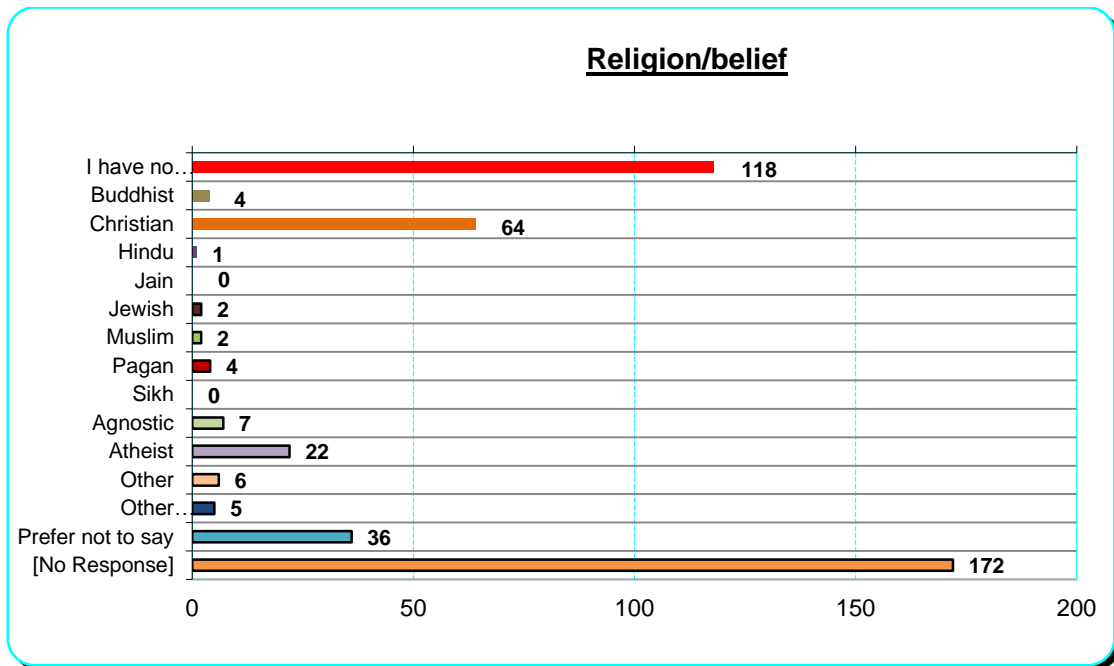
Male	76
Female	165
Other	4
Prefer not to say	28
[No Response]	174

There was a high response rate from Women to the consultation and again a high rate of respondents not answering this question.



Heterosexual / Straight	170
Lesbian / Gay woman	9
Gay man	24
Bisexual	13
Other	7
Prefer not to say	46
[No Response]	174

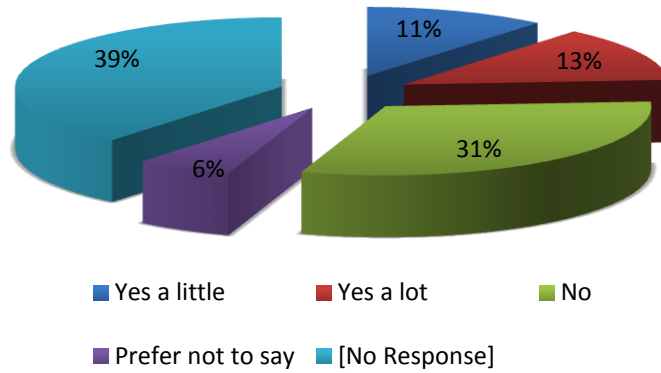
There was a high rate of responses from people who identify as being Heterosexual but a lower than could be expected rate from people who identify as being from the LGB community. We do know however that there were a number of group response from LGBT community & voluntary groups.



A high number of respondents did not have any religious belief and did not respond to the question at all.

<b>I have no particular religion</b>	118
<b>Buddhist</b>	4
<b>Christian</b>	64
<b>Hindu</b>	1
<b>Jain</b>	0
<b>Jewish</b>	2
<b>Muslim</b>	2
<b>Pagan</b>	4
<b>Sikh</b>	0
<b>Agnostic</b>	7
<b>Atheist</b>	22
<b>Other</b>	6
<b>Other philosophical belief</b>	5
<b>Prefer not to say</b>	36
<b>[No Response]</b>	172

Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?

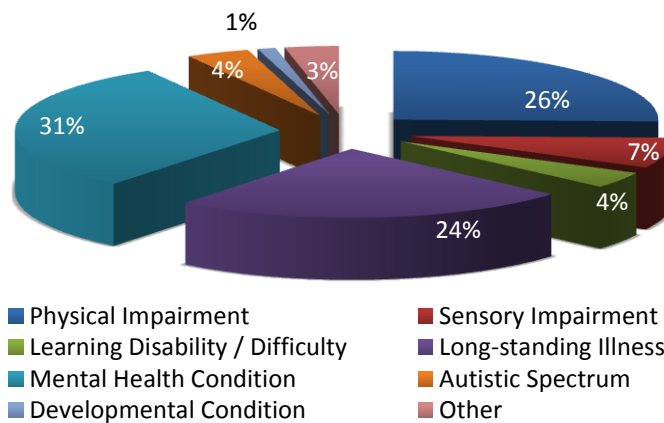


Questions responses  
270 (61%)

<b>Yes a little</b>	49
<b>Yes a lot</b>	57
<b>No</b>	138
<b>Prefer not to say</b>	26
<b>[No Response]</b>	173

24% of respondents had a health or disability issue with 31% not having any issues and 39% not answering the question.

Type of impairment?



Questions responses  
104 (23%)

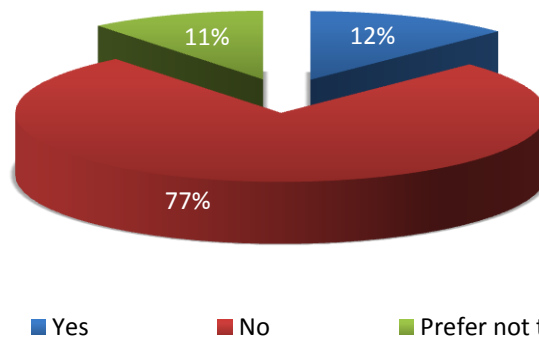
The Table above looks at the type of health or impairments that the respondent reported. The highest response rate was from those with a physical impairment, mental health or long standing illness and the lowest response rate was from people with a learning disability or those on the Autistic Spectrum.

<b>Physical Impairment</b>	46
<b>Sensory Impairment</b>	13

<b>Learning Disability / Difficulty</b>	7
<b>Long-standing Illness</b>	44
<b>Mental Health Condition</b>	56
<b>Autistic Spectrum</b>	7
<b>Developmental Condition</b>	2
<b>Other</b>	6
<b>[No Response]</b>	339

Are you a carer - a carer provides unpaid support to family or friends who are ill, frail, disabled or have mental health or substance misuse problems

Questions responses  
271 (61%)

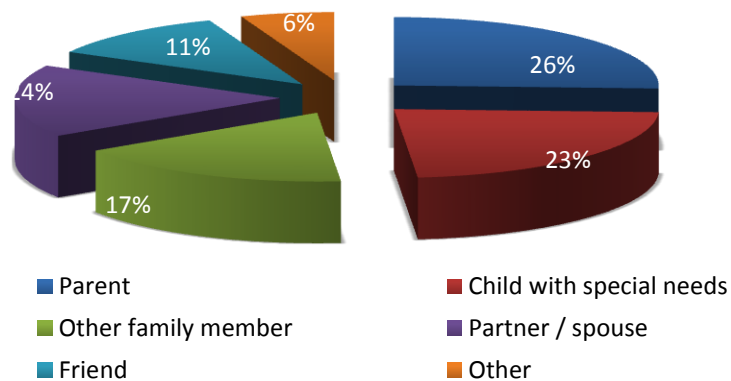


<b>Yes</b>	34
<b>No</b>	208
<b>Prefer not to say</b>	29
<b>[No Response]</b>	172

There was a 12% response from those who care for someone else, either a family member or friend across a range of issues. 77% of respondents do not have any caring responsibility.

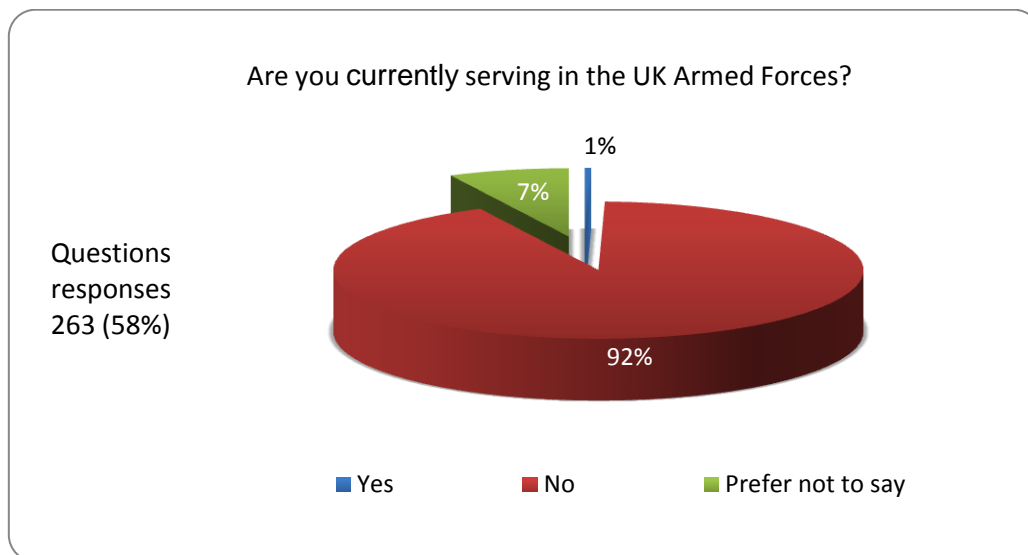
Who do you care for?

Questions responses  
34 (8%)



For those with a caring responsibility the highest response rate was from those looking after a child with special needs or those looking after a parent.

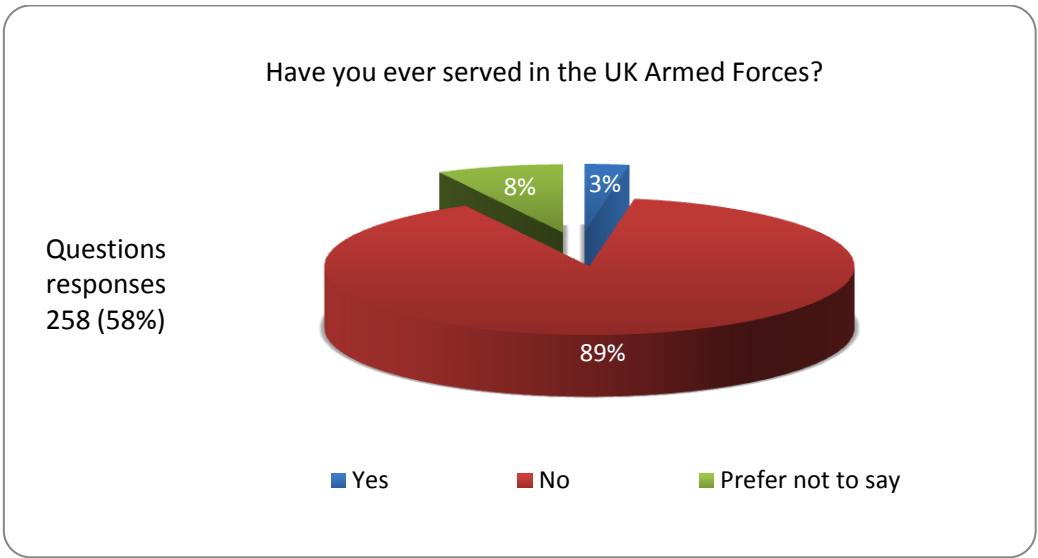
<b>Parent</b>	9
<b>Child with special needs</b>	8
<b>Other family member</b>	6
<b>Partner / spouse</b>	6
<b>Friend</b>	4
<b>Other</b>	2
<b>[No Response]</b>	409



	1
<b>No</b>	238
<b>Prefer not to say</b>	19
<b>[No Response]</b>	185

There was a 1% response rate from those currently serving in the UK armed Services. The consultation was advertised through the council's Military Covenant Partnership board to organisations including the Royal British Legion. 7% of respondents preferred not to say if they were currently serving personnel. It is not uncommon for serving personnel not to answer this question.





<b>Yes</b>	7
<b>No</b>	231
<b>Prefer not to say</b>	20
<b>[No Response]</b>	185

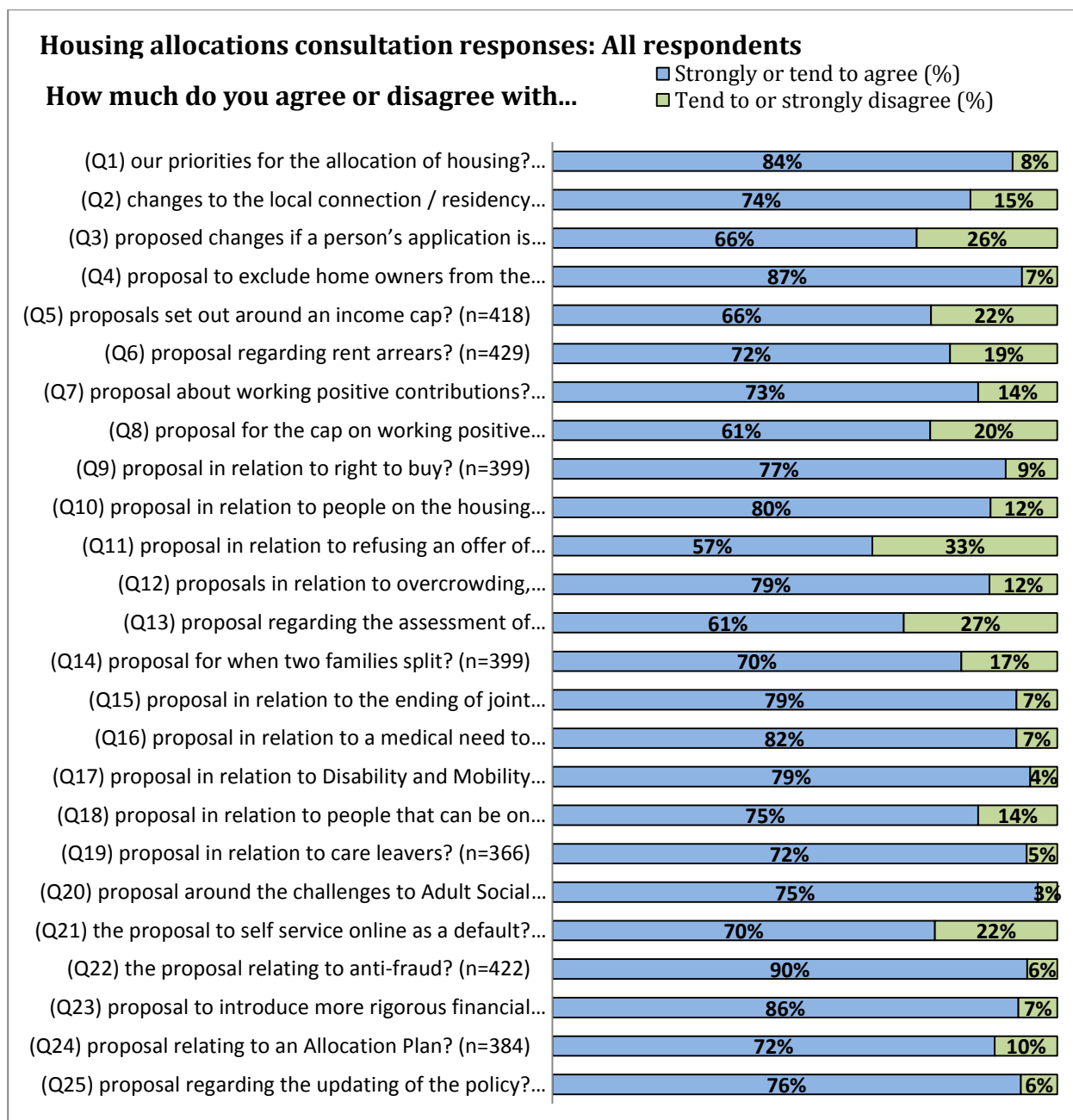
There were also a higher response rate from former serving members of the armed forces (3%) and again an 8% of respondents not responding to this question.

### 3. Part 2

This part of the consultation report looks at the response to the questions that were asked in relation to changes to the allocations policy. The tables show the number of respondent who with agree or strongly agree to a proposal (in blue or to the left of graph) and those that disagree or strongly disagree (in green or to the right of graph). Respondents that neither agreed of disagreed and those that did not respond to a particular question were removed. This gives an overall picture for those and against a proposed measure.

The data was also broken down to show how particular classes of respondent replied to the questions asked. This is to ensure that there is an analysis on particular areas of the policy that will affect a particular group. The breakdown includes people on the Housing Register as they are more likely to be affected than any other group but it also includes the responses of residents and non resident who may be affected.

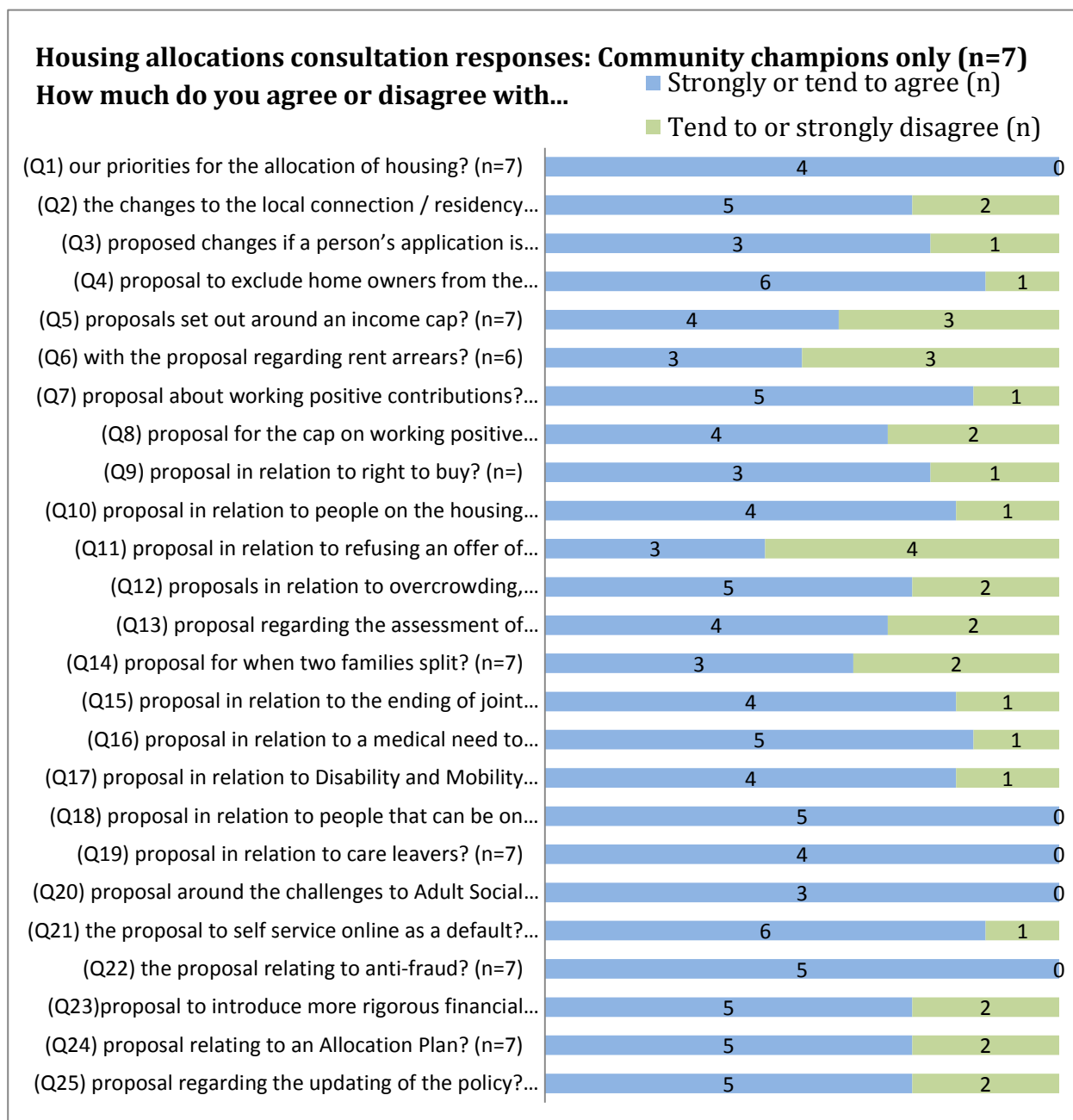
## Housing allocations consultation responses: All respondents



The table above contains responses to the consultation questions asked during the three month consultation period on the council's consultation portal. The total number of respondents was 439. In general there was a high level of support for the proposals with many proposals obtaining 70% in favour of the proposals.

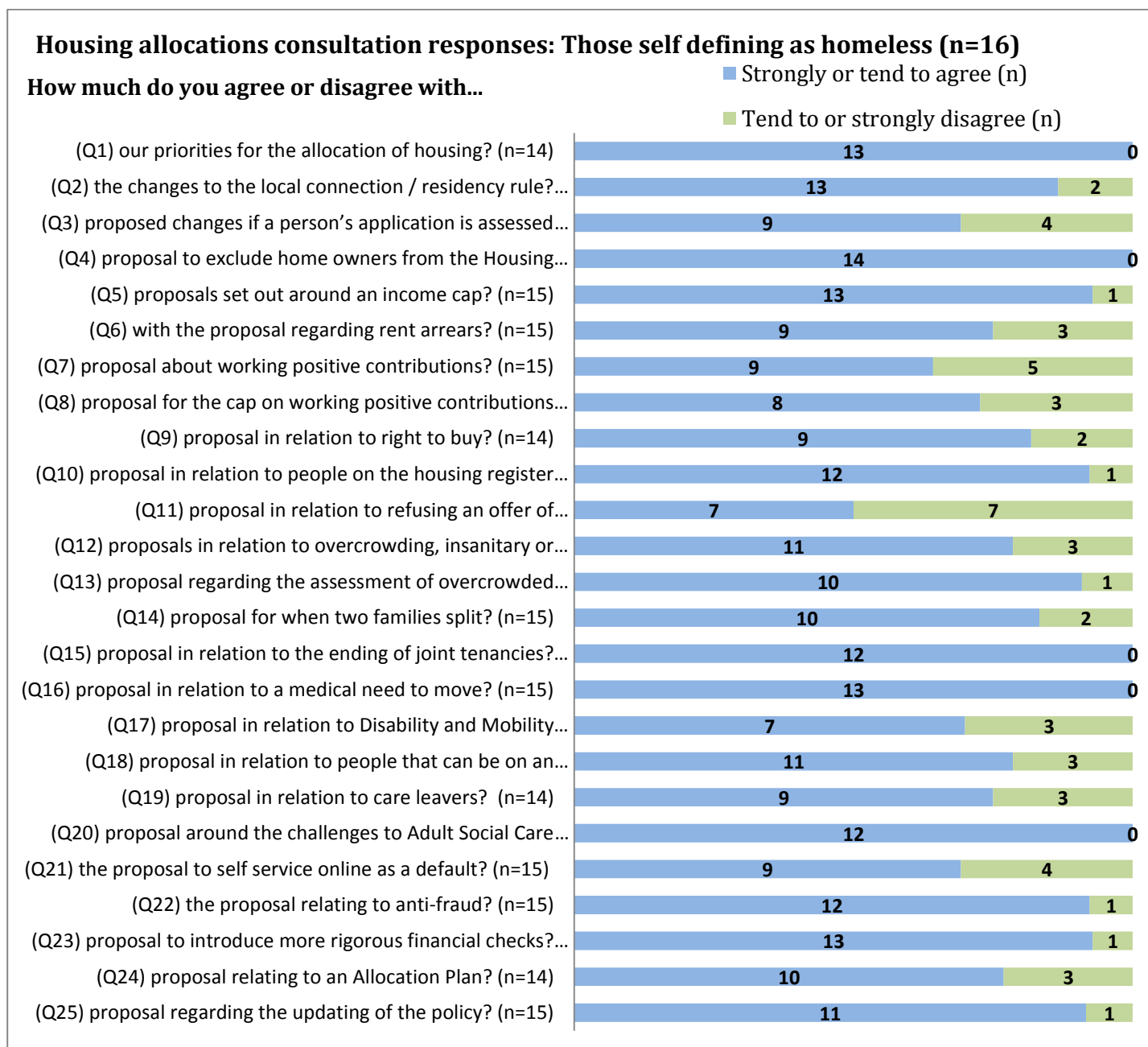
The lowest favourable responses were in relation to offering applicants one offer of suitable accommodation which received 57% in favour and 33% not in favour.

## Housing allocations consultation responses: Community champions



Respondents who replied as community champions shared many of the same views as other groups. Statistically this is a very small group. Community champions have a significant amount of contact with resident with housing issues and they showed strong support for the council's priorities, fraud initiatives, local connections criteria, self service on-line and excluding homeowners but showed less support for refusal of offers and exclusion for rent arrears.

## Those self defining as homeless

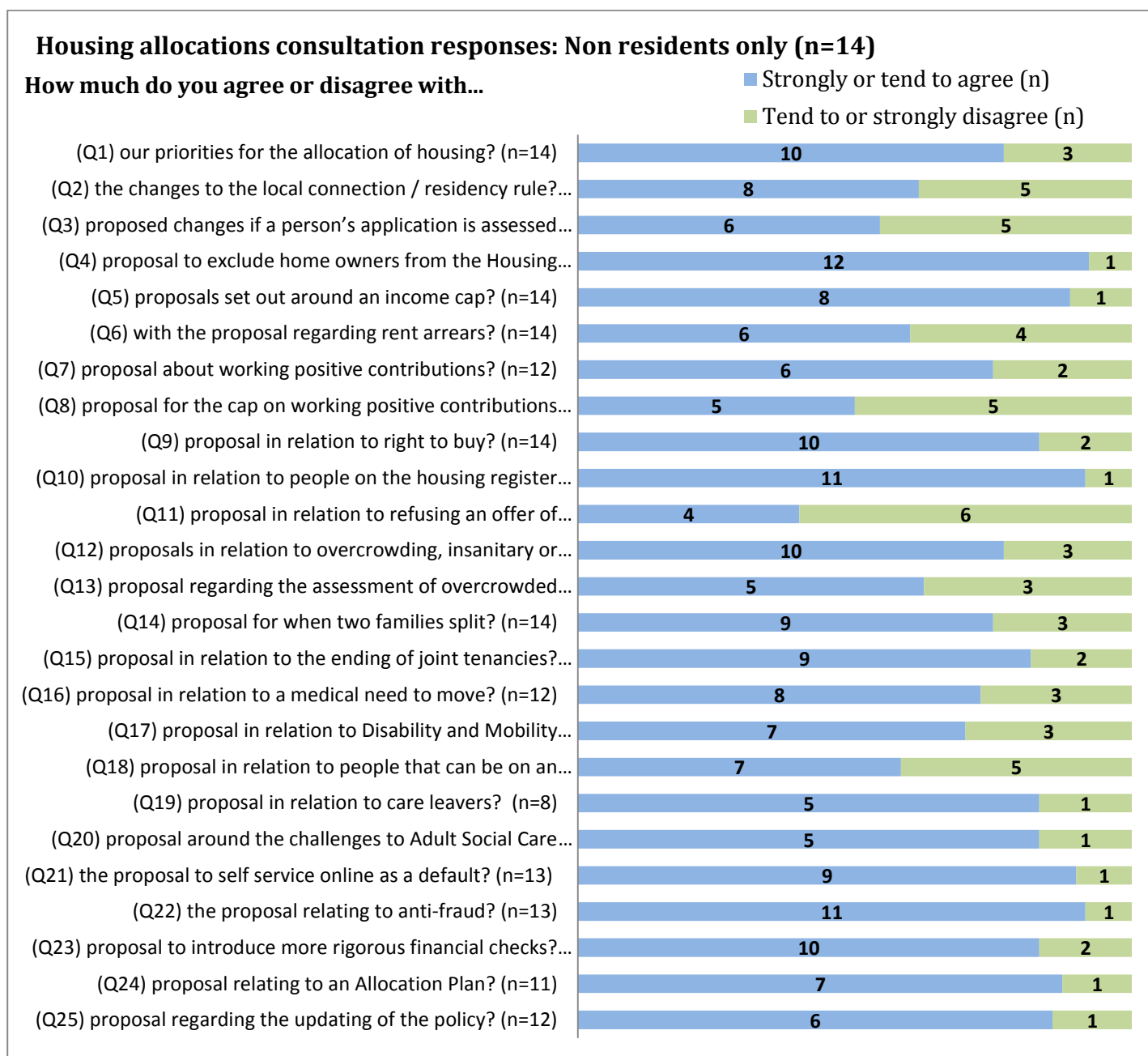


A small number of respondents identified that they were current homeless. It is not known if the respondents were accepted homeless by the council or identified as homeless but not accepted. It is possible that people who are homeless may have only identified as a respondent being on the housing register or both.

Statistically the number of people in the category is small and therefore the data cannot be relied on say that this generally is what homeless household would

agree with. It is however noted that although small in number there is still general agreement with the proposals in the category.

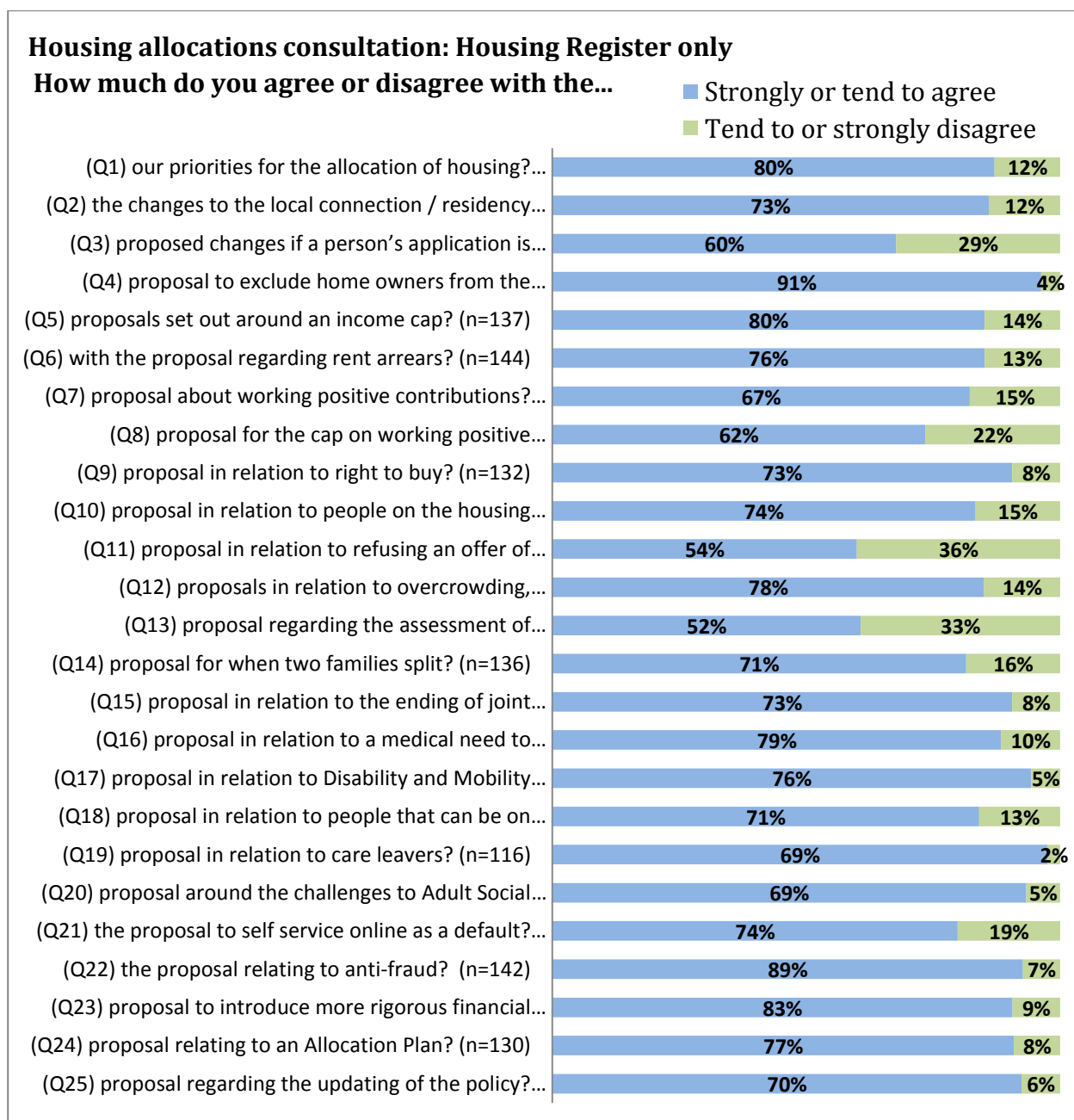
### Non residents only



This category of respondents identified as not currently being resident in Brighton & Hove. The numbers are statistically small but have been included as there are

proposals to make changes to the local connection criteria that would directly affect this group. Generally there is agreement with the overall proposals in the consultation and even the local connection changes are supported albeit by a small margin.

## Housing Register only



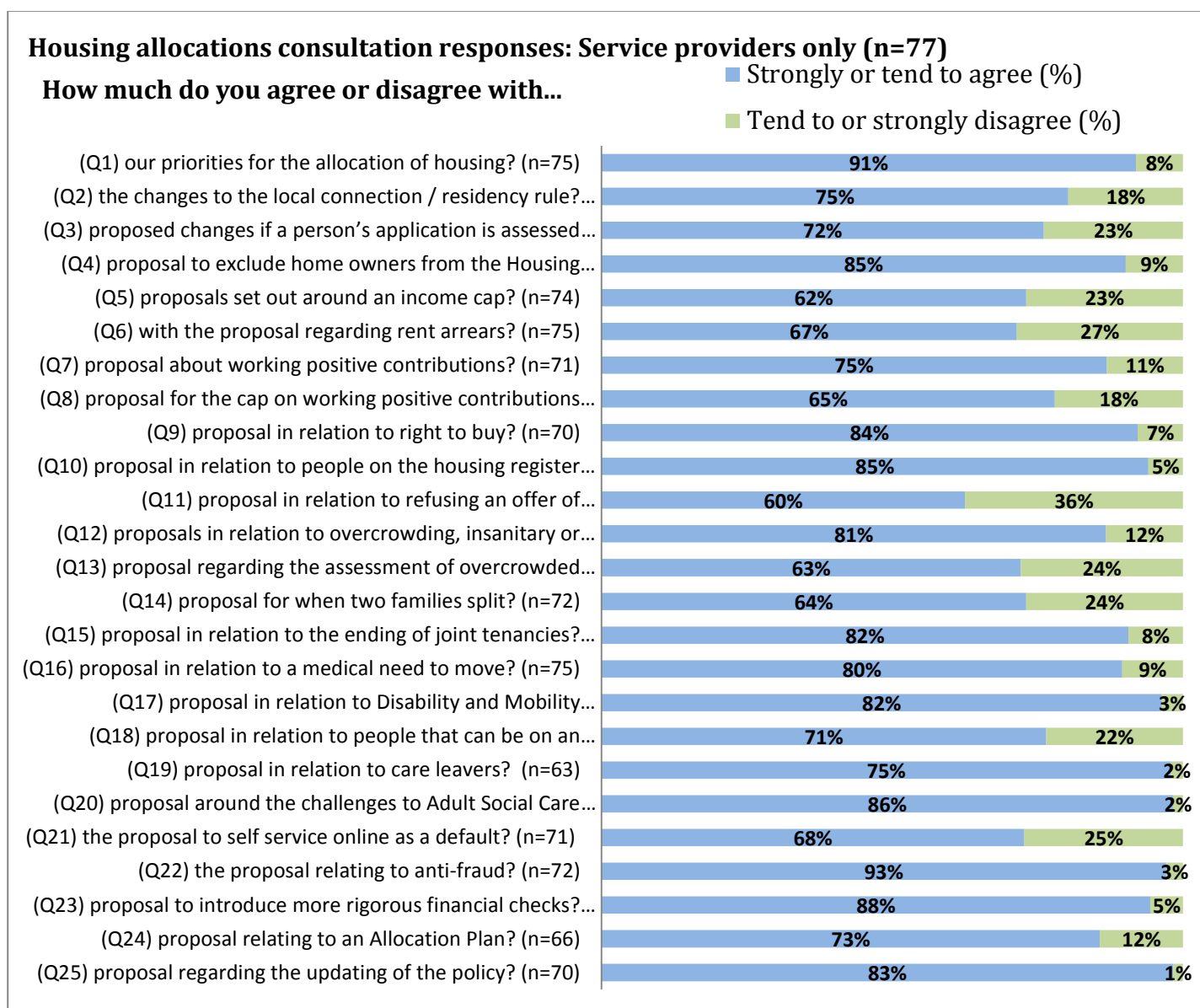
A higher proportion of respondents indicated that they were currently on the council's housing register and therefore are the most affected by the changes that are being proposed.

Some respondents in this group did not answer all of the questions and the results are shown as a percentage of those approving and disapproving the proposals.

The graph above indicated a strong approval rating with the majority of the proposals. There was a high approval rating for the local connection criteria of 73% and 80% of respondents approving the priorities within the proposals.

Two areas with lower approval ratings are in the proposed one suitable offer category and in the ability to lower priority for people who intentionally overcrowd properties. Even with this lower approval rating there are more in favour of the proposals than against with a 20% having no view on these proposals.

### Service providers only





There is a large community and voluntary sector in the city and we also know that a high number of City Council employees also responded to the consultation. There are some very high approval ratings within this group who deal with applicants' in housing need.

## 4. Raw data sheets

Raw data information also showing those that neither agreed or disagreed with a proposal.

Q1. Do you agree or disagree with our priorities for the allocation of housing?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		309	17	8	68	4	27	28	359
		83.7%	77.3%	88.9%	90.7%	57.1%	93.1%	90.3%	84.1%
Neither agree nor disagree		30	2	1	1	3	1	1	33
		8.1%	9.1%	11.1%	1.3%	42.9%	3.4%	3.2%	7.7%
Tend to or strongly disagree		30	3	0	6	0	1	2	35
		8.1%	13.6%	0.0%	8.0%	0.0%	3.4%	6.5%	8.2%
Total		369	22	9	75	7	29	31	427

Percentages and totals are based on respondents.

Q2. Do you agree or disagree with the changes to the local connection / residency rule?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		277	12	5	57	5	19	26	317
		74.9%	52.2%	55.6%	75.0%	71.4%	63.3%	81.3%	73.7%
Neither agree nor disagree		41	2	1	5	0	3	4	47
		11.1%	8.7%	11.1%	6.6%	0.0%	10.0%	12.5%	10.9%
Tend to		52	9	3	14	2	8	2	66

or strongly disagree	14.1%	39.1%	33.3%	18.4%	28.6%	26.7%	6.3%	15.3%
Total	370	23	9	76	7	30	32	430

Percentages and totals are based on respondents.

**Q3. Do you agree or disagree with the proposed changes if a person's application is assessed as not having a housing need?**

		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		241	11	7	54	3	18	24	280
		66.0%	47.8%	87.5%	72.0%	50.0%	62.1%	75.0%	66.2%
Neither agree nor disagree		31	3	1	4	2	2	1	35
		8.5%	13.0%	12.5%	5.3%	33.3%	6.9%	3.1%	8.3%
Tend to or strongly disagree		93	9	0	17	1	9	7	108
		25.5%	39.1%	0.0%	22.7%	16.7%	31.0%	21.9%	25.5%
Total		365	23	8	75	6	29	32	423

Percentages and totals are based on respondents.

**Q4. Do you agree or disagree with the proposal to exclude home owners from the Housing Register?**

		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		322	19	8	64	6	23	28	372
		87.3%	82.6%	100.0%	85.3%	85.7%	76.7%	90.3%	87.3%
Neither agree nor disagree		22	1	0	4	0	4	3	26
		6.0%	4.3%	0.0%	5.3%	0.0%	13.3%	9.7%	6.1%
Tend to or strongly disagree		25	3	0	7	1	3	0	28
		6.8%	13.0%	0.0%	9.3%	14.3%	10.0%	0.0%	6.6%
Total		369	23	8	75	7	30	31	426

Percentages and totals are based on respondents.

Q5. Do you agree or disagree with the proposals set out around an income cap?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		235	16	4	46	4	20	21	276
		64.9%	76.2%	50.0%	62.2%	57.1%	66.7%	72.4%	66.0%
Neither agree nor disagree		40	4	3	11	0	2	7	50
		11.0%	19.0%	37.5%	14.9%	0.0%	6.7%	24.1%	12.0%
Tend to or strongly disagree		87	1	1	17	3	8	1	92
		24.0%	4.8%	12.5%	23.0%	42.9%	26.7%	3.4%	22.0%
Total		362	21	8	74	7	30	29	418

Percentages and totals are based on respondents.

Q6. Do you agree or disagree with the proposal regarding rent arrears?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		277	10	2	50	3	13	22	308
		74.5%	45.5%	25.0%	66.7%	50.0%	44.8%	71.0%	71.8%
Neither agree nor disagree		31	5	1	5	0	1	5	38
		8.3%	22.7%	12.5%	6.7%	0.0%	3.4%	16.1%	8.9%
Tend to or strongly disagree		64	7	5	20	3	15	4	83
		17.2%	31.8%	62.5%	26.7%	50.0%	51.7%	12.9%	19.3%
Total		372	22	8	75	6	29	31	429

Percentages and totals are based on respondents.

<b>Q7. Do you agree or disagree with proposal about working positive contributions?</b>									
		<b>Are you replying as:</b>							
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	All responses
Strongly or tend to agree		254	10	2	53	5	24	24	290
		73.4%	50.0%	33.3%	74.6%	83.3%	80.0%	80.0%	72.5%
Neither agree nor disagree		47	5	2	10	0	4	3	56
		13.6%	25.0%	33.3%	14.1%	0.0%	13.3%	10.0%	14.0%
Tend to or strongly disagree		45	5	2	8	1	2	3	54
		13.0%	25.0%	33.3%	11.3%	16.7%	6.7%	10.0%	13.5%
<b>Total</b>		<b>346</b>	<b>20</b>	<b>6</b>	<b>71</b>	<b>6</b>	<b>30</b>	<b>30</b>	<b>400</b>

Percentages and totals are based on respondents.

<b>Q8. Do you agree or disagree with the proposal for the cap on working positive contributions should remain at the current levels?</b>									
		<b>Are you replying as:</b>							
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	All responses
Strongly or tend to agree		206	12	4	46	4	19	19	241
		60.4%	54.5%	57.1%	64.8%	57.1%	65.5%	61.3%	60.7%
Neither agree nor disagree		64	4	3	12	1	5	7	75
		18.8%	18.2%	42.9%	16.9%	14.3%	17.2%	22.6%	18.9%
Tend to or strongly disagree		71	6	0	13	2	5	5	81
		20.8%	27.3%	0.0%	18.3%	28.6%	17.2%	16.1%	20.4%
<b>Total</b>		<b>341</b>	<b>22</b>	<b>7</b>	<b>71</b>	<b>7</b>	<b>29</b>	<b>31</b>	<b>397</b>

Percentages and totals are based on respondents.

Q9. Do you agree or disagree with the proposal in relation to right to buy?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		264	18	7	59	3	21	21	308
		77.0%	81.8%	87.5%	84.3%	60.0%	77.8%	67.7%	77.2%
Neither agree nor disagree		50	2	1	6	1	5	4	56
		14.6%	9.1%	12.5%	8.6%	20.0%	18.5%	12.9%	14.0%
Tend to or strongly disagree		29	2	0	5	1	1	6	35
		8.5%	9.1%	0.0%	7.1%	20.0%	3.7%	19.4%	8.8%
Total		343	22	8	70	5	27	31	399

Percentages and totals are based on respondents.

Q10. Do you agree or disagree with the proposal in relation to people on the housing register who have not made a bid for 12 months?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		289	19	7	63	4	21	29	341
		79.0%	86.4%	87.5%	85.1%	57.1%	72.4%	93.5%	80.4%
Neither agree nor disagree		29	2	0	7	2	4	0	31
		7.9%	9.1%	0.0%	9.5%	28.6%	13.8%	0.0%	7.3%
Tend to or strongly disagree		48	1	1	4	1	4	2	52
		13.1%	4.5%	12.5%	5.4%	14.3%	13.8%	6.5%	12.3%
Total		366	22	8	74	7	29	31	424

Percentages and totals are based on respondents.

Q11. Do you agree or disagree with the proposal in relation to refusing an offer of accommodation?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		211	7	4	45	3	11	20	239
		58.6%	30.4%	57.1%	60.0%	42.9%	36.7%	64.5%	57.2%
Neither agree nor disagree		34	6	1	3	0	3	1	41
		9.4%	26.1%	14.3%	4.0%	0.0%	10.0%	3.2%	9.8%
Tend to or strongly disagree		115	10	2	27	4	16	10	138
		31.9%	43.5%	28.6%	36.0%	57.1%	53.3%	32.3%	33.0%
Total		360	23	7	75	7	30	31	418

Percentages and totals are based on respondents.

Q12. Do you agree or disagree with the proposals in relation to overcrowding, insanitary or unsatisfactory housing conditions?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		286	16	6	59	5	19	27	328
		79.7%	69.6%	75.0%	80.8%	71.4%	65.5%	87.1%	78.7%
Neither agree nor disagree		33	1	1	5	0	4	0	38
		9.2%	4.3%	12.5%	6.8%	0.0%	13.8%	0.0%	9.1%
Tend to or strongly disagree		40	6	1	9	2	6	4	51
		11.1%	26.1%	12.5%	12.3%	28.6%	20.7%	12.9%	12.2%

Total	359	23	8	73	7	29	31	417
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Percentages and totals are based on respondents.

Q13. Do you agree or disagree with the proposal regarding the assessment of overcrowded households?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		209	11	5	44	4	11	21	240
		61.3%	52.4%	71.4%	62.9%	57.1%	42.3%	75.0%	60.6%
Neither agree nor disagree		42	5	2	9	1	2	1	51
		12.3%	23.8%	28.6%	12.9%	14.3%	7.7%	3.6%	12.9%
Tend to or strongly disagree		90	5	0	17	2	13	6	105
		26.4%	23.8%	0.0%	24.3%	28.6%	50.0%	21.4%	26.5%
Total		341	21	7	70	7	26	28	396

Percentages and totals are based on respondents.

Q14. Do you agree or disagree with the proposal for when two families split?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		241	14	6	46	3	17	21	281
		70.3%	60.9%	75.0%	63.9%	42.9%	60.7%	75.0%	70.4%
Neither agree nor disagree		46	3	1	9	2	6	1	52
		13.4%	13.0%	12.5%	12.5%	28.6%	21.4%	3.6%	13.0%
Tend to or strongly disagree		56	6	1	17	2	5	6	66
		16.3%	26.1%	12.5%	23.6%	28.6%	17.9%	21.4%	16.5%

Total	343	23	8	72	7	28	28	399
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Percentages and totals are based on respondents.

Q15. Do you agree or disagree with the proposal in relation to the ending of joint tenancies?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		271	15	6	58	4	19	26	317
		77.9%	68.2%	85.7%	81.7%	57.1%	73.1%	86.7%	78.9%
Neither agree nor disagree		53	3	1	7	2	4	3	57
		15.2%	13.6%	14.3%	9.9%	28.6%	15.4%	10.0%	14.2%
Tend to or strongly disagree		24	4	0	6	1	3	1	28
		6.9%	18.2%	0.0%	8.5%	14.3%	11.5%	3.3%	7.0%
Total		348	22	7	71	7	26	30	402

Percentages and totals are based on respondents.

Q16. Do you agree or disagree with the proposal in relation to a medical need to move?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		304	15	6	60	5	25	27	351
		81.9%	71.4%	75.0%	80.0%	71.4%	86.2%	84.4%	81.8%
Neither agree nor disagree		42	3	1	8	1	1	4	47
		11.3%	14.3%	12.5%	10.7%	14.3%	3.4%	12.5%	11.0%
Tend to or strongly disagree		25	3	1	7	1	3	1	31
		6.7%	14.3%	12.5%	9.3%	14.3%	10.3%	3.1%	7.2%



Total	371	21	8	75	7	29	32	429
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Percentages and totals are based on respondents.

Q17. Do you agree or disagree with the proposal in relation to Disability and Mobility categorisation?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		259	13	7	53	4	22	24	300
		79.2%	65.0%	87.5%	81.5%	66.7%	88.0%	82.8%	78.9%
Neither agree nor disagree		55	4	1	10	1	2	4	63
		16.8%	20.0%	12.5%	15.4%	16.7%	8.0%	13.8%	16.6%
Tend to or strongly disagree		13	3	0	2	1	1	1	17
		4.0%	15.0%	0.0%	3.1%	16.7%	4.0%	3.4%	4.5%
Total		327	20	8	65	6	25	29	380

Percentages and totals are based on respondents.

Q18. Do you agree or disagree with the proposal in relation to people that can be on an application?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		267	12	6	52	5	18	25	307
		76.1%	54.5%	75.0%	71.2%	83.3%	62.1%	80.6%	75.1%
Neither agree nor disagree		41	1	0	5	1	5	4	45
		11.7%	4.5%	0.0%	6.8%	16.7%	17.2%	12.9%	11.0%
Tend to or strongly disagree		43	9	2	16	0	6	2	57
		12.3%	40.9%	25.0%	21.9%	0.0%	20.7%	6.5%	13.9%

Total	351	22	8	73	6	29	31	409
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Percentages and totals are based on respondents.

Q19. Do you agree or disagree with the proposal in relation to care leavers?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		231	9	6	47	4	22	22	263
		72.9%	60.0%	66.7%	74.6%	57.1%	88.0%	75.9%	71.9%
Neither agree nor disagree		72	5	3	15	3	3	6	86
		22.7%	33.3%	33.3%	23.8%	42.9%	12.0%	20.7%	23.5%
Tend to or strongly disagree		14	1	0	1	0	0	1	17
		4.4%	6.7%	0.0%	1.6%	0.0%	0.0%	3.4%	4.6%
Total		317	15	9	63	7	25	29	366

Percentages and totals are based on respondents.

Q20. Do you agree or disagree with the proposal around the challenges to Adult Social Care and Children's services?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		237	13	8	57	3	23	21	271
		76.5%	68.4%	88.9%	86.4%	60.0%	95.8%	75.0%	75.1%
Neither agree nor disagree		65	5	1	8	2	1	6	79
		21.0%	26.3%	11.1%	12.1%	40.0%	4.2%	21.4%	21.9%
Tend to or strongly disagree		8	1	0	1	0	0	1	11
		2.6%	5.3%	0.0%	1.5%	0.0%	0.0%	3.6%	3.0%

Total	310	19	9	66	5	24	28	361
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Percentages and totals are based on respondents.

Q21. Do you agree or disagree with the proposal to self service online as a default?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		248	15	6	48	6	14	26	291
		68.7%	68.2%	75.0%	67.6%	85.7%	50.0%	86.7%	70.0%
Neither agree nor disagree		27	4	1	5	0	6	2	32
		7.5%	18.2%	12.5%	7.0%	0.0%	21.4%	6.7%	7.7%
Tend to or strongly disagree		86	3	1	18	1	8	2	93
		23.8%	13.6%	12.5%	25.4%	14.3%	28.6%	6.7%	22.4%
Total		361	22	8	71	7	28	30	416

Percentages and totals are based on respondents.

Q22. Do you agree or disagree with the proposal relating to anti-fraud?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		334	17	7	67	5	23	29	380
		91.3%	81.0%	100.0%	93.1%	71.4%	85.2%	93.5%	90.0%
Neither agree nor disagree		14	2	0	3	2	1	1	18
		3.8%	9.5%	0.0%	4.2%	28.6%	3.7%	3.2%	4.3%
Tend to or strongly disagree		18	2	0	2	0	3	1	24
		4.9%	9.5%	0.0%	2.8%	0.0%	11.1%	3.2%	5.7%

Total	366	21	7	72	7	27	31	422
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Percentages and totals are based on respondents.

Q23. Do you agree or disagree with the proposal to introduce more rigorous financial checks?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		310	16	8	67	5	25	27	359
		85.6%	72.7%	100.0%	88.2%	71.4%	86.2%	90.0%	85.7%
Neither agree nor disagree		26	2	0	5	0	2	2	30
		7.2%	9.1%	0.0%	6.6%	0.0%	6.9%	6.7%	7.2%
Tend to or strongly disagree		26	4	0	4	2	2	1	30
		7.2%	18.2%	0.0%	5.3%	28.6%	6.9%	3.3%	7.2%
Total		362	22	8	76	7	29	30	419

Percentages and totals are based on respondents.

Q24. Do you agree or disagree with the proposal relating to an Allocation Plan?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		239	12	6	48	5	20	21	276
		72.2%	63.2%	75.0%	72.7%	71.4%	83.3%	75.0%	71.9%
Neither agree nor disagree		59	5	0	10	0	3	5	69
		17.8%	26.3%	0.0%	15.2%	0.0%	12.5%	17.9%	18.0%
Tend to or strongly disagree		33	2	2	8	2	1	2	39
		10.0%	10.5%	25.0%	12.1%	28.6%	4.2%	7.1%	10.2%
Total		331	19	8	66	7	24	28	384

Percentages and totals are based on respondents.

Q25. Do you agree or disagree with the proposal regarding the updating of the policy?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		255	12	7	58	5	17	28	296
		76.8%	60.0%	87.5%	82.9%	71.4%	68.0%	96.6%	76.5%
Neither agree nor disagree		56	7	1	11	0	6	1	68
		16.9%	35.0%	12.5%	15.7%	0.0%	24.0%	3.4%	17.6%
Tend to or strongly disagree		21	1	0	1	2	2	0	23
		6.3%	5.0%	0.0%	1.4%	28.6%	8.0%	0.0%	5.9%
Total		332	20	8	70	7	25	29	387

## 5. Below is a full list of questions that were asked in the consultation.

Please note the questions are not numbered the same as the questions on the on-line consultation portal.

Q1. Do you agree or disagree with our priorities for the allocation of housing?

Q2. Do you agree or disagree with the changes to the local connection / residency rule?

Q3. Do you agree or disagree with the proposed changes if a person's application is assessed as not having a housing need?

Q4. Do you agree or disagree with the proposal to exclude home owners from the Housing Register?

Q5. Do you agree or disagree with the proposals set out around an income cap?

- Q06. Do you agree or disagree with the proposal regarding rent arrears?
- Q07. Do you agree or disagree with proposal about working positive contributions?
- Q08. Do you agree or disagree with the proposal for the cap on working positive contributions should remain at the current levels?
- Q09. Do you agree or disagree with the proposal in relation to right to buy?
- Q10. Do you agree or disagree with the proposal in relation to people on the housing register who have not made a bid for 12 months?
- Q11. Do you agree or disagree with the proposal in relation to refusing an offer of accommodation?
- Q12. Do you agree or disagree with the proposals in relation to overcrowding, insanitary or unsatisfactory housing conditions?
- Q13. Do you agree or disagree with the proposal regarding the assessment of overcrowded households?
- Q14. Do you agree or disagree with the proposal for when two families split?
- Q15. Do you agree or disagree with the proposal in relation to the ending of joint tenancies?
- Q16. Do you agree or disagree with the proposal in relation to a medical need to move?
- Q17. Do you agree or disagree with the proposal in relation to Disability and Mobility categorisation?
- Q18. Do you agree or disagree with the proposal in relation to people that can be on an application?
- Q19. Do you agree or disagree with the proposal in relation to care leavers?
- Q20. Do you agree or disagree with the proposal around the challenges to Adult Social Care and Children's services?
- Q21. Do you agree or disagree with the proposal to self service online as a default?
- Q22. Do you agree or disagree with the proposal relating to anti-fraud?

Q23. Do you agree or disagree with the proposal to introduce more rigorous financial checks?

Q24. Do you agree or disagree with the proposal relating to an Allocation Plan?

Q25. Do you agree or disagree with the proposal regarding the updating of the policy?

## 6. Organisational responses

The following is a list of organisations who submitted a response to the Council's consultation on the Portal.

### Brighton & Hove City Council respondents

Executive Director Adult Social Care  
BHCC Housing  
Children & Families Worker dealing with homeless families  
Housing Adaptations  
Local government officer – Housing Service Adviser  
Housing Options  
Technical  
Adult Social Care assessment service  
Tenancy Enforcement, Housing  
Senior Housing  
Brighton & Hove Council, Re-housing  
Re-Housing Administrator  
New Steine Mews Hostel  
Housing and Customer First In A Digital Age  
Neighbourhood Team Leader  
Housing Income Management

### Non Brighton and Hove City Council respondents

Rough Sleeper / Single Homeless  
Project Worker BHT  
BHT AFW and Move on Project manager  
Community (Hostel) Manager  
MOSAIC,  
Brighton & Hove Black History,

B&H BHM  
Brighton Homeless Service St John Ambulance  
Mind out LGBT mental health advocate  
COMMUNITY ACTIVIST AND ADVOCATE  
Mind Out  
Kent, Surrey and Sussex Community Rehabilitation Company  
Chairman SHRA  
Director  
Engagement officer and fundraiser  
Youth Advocacy Project  
Drug & Alcohol Outreach Worker  
Leaving Care Personal Adviser  
Housing Support Worker  
Children Centre  
Senior Practitioner - Long Term Condition Management Team  
Social care coordinator  
Advice & Support Worker  
First Aid trainer  
BHT Fulfilling Lives  
Brighton Housing Trust  
Head of Commissioning  
Careers Practitioner  
MH Nurse – NHS  
Wellbeing Service  
Community Links  
Case worker First base  
B&H Police (Sussex Police)  
Community Links Advisor from Southdown  
Volunteer for the Clinical Commissioning Group  
Mental health worker SPFT  
Rise  
Senior social worker adult social care  
Secretary of North Moulsecoomb TRA  
Money Advice Plus  
The Trans Alliance  
Healthcare assistant  
BSUH NHS Trust  
Nightstop Host  
Regional Operations Manager



Community Mental Health Nurse  
Young Carer

The list above shows that the consultation reached a wide variety of organisations both within the council and with other statutory services and a cross section of the community and voluntary sector. It is also noted that responses were received from different levels within each of the sectors from Executive directors to administrators and volunteers.

## 8. List of Registered Social Landlords in Brighton and Hove sent the link to the consultation.

A2 Dominion Spelthorne House, Thames Street, Staines, TW18 4TA info@a2dominion.co.uk
Abbeyfield Brighton & Hove Society Ltd 19 Aymer Road Hove, BN3 4GB
Affinity Sutton Group Maple House 157-159 Masons Hill Bromley Kent, BR2 9HY
AmicusHorizon Ltd PO Box 322 Sittingbourne Kent, ME9 8PQ <a href="mailto:contactus@amicushorizon.org.uk">contactus@amicushorizon.org.uk</a>
Anchor Retirement Housing Milestone Place 100 Bolton Road Bradford, BD1 4DH
Brighton & Hove Almshouse Charity Lanes End House c/o Woolley Bevis & Diplock LLP 15 Prince Albert Street Brighton, BN1 1HY
Brighton & Hove Jewish H.A. Ltd 61 Furze Croft Furze Hill Hove, BN3 1PD
Brighton Lions Housing Society Ltd Lions Gate 95 Rowan Avenue, Hove, BN3 7JZ
Sussex Central YMCA Sussex Central YMCA, Reed House, 47 Church Road, Hove, BN3 2BE email: <a href="mailto:reed.house@sussexcentralymca.org.uk">reed.house@sussexcentralymca.org.uk</a>
Carr-Gomm (Sanctuary)
Chisel Ltd 188a Brockley Rd London, SE4 2RN email <a href="mailto:cto@chisel.org.uk">cto@chisel.org.uk</a>
Hanover Housing Association Hanover House 1 Bridge Close Staines, TW18 4TB

Email <a href="mailto:general.enquiries@hanover.org.uk">general.enquiries@hanover.org.uk</a>
Home Group 3 Cantelupe Mews Cantelupe Road East Grinstead, RH19 3BG
Hyde Group 113-119 Davigdor Road Hove, BN3 1RE Email: <a href="mailto:info@hydemarket.co.uk">info@hydemarket.co.uk</a>
Moat Sevenoaks District Council Offices, Argyle Road, Sevenoaks, TN13 1ZW Email: <a href="mailto:customer@moat.co.uk">customer@moat.co.uk</a>
Orbit South 1-3 The Oaks Little Ridge Avenue St Leonards on Sea, TN37 7UW
Pilgrim Homes 35-36 Egremont Place, Brighton, BN2 0GB
Places for People 3rd Floor, Ivy House, 3 Ivy Terrace, Eastbourne, BN21 4QU Email: <a href="mailto:contactcentre@placesforpeople.co.uk">contactcentre@placesforpeople.co.uk</a>
Porthove Housing Association Ltd c/o Austin Rees Ltd 135-137 Dyke Road Hove, BN3 1TJ Email: <a href="mailto:Contact Porthove Housing Association Ltd.">Contact Porthove Housing Association Ltd.</a>
Raglan Housing Association Ground Floor, Imperial Buildings 68 Victoria Road Horley RH6 7PZ Email: <a href="mailto:hsc@raglan.org">hsc@raglan.org</a>
Rotary Club of Hove Housing Society 135 Dyke Road Hove, BN3 1TJ
Sanctuary Housing Association 45 Church Road Hove, BN3 2BE Email: <a href="mailto:contactus@sanctuary-housing.co.uk">contactus@sanctuary-housing.co.uk</a>
Saxon Weald Saxon Weald House 38-42 Worthing Road Horsham, RH12 1DT Email: <a href="mailto:info@saxonweald.com">info@saxonweald.com</a>
Southdown Housing Association 18 Preston Park Avenue Brighton East Sussex BN1 6HL Email: <a href="mailto:info@southdownhousing.org">info@southdownhousing.org</a>
Southern Housing Group

2nd Floor, Cornelius House, 178-180 Church Road, Hove, BN3 2D
Sussex Housing and Care Ronald Simson House, 24 Sutton Avenue, Seaford, BN25 4LG
Sussex Overseas Housing Society Limited Bishop Hannington Church Office Nevill Avenue Hove, BN3 7NH
Teachers' Housing Association Rugby Chambers, 2 Rugby Road, London, WC1N 3QN email: <a href="mailto:enquiries@teachershousing.org.uk">enquiries@teachershousing.org.uk</a>
Guinness South 3rd Floor, Beluah Court, Albert Road, Horley, RH6 7HP Email: <a href="mailto:gs.mail@guinness.org.uk">gs.mail@guinness.org.uk</a>
Two Piers Housing Co-operative Limited 14 Oriental Place Brighton BN1 2LJ
Worthing Homes Limited Davison House North Street Worthing, BN11 1ER



# Housing Allocation Scheme 2016



Brighton & Hove  
City Council

# Brighton & Hove City Council Housing Allocations Scheme and Guidance

*If you try to obtain accommodation by making a false or misleading statement, by withholding information or by failing to inform us of a change in your circumstances, it is likely that your application will be cancelled. You may also be prosecuted. If you have moved into a council or housing association home, legal action may be taken against you to recover possession of the property. You may also be guilty of a criminal offence and be fined.*

This authority is under a duty to protect the public funds it administers, and to this end may use the information you provide for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.



**Brighton & Hove City Council**  
**Choice Based Lettings Scheme**

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## Introduction

This document is the housing allocation scheme used by the council with effect from XX September 2016. The council is required by section 166A(1) of the Housing Act 1996 to have an allocation scheme for determining priorities and for defining the procedures to be followed in allocating housing accommodation. It is Brighton & Hove City Council's policy to operate a Choice Based Lettings scheme except in certain circumstances laid out within the policy below.

For the purposes of Part 6 of the Housing Act 1996, a housing authority allocates accommodation when it selects a person to be

- a secure (including flexible) or introductory tenant of accommodation held by that authority or
- nominates a person to be an assured (including assured shorthold) tenant of accommodation held by a private registered provider of social housing (PRP) or a registered social landlord.

The nominations to PRPs are made using the same priorities as for allocations to council dwellings where they are made under an obligation of a nominations agreement. However, where nominations are made to properties that fall outside of nominations agreement quotas the council respects the integrity of the lettings policy of the PRPs concerned. The scheme only covers allocations made by the council exercising its housing authority functions. The scheme also applies to existing council and housing association tenants who request an application for a transfer and the council has reason to believe that they have a reasonable preference under s166a.<sup>1</sup>

This scheme meets the requirements set out in Part VI Housing Act 1996 (as amended by the Homeless Act 2002). It also contains flexibilities introduced under the Localism Act 2011. In developing this scheme the council has had due regard to guidance issued by the Secretary of State Communities & Local Government (June 2012),<sup>2</sup> giving reasonable and additional preference to applicants in the greatest need. It incorporates the council's key objectives outlined in the following strategies:

- Housing Strategy 2015
- Homelessness Strategy 2014- 2019
- Tenancy Strategy 2013

## Housing Strategy 2015

The Housing Strategy has some key aims that are directly related to the council's allocations policy. These include

- Develop Access to Settled Homes for homeless households
- Support people to 'downsize' from social housing when they choose.
- Supports our Corporate Parenting commitment to care leavers
- Work with occupational therapists and social workers to ensure that

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<sup>1</sup> Housing Act 1996 s159 (4B)

<sup>2</sup> Allocation of accommodation: guidance for local housing authorities in England (June 2012)

family properties are allocated in a co-ordinated manner.

## **Homelessness Strategy 2014 – 2019**

The Homelessness Strategy is a sub strategy of the Housing Strategy which includes the priorities of homelessness prevention and access to settled homes. There are key priority groups within the homelessness strategy that are afforded reasonable and additional preference these include

- Military Veterans & Serving Personnel
- People with Learning Disabilities & Autism
- People with Physical and Sensory Disability
- People with Mental Health
- People living in Temporary Accommodation

## **Tenancy Strategy 2013**

The Tenancy Strategy has a number of areas that have a direct impact on the council's Allocations Policy that include:

- All Affordable Rent and fixed/flexible tenancies to be advertised through our Homemove choice based lettings system. We also expect that
- All new tenancies will be allocated in accordance with the priorities in our adopted Allocation Policy
- Fixed or flexible tenancies must be for a period of at least five years (or two years in exceptional circumstances)
- The Council would not expect any person to be able to succeed to a tenancy where this would result in a property to be under occupied.

Demand for social housing far exceeds the supply of accommodation that becomes available. Whilst the council remains committed to offering choice<sup>3</sup> to those seeking housing the scheme is also framed to take into account the limited availability of social housing in the city and the need for partner landlords to have an efficient lettings process to reduce letting times and rent loss on vacant properties. This scheme applies across the city and it also compliments the objectives of the Housing & New Homes Committee's New Homes for Neighbourhoods Programme which aims to build new affordable homes across the city. These new homes will be subject to local lettings plans, on first letting, that will be developed to meet demand.

Under the Choice Based Lettings Scheme, called Homemove, applicants are placed into one of four bands that will take account of their housing need according to circumstances of the household. All applicants will become members of Homemove and actively search for available homes. Vacant properties<sup>4</sup> are advertised on Homemove, which is an internet based application. Members are able to bid for properties in their assessed need. Adapted, sheltered

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<sup>3</sup> Housing Act 1996 s166(2)(a)

<sup>4</sup> Housing Act 1996 s166a(2)(b)

and extra care properties will be classified and offered to applicants with an assessed matching need for these properties.

The council is expecting to face a difficult financial environment over the lifetime of this scheme and therefore the scheme incorporates an allocations plan. This allocations plan will distinguish between transfers, homeseekers, homeless households and those where the council has an interest. The allocations plan will be agreed by the Head of Housing with targets for allocations to each of these groups. Targets will be set taking into account the council's statutory obligations, financial considerations and the housing situation across the city, including past performance and projected supply and demand. Targets will be set and agreed in advance and will remain in place until they are reviewed and agreed by the Head of Housing up to a maximum of two years.

## **Equalities & Diversity**

The council's Choice Based Lettings Scheme aims to ensure that our services are fair and equitable for our customers. We want our services to be accessible and useful to everyone regardless of age, disability, gender, race, colour, national origin, sexual orientation or any other factor that may cause disadvantage. This policy is however subject to eligibility and qualifying persons under the Housing Act 1996<sup>5</sup>. Eligibility is prescribed under the act and it is unlawful for the council to allocate to a person who is prescribed as ineligible under the Act. The council has the power to classify if a person is a qualifying person. The council has taken into account its equality duties in framing those that may not qualify to join the Housing Register. This policy has been drafted with reference to the Equality Act 2010 in particular to the council's Public Sector Equalities Duty<sup>6</sup>. The Council has adopted the Commission for Racial Equality's Statutory Code of Practice on Racial Equality in Housing.

Brighton & Hove City Council is committed to dealing with applications in an efficient and timely manner. In order to achieve this aim the council is looking to use self service options on-line. The city council remains committed to help those who will need assistance to access social housing in the City. We will work closely with agencies and supported housing providers to try and assist customers to access this scheme and ensure that information meets the requirements of people with a disability or sensory impairment. The council has reviewed its Housing Vulnerable Person Strategy for meeting the needs of vulnerable people. This will include access points where on-line facilities are available across the city.

This policy has been developed following a city wide consultation and an Equalities Impact Assessment.

## **Joint Housing Register Partners**

Hyde Martlet – [www.hydemartlet.co.uk](http://www.hydemartlet.co.uk)

Affinity Sutton – [www.affinitysutton.com](http://www.affinitysutton.com)

Home Group – [www.homegroup.org.uk](http://www.homegroup.org.uk)

A2Dominion- [www.a2dominion.co.uk](http://www.a2dominion.co.uk)

Moat Homes Ltd – [www.moat.co.uk](http://www.moat.co.uk)

Orbit South Housing Association – [www.orbit.org.uk](http://www.orbit.org.uk)

Places For People – [www.placesforpeople.co.uk](http://www.placesforpeople.co.uk)

Sanctuary Housing – [www.sanctuary-housing.co.uk](http://www.sanctuary-housing.co.uk)

Servite Houses – [www.servitehouses.org.uk](http://www.servitehouses.org.uk)

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<sup>5</sup> Housing Act s160ZA

<sup>6</sup> The essential guide to the public sector equality duty January 2012

Southern Housing Group \_ including James Butcher HA) [www.shgroup.org.uk](http://www.shgroup.org.uk)  
The Guinness Trust – [www.guinnesspartnership.com](http://www.guinnesspartnership.com)

## **Our Priorities**

Looking to the future the council has to make some difficult choices as resources reduce. This means that there will be an expected fall in the number of available lettings and the council will therefore have to prioritise how we allocate scarce housing resources within the law and using flexibilities in the Localism Act 2011.

- Those who have a local residence connection with the city
- People that are owed a statutory duty under The Housing Acts, Children's Act, Children Leaving Care Act and the Care Act.
- Households who have a need to move for welfare or medical reasons that is significantly impacted by their current housing
- Households who occupy accommodation that is overcrowded or lacks facilities
- Households needing sheltered or extra care accommodation
- Households where there is substantial disrepair that cannot be remedied

## **Housing Options**

As you may be aware, there is a shortage of social housing in Brighton & Hove and a huge demand for accommodation. This means that council and housing association properties are not widely available and usually only go to those who are in the most need. Here are some other housing options you may wish to consider

**Help and Advice:** The Housing Options Team is centred on preventing homelessness by offering housing options tailored to individual needs. They can offer specialist housing advice to help you keep your current home, advice for people who need support to live independently and advice on alternative housing options. Phone (01273) 294400 or e-mail [housing.advice@brighton-hove.gov.uk](mailto:housing.advice@brighton-hove.gov.uk) for more information.

**Private Renting:** You can apply to the private rental agencies in the area for suitable accommodation. You may be eligible for help with paying your rent by claiming for housing benefit. Contact Housing Benefits on (01273) 292000 for more information.

**Mutual Exchanges:** The council operates a mutual exchange system for council or housing association tenants who wish to swap their homes. Go to [www.exchangelocata.org.uk](http://www.exchangelocata.org.uk). Or speak to your Landlord.

**Low Cost Home Ownership** - if you are interested in Low Cost Home Ownership then register at <https://www.helptobuyese.org.uk/> or call the bpha Help to Buy Team on 03333 214044 to be considered for new schemes in the city.

## **Who can apply?**

### **Who may apply; eligibility for allocation**

Any person may apply to the council for allocation of housing. However, housing will only be allocated to applicants who are registered on the council's housing register for social housing and to be registered an applicant must be:

- eligible for social housing in England (that is, not ineligible due to their immigration status); and
- a qualifying person for social housing in Brighton & Hove (as determined by the following provisions below of the allocation scheme).

### **Who is eligible for social housing in England**

All applicants will be eligible unless they are persons prescribed within the Housing Act 1996 S.160ZA(1) or by regulations made by the Secretary of State. This generally applies to persons from abroad without settled immigration status in the UK, apart from a limited number of exceptions.

A person will be considered to be ineligible for an allocation of under s160ZA if they are

- (i) A person subject to immigration control – such a person is not eligible for an allocation of accommodation unless they come within a class prescribed in regulations made by the Secretary of State<sup>7</sup> and
- (ii) A person from abroad other than a person subject to immigration control<sup>8</sup>

The Secretary of State has issued regulations in regard to the above and they can be found in Annex 1 of this policy<sup>9</sup>

Where a duty is owed to an applicant who is found to be homeless only by reliance on a household member who is a “restricted person” within the meaning of S184 of the Housing Act 1996, the applicant will not be given any preference under the scheme for an allocation of accommodation. The council will, so far as practicable, bring the duty to secure accommodation to an end by ensuring that an offer of accommodation, in the private sector for a period of at least 12 months, is made to the applicant. A restricted person is defined as someone who requires leave to enter or remain in the UK and does not have it, or a person who does have the required leave but that leave was granted on the condition that the person may not have recourse to public funds.

### **Joint Tenancies, Household Members & Eligibility**

Under s160ZA (1)(b) the council can not grant a joint tenancy to two or more people if any one of them is a person from abroad who is ineligible. Where two or more people apply and one of them is eligible, the council may grant a tenancy to the person who is eligible. In addition, whilst ineligible family members must not be granted a tenancy they may be taken into account in determining the size of accommodation which is to be allocated.

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<sup>7</sup> Housing Act 160ZA(2)

<sup>8</sup> Housing Act 160ZA(4)

<sup>9</sup> Allocation of Housing and Homeless(Eligibility) (England) Regulations 2006 (SI No.1294) ( the eligibility regulations)

## **Changes to eligibility criteria**

The Secretary of State may issue regulations at any time under the Housing Act 1996. Local Authorities are notified of any such changes by way of statutory instruments, approved by Parliament. Eligibility criteria changed by primary or secondary legislation will form part of this scheme from the date any such changes come into force without the need to refer any changes to committee.

## **Existing Tenants & Eligibility**

The eligibility provisions do not apply to applicants who are existing tenants who are already secure or introductory tenants or assured tenants of a Private Registered Provider<sup>10</sup>

## **Not Eligible decision.**

If an applicant is not eligible to register under s160ZA Housing Act 1996, the Homemove Team will notify the applicant in writing giving the reasons for the decision. The decision will contain the right of review that must be requested within 21 days of the notification. The council will not accept requests for a review after 21 days except in exceptional circumstances. For further information please see reviews.

## **Who qualifies for social housing in Brighton & Hove?:**

### **Criteria for being a qualifying person**

This section sets out the criteria that must be met for applicants to qualify for social housing in Brighton & Hove. Decisions made on whether a person is a qualifying person are made by the assessment officer. Any such decision as to whether a person is a qualifying person has a statutory right of review. Any such review shall be carried out by a person with higher seniority than the decision maker in line with the Statutory Reviews procedure (see below). Any request for a review must be made within 21 days of the decision.

Applicants are able to apply for social housing within Brighton & Hove if they are eligible and “qualifying person”. Brighton & Hove is a high demand area where demand for social housing is in excess of supply.

To be a qualifying person for an allocation of social housing in Brighton & Hove and be (or remain) registered on the council’s housing register for social housing, an applicant, or one of joint applicants, must:

- (a) Be eligible for an allocation of housing accommodation (as determined by law and set out above, that is, not ineligible due to immigration status); and
- (b) Be 18 years old or over unless they are subject to statutory homeless duty, a statutory successor (no age restrictions apply), a non statutory successor under the relevant policy in place at the time or referred by the council’s social care services (in which case they must be over the age of 16). Applicants under the age of 16 will only be offered accommodation in certain circumstances (see below).

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<sup>10</sup> Housing Act 1997 s160ZA(5)

- (c) Have a household income that is no greater than the household income threshold set by the Housing & New Homes Committee and in place at the time the decision on qualification is made; and
- (d) Live in the Brighton & Hove City Area<sup>11</sup> and have lived in the area continuously for the five years immediately preceding the date they make their application for housing and continue to reside in the Brighton and Hove City Area unless any of the following circumstances apply:
- (i) They are homeless and the council has accepted a full duty to them under the Housing Act 1996 S193(2) that has not yet ceased;
  - (ii) The housing department has accepted a nomination for the applicant from the council's children's services or adult social care department or other approved partner support agency in line with inter-agency agreements, to the Council's Interest queue who has been placed outside of Brighton & Hove under a statutory duty and need to return to the city.
  - (iii) They are serving in the regular forces<sup>12\*13</sup>;
  - (iv) They have served in the regular forces\* where the application is made within five years of discharge.
  - (v) They are serving or have served in the reserve forces\*\*<sup>14</sup> and are suffering from a serious injury, illness or disability, which is attributable (wholly or partly) to that service;
  - (vi) They have recently ceased, or will cease, to be entitled to reside in accommodation provided by the Ministry of Defence following the death of their spouse or civil partner where their spouse or civil partner has served in the regular forces
  - (vii) The council has agreed to rehouse them under a reciprocal agreement with their current landlord or local authority where their current landlord or local authority has agreed that, if Brighton & Hove houses them, they will house an applicant nominated by Brighton & Hove Council;
  - (viii) The Council has accepted an application for an existing Secure or Assured tenant seeking to transfer under the right to move scheme<sup>15</sup>
  - (ix) Rehousing/relocation into Brighton & Hove is accepted by the council as being essential in the furtherance of the National Witness Protection Scheme.

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<sup>11</sup> Providing social housing for local people Statutory guidance on social housing allocations for local authorities in England

<sup>12</sup> Definitions (S374 Armed Forces Act 2006):

<sup>13</sup> \* The 'regular forces' means the Royal Navy, the Royal Marines, the regular army or the Royal Air Force.

<sup>14</sup> \*\* The 'reserve forces' means the Royal Fleet Reserve, the Royal Navy Reserve, the Royal Marines Reserve, the Army Reserve, the Territorial Army, the Royal Air Force Reserve or the Royal Auxiliary Air Force.

<sup>15</sup> Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015 (SI 2015/967) ('the qualification regulations 2015')



- (x) Applicant accepted under a reciprocal arrangement with another local authority or registered social landlords where there is an agreement to house or nominate an applicant referred by Brighton & Hove City Council.

### **Exemptions for temporary absence from the local authority area.**

A person may cease to reside in the Brighton & Hove City Council area for a temporary period in the following circumstances and not lose their local connection for the purposes of the allocations scheme.

- A. An applicant receiving hospital or other treatment outside of the city area in a treatment centre who is required to vacate their accommodation or is evicted from accommodation and is ready to return to the area.
- B. A person who is required to move to give care to another person, outside of the city, for a temporary period not exceeding 6 months.
- C. A person who loses their accommodation and is unable to find alternative accommodation in the city immediately but then returns to the city within a six week period. This will apply to applicants who have obtained local connection or who are building up their local connection with the city.
- D. Applicants who are placed on remand by the courts will not have any time placed outside of the city whilst on remand. If a person is released without conviction the time spent on remand will be discounted. If a person is convicted following a period of remand the sentence will be used to determine if local connection is removed. If a person is convicted for a period of over 13 weeks then local connection will be lost

A person who has obtained accommodation outside of the city under a contract, either written or verbal will not be considered to have maintained continuous residence in the city area for the purpose of the local connection criteria.

For avoidance of doubt Local Connection for the purpose of the allocations scheme does not include the wider definitions of Local Connection contained in Housing Act 1996 Part VII s199.

For the purposes of determining local connection, living in Brighton & Hove will not include the following:

- Occupation of a mobile home, caravan or motor home which is not placed on an official council approved site or other council approval obtained (toleration on unauthorised sites is not included)
- Occupation of a holiday letting which includes a permanent building, hotel or bed and breakfast accommodation of the purposes of a holiday
- Resident in a bail hostel or other such accommodation
- In-patients of hospitals/specialist centres
- Rough sleeping/squatting

## **Who is not a qualifying person**

This section sets out the circumstances in which applicants who meet the criteria set out above will nevertheless not be qualifying persons for an allocation of social housing in Brighton & Hove. The criteria below will apply to all applications but may, in exceptional circumstances, be waived at the discretion of the Homemove Manager or more senior officer in the housing department. Where an assessing officer considers that exceptional circumstances may apply, they will refer the application to the Homemove Manager or more senior officer to decide whether the criteria in this section should be waived.

## **Persons who do not qualify on grounds of behaviour**

Applicants will not qualify for social housing in Brighton & Hove and be (or remain) registered on the council's housing queues if any of the following circumstances apply:

- (a) The council is satisfied that they have, within the preceding 10 years, obtained or attempted to obtain housing or other housing related services/welfare benefits /public funds, from any public body in the UK, by making a false or misleading statement or withholding information, or encouraging someone else to do so on their behalf;
- (b) The council is satisfied that the applicant is unlikely to satisfactorily manage the tenancy and /or pay their rent because, for example:
  - (i) they have been evicted due to anti-social behaviour (including, but not limited to domestic violence and abuse, homophobic, transphobic abuse and/or noise nuisance) or rent arrears;
  - (ii) they have been served, within the last year, with a notice for breach of their tenancy conditions;
  - (iii) another person who shared a property occupied by them left because of the applicant's violence/abuse or threats of violence/abuse against them or a person associated with them;
  - (iv) they or a member of their household have a history of anti-social behaviour (including domestic violence/abuse and noise nuisance);
  - (v) they have a record of failure to pay rent<sup>16</sup>;
  - (vi) they have outstanding debt liabilities to the council and are not making satisfactory arrangements to repay those debts<sup>17</sup>.
  - (vii) they are a person who has been removed from a premises subject to a closure order under the Closure of Premises (Anti-Social Behaviour, Crime and Policing Act 2014)
- (c) Where an applicant or member of the household has been found guilty of a criminal offence including theft, assault, criminal damage, robbery, possession or supply of drugs, burglary and fraud, sexual assault or other criminal behaviour a person may not be eligible, or may be removed, for a period no longer than the period that an offence becomes spent under the Rehabilitation of Offenders Act 1974. Each case will be considered on its merits<sup>18</sup>.

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<sup>16</sup> Rent arrears will not include any payment of Housing Benefit paid in arrears

<sup>17</sup> Debt repayment plans are in place and have been kept for at least 6 months and continue to be kept until cleared or at the point of offer.

<sup>18</sup> R (YA) v Hammersmith and Fulham LBC [2016] EWHC 1850 considered

## **Persons who do not qualify on grounds of home ownership etc**

Under s160ZA Housing Act 1996 the council is only allowed to allocate to an eligible and qualifying person. The Code of Guidance recommends that local authorities should avoid allocating social housing to people who already own their own homes. If the council were to allocate social housing this should only be in exceptional circumstances.

Applicants who own their own homes will be provided advice and guidance on other housing options. Decisions will be made on a case by case basis and medical, disability, community care and other relevant needs will be taken into account.

Applicants will not qualify for social housing in Brighton & Hove and be (or remain) registered on the council's housing register if:

- (a) they own or jointly own accommodation (including shared ownership accommodation) in the UK or elsewhere<sup>19</sup>, or have a legal right to occupy accommodation in the UK or elsewhere (other than as a tenant or licensee) unless they satisfy the council that it would not be possible and reasonable for them to:
  - (i) occupy the accommodation; or
  - (ii) sell or let the accommodation in order to obtain suitable accommodation; or
- (b) the council is satisfied that they have equity and/or savings that it would be possible and reasonable for them to use in order to obtain suitable accommodation.
- (c) Where there are medical, disability, community care or other relevant needs applications will be considered under the following circumstances:
  - a. Where it is not possible to adapt the current accommodation to meet the needs of the owner occupier's medical/disability or
  - b. Where it is too expensive to adapt the existing accommodation to meet the needs of the owner occupier's medical/disability and they cannot afford to buy or rent suitable alternative housing, including shared ownership or private retirement housing and
  - c. The sale of the property would not enable the owner occupier to purchase or rent an alternative property suitable to meet their needs. This would include shared ownership. purchase or renting outside of Brighton and Hove all will be a factors in reaching the decision.

Where a person or member of the household disposes of a property the equity received at the point of sale will be taken into account for the purposes of a financial assessment (see below). Equity that is received will be counted as income/savings in line with the policy below.

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<sup>19</sup> Follows Housing Act 1996 s175

## **Person who does not qualify following disposal of property, purchased under the Right to Buy, Council and Registered Providers.**

Where an applicant or member of the household has purchased a property under the right to buy and has disposed of this asset by way of sale or gift to any other person the applicant will not qualify to join the housing register for a period of five years following the disposal of the property. Following this period the household's income will be taken into account in line with financial limits contained in this policy below.

## **Persons who do not qualify on the grounds of sufficient resources to accommodate themselves**

The council is permitted to take into account the financial resources available to an applicant to meet their own housing need. The following will not qualify to join the housing register.

An income financial assessment will be carried out. If a household's income exceeds the following amounts they will not qualify to join the housing register

Studio/One Bedroom	£30,000
Two Bedroom	£55,000
Three Bedroom or above	£60,000

Income will be calculated taking account of all adults on the application and include income from working and any other income regardless of its source.

In addition to the cap on income, account will be taken of any savings or investments that the household has to enable them to source accommodation. The level set will be

Studio/One Bedroom	£3,000
Two Bedroom	£5,000
Three Bedroom and above	£7,500

Where income/savings is derived from the sale of any assets such as a house then the council will assume that this sum is available as part of the financial assessment. If an applicant deliberately deprives themselves of capital or income in order to qualify for housing, they will be treated as still having it for the purpose of the financial assessment. Where a person is treated as having "notional" capital this amount may be reduced on a monthly basis to take into account living costs such as rent, council tax and other general outgoings until the notional capital is less than the financial caps under this policy. Deliberate deprivation includes gifted money to relatives and friends and payments to third parties that do not form part of authorised loans that are regulated by the financial services authority.

## **Increase in income and savings levels**

The above financial limits will be increased on an annual basis using the increase in the consumer price index each year that is used by central government for increases in welfare benefits. Any increased levels will be approved by the Assistant Director – Housing. This increase will not be subject to ratification by the relevant council committee.

## **Carrying out financial checks**

The council will carry out checks, including credit checks, on any member of the household, who are included, on the application with the applicant in order to determine household income and savings levels. Financial checks may apply to any part of this policy, which requires such an assessment, including at the offer of accommodation stage. Income is derived regardless of source and will include income from earning, savings and welfare benefits.

The council will not take into account the following in assessment of savings or income:

Any members of the armed forces recently discharged from the forces with a payment due to injury or disability, unless there is an award towards resolving their housing costs.

Disability Living Allowance or personal independence payments or any other replacement benefit for the above.

### **Persons who do not qualify on grounds of refusing a suitable and reasonable offer**

Applicants will not qualify for social housing in Brighton & Hove and be (or remain) registered on the council's housing register if they have refused any offer of suitable accommodation within the last two years made or arranged by the council and there has been no material change in their circumstances so as to make the earlier offer clearly unsuitable in the light of the applicant's changed circumstances.

### **Persons who do not qualify on grounds of being an applicant with no recognised housing need**

Applicants will not qualify for social housing in Brighton & Hove and be (or remain) registered on the council's housing register if the council is satisfied, once the application has been assessed, that they are suitably housed, that is, they have no recognised housing need under the council's Housing Allocation Scheme.

### **Exceptional Circumstances**

There may be occasions not predicted by this allocations scheme where the applicant is deemed not to be a qualifying person and accordingly following a person having requested a review of the decision (see reviews) not to include an applicant on the basis of not being a qualifying person, the reviewer may exercise discretion not to invoke the policy in exceptional circumstances. Each case will be considered on its merits. Applicants will have to demonstrate why the case is exceptional in each case.

In circumstances not predicted by the allocations scheme where, the applicant is not deemed to be a qualifying person and has not requested a review, the council may look to exercise discretion not to invoke the policy if the applicant can demonstrate that there are exceptional circumstances. Each case will be considered on its own merits

### **Non Qualifying application decision.**

If an applicant is not a qualifying person under this policy, the Homemove Team will notify the applicant in writing giving the reasons for the decision. The decision will contain the right of review that must be requested within 21 days of the notification. The council will not accept requests for a review after 21 days except in exceptional circumstances. For further information please see reviews.

## **Data Protection and rights to information**

We aim to provide excellent customer service to applicants using or seeking to use the Housing Register. This includes a right to confidentiality and right to certain information.

### **Right to confidentiality**

We will not divulge (without their consent) information about a housing applicant. This includes the fact that they are an applicant<sup>20</sup>.

### **Right to Information**

An applicant has the right to see information<sup>21</sup> held about them on the Housing Register. This is known as a subject access request (SAR). We will provide this information within 40 days of a written request of the applicant a charge of £10 will be payable for a copy of this information.

After we have completed a full assessment, we will inform an applicant about their priority on the Housing Register.

We will provide information, through the Homeseeker guide and Sussex Homemove website, about property types they are eligible for.

We will provide, through Sussex Homemove website (<http://www.homemove.org.uk/>), feedback information<sup>22</sup> about the lettings undertaken so that the applicant can estimate the length of time they are likely to have to wait before being rehoused. This will be provided when the result of a letting is known by the council.

We will inform an applicant if they have been given any priority status on the Housing Register<sup>23</sup>.

An applicant has the right to request that we inform them of any decision about the facts of their case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to them<sup>24</sup>.

The applicant has a right of review against any decision we make about their application. Their right to review is set out below in this policy<sup>25</sup>.

We will publish a summary of the Allocations Policy on the council's website and provide a copy of this summary free of charge to any member of the public that requests it.<sup>26</sup>

We will publish the full copy of this Allocations Policy on the council's website and make it freely available for any person to inspect at Bartholomew House, Bartholomew

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<sup>20</sup> 166(4) of the Housing Act 1996 as amended by the Homelessness Act 2002

<sup>21</sup> 166A (9) of the Housing Act 1996 as amended by the Homelessness Act 2002

<sup>22</sup> 166A (9)(ii) of the Housing Act 1996, as amended by the Homelessness Act 2002.

<sup>23</sup> section 166A(a)(i) of the Housing Act 1996

<sup>24</sup> Housing Act 1996 section 166A (9)(b) as amended by Section 16 of the Homelessness Act 2002

<sup>25</sup> Housing Act 1996 section 166(9)(c) as amended by Section 16 of the Homelessness Act 2002.

<sup>26</sup> Section 168 (1)

Square, Brighton. A person may request a copy of the full policy. A reasonable fee will be payable for this service<sup>27</sup>.

### **Who can apply?**

The Housing Register is open to people who are eligible and qualify under this policy and are 16 years old or over although applicants under the age of 18 will only be offered accommodation in certain circumstances (see below).

### **Existing Social Housing Tenants & Joint Tenants**

#### **Existing Social Housing Tenants**

Any secure council tenant or any assured tenant of any of the council's partners in the joint housing register living in the city may join the housing register if they are a qualifying person.

The council will not normally make an offer of accommodation to a transfer applicant where the tenant is in breach of their tenancy resulting in

- A valid Notice of Seeking Possession or suspended order for rent arrears.
- Housing Act Injunction, Anti Social Behaviour Order, Notice of Seeking Possession for other breaches to the tenancy.

Tenants will also be asked to join the Exchange Locata mutual exchange register. This register contains the details of tenants who are looking to swap their home with someone else. Mutual exchanges can be found in the city and elsewhere if people are looking to relocate to other parts of the country. There are restrictions for mutual exchanges such a size criteria or for those in rent arrears. For further information please contact Housing Centre Services.

#### **Joint tenants**

Applications for transfers can only be considered from joint tenants where both tenants are moving. If one of a joint tenant is requesting a transfer then the existing joint tenancy issues must be resolved before the application can proceed. Applications will be suspended until the tenancy issues are resolved and then any banding will be backdated to the date of the application. Joint tenants will be required to obtain independent legal advice on determining the joint tenancy.

#### **How to apply**

All Homeseekers requesting rehousing and tenants requesting transfers **MUST** complete an application to be put onto the housing register. Applications can be made on-line at <http://www.homemove.org.uk/> . Information is available on this scheme in a number of different languages <http://www.homemove.org.uk/otherlanguages.aspx> . If you are unable to complete an on-line application because you do not have access to the internet you can get on-line free of charge at the following venues in the city

Customer Service Centre Bartholomew House

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<sup>27</sup> Section 168 (2)



Customer Service Centre Hove Town Hall  
Coldean Library  
Hangleton Library  
Hollingbury Library  
Hove Library  
Jubilee Library  
Mile Oak Library  
Moulsecoomb Library  
Patcham Library  
Portslade Library  
Rottingdean Library  
Saltdean Library  
Whitehawk Library  
Woodingdean Library

Brighton & Hove has a digital inclusion project called Digital Brighton & Hove that has a list of all free access points across the city. Digital on-line can also offer free places in Brighton and Hove to get online or improve your skills like searching, security, email, social media, form-filling, finding jobs, shopping and paying bills.

<http://digitalbrightonandhove.org.uk/>

Digital Brighton & Hove can also assist those with no knowledge how to begin to get on line.

If you need help completing an on-line application you can contact the Customer Assessment and Advice Team on 01273 294400 Option 1

If you are housebound you may request that a member of staff assists you to make a telephone application or in exceptional circumstances you may request a home visit for someone to help you. For further information please see our Vulnerable Person Strategy.

### **Who can be included on the application?**

#### **Applications for General Needs Accommodation.**

Demand for social housing in Brighton & Hove is extremely high. As a result the city has to ensure that it makes best use of accommodation and that it is allocated to those in need.

The following may be included on a person's application

- Applicant who is an eligible and qualifying person.
- Applicants Husband, Wife, Civil Partner or someone with whom they cohabit.
- All dependent children under the age of 18, children of the applicant, husband, wife civil partner who are currently living with the applicant or could reasonably be expected to live within the household and residence is 100% of the time.

- This can apply to households that are split households who are not able to live together because they do not have accommodation.
- Normally other people who can be included on the application must be members of the applicant's immediate family who usually reside and have done so for a period of six months prior to the application. Any other person or persons will only be accepted as part of the applicants household in circumstance in which is reasonable for the person or person to reside with the applicant.
- A carer where the applicant can prove that a 24 hour is essential and currently lives with the applicant or there is an identified person not currently living with the person and there is a risk that the applicant may have to go into residential care if the carer is not living with the applicant.

### **People who cannot be included on the application**

People that cannot be included on a person's application include

- Lodgers
- Anyone subletting from the applicant.
- People flat sharing not in a relationship (joint tenants)
- An adult applicant may not appear on more than one application for the allocation of housing simultaneously<sup>28</sup>.
- Children who do not reside with the applicant and who have accommodation with another parent, guardian, foster carer. This includes households with shared custody where there is available accommodation for the child/ren

### **Under 18s & Under 21s**

#### **Under 18s**

Applicants who are eligible and qualify under the allocation scheme who are under 18 may register under the allocations policy. Although we will not usually offer them a property until they are over 18. In the event that there is an urgent housing need, a further assessment will be carried out and we will work with the individual to find the most suitable accommodation to meet their need. An offer of permanent accommodation will only be made if the council is satisfied that: the young person is able to live independently; able to sustain a tenancy; and has an identified package of support available to them.

#### **Exemptions**

An applicant who is entitled to succeed to a tenancy by virtue of Housing Act 1985 s87 (as amended) will be granted a tenancy by way of succession.

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<sup>28</sup> Someone with own application cannot also be on a transfer application.

## **Under 21s**

The government has proposed to withdraw automatic housing cost for people under the age of 21. The introduction of the Youth Obligation, with its tougher conditionality, and the removal of “automatic entitlement” to housing support for 18-21 year olds It is expected that the provisions will include an element of working or learning in order to qualify for Housing Benefit (or housing element of universal credit). The policy will be updated to comply with any statutory scheme introduced by government without the need to refer to committee..

### **Considerations for assessment.**

#### **Assessment of Needs**

Officers will assess applications in line with this policy taking account of all available information provided by the applicant together with any information that is available to the assessor from any other source, such as Housing Benefit, Council Tax, Electoral Register, Land Registry searches and any credit checks used to confirm residence or income.

#### **Best use of accommodation**

Assessment of accommodation will be carried out using “best use” of accommodation that is available based on the number of occupants in a property and the number of rooms. The assessment will use the overcrowding standard when assessing on this criteria.

#### **False or misleading information**

Section 171 Housing Act 1996 makes it an offence:

- To knowingly or recklessly make a statement which is false in a material particular; or
- To knowingly withhold information which the authority has reasonably required an applicant to give the council in connection with dealing with their application.

The council may request supporting documentation in relation to any application from any member of the household to determine if a person is an eligible or qualifying person. It may request details in order to assess the application. This may include information including financial, medical, employment or voluntary contribution, property ownership or disposal of a property or any other material that may be required from time to time to allow the council to reach a decision under the policy.

Failure to provide the requested information may lead to the application being suspended for a period. Failure to continue to provide any information will lead to the applications being cancelled. Any applicant or third party person submitting information under this policy may be liable to prosecution.

Any person found to have supplied false or misleading information will have their application cancelled.

## **Application and assessment process**

Applications from Homeseekers, transfers and the council's interest queue will be required to complete a housing registration form on-line at [www.brighton-hove.gov.uk/homemove](http://www.brighton-hove.gov.uk/homemove)

Applications from accepted homeless applicants will be copied over from their homeless application and will not be required to complete an application form. For the purposes of fraud or misleading information any information contained on the homelessness form will be considered under this policy.

The council will have four queues contained within this policy. These will be:

- Homeseekers - general waiting list applicants
- Homeless - Accepted Homeless under full housing duty s193(2)
- Transfer applicants – existing tenants of Brighton & Hove City Council or registered housing provider with a nomination agreement with the council
- Council's interest queue – Quota arrangement with council or other statutory services

## **Application Process**

Applicant(s) will be required to provide a passport size photograph of each applicant(s) and each member of the household over the age of 18.

Any applicant applying on-line will receive a letter that gives a **provisional band** automatically. This will allow the applicant to bid on properties while their application is being verified. Any provisional band may be changed once information has been received and the applicant will be given a band on their assessed need.

Once applications are received and a person is deemed an eligible and qualifying applicant the Homemove Team carry out an initial housing needs assessment based on the information contained on the application form and other information available. The Homemove Team will have access to other data contained in other council departments such as Housing and Council Tax Benefit. Should the Homemove Team be unable to carry out a full assessment due to the lack of available evidence the highest band that the application can achieve is Band C. The Homemove Team will write to the applicant to request additional information required to fully assess an application.<sup>29</sup>

Information that is required is stated on the on-line application form on each screen. This information will be summarised at the end of the on-line application. A full and final assessment can only be carried out once the requested information is provided. Should a request for information not be complied with a second request<sup>30</sup> for information will be sent. If this second request is not complied with the application will be cancelled. If an application is cancelled the applicant will be notified in writing. The notification will give the applicant the right to a review not to be included on the housing register. This right

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<sup>29</sup> FINO

<sup>30</sup> FINO reminder

of review must be requested within 21 days of the notification. The council will not accept requests for a review after 21 days except in exceptional circumstances. For further information please see reviews.

Any application that is received on a paper form will be assessed in the same manner as those received on-line. This however may take longer to process than those received on-line.

Following the applicant submitting an application this application will firstly be assessed to see if a person is:

- Eligible
- A qualifying person

Applicants will need to provide information to prove that they are an eligible person. This proof will be in the form a passport or other acceptable form of identification for all persons on the application.

If a person proves that they are eligible then the council will look to see if they are a qualifying person in line with the policy above. Information may be required to ascertain if a person qualifies under the allocations policy to be included as a qualifying person. This will include proof of residence or any other consideration contained in the policy.

If the person is eligible and a qualifying person the application will be assessed taking account of the relevant information supplied by the applicant. Checks will be made where necessary to verify any information that is received. This may include, but not limited to, housing benefit, council tax records, electoral registration and household financial checks.

### **Bedroom size assessment**

Each application will be assessed to determine what size of property an applicant is entitled to. The assessment will be based on the following unless there is a medical requirement for an extra bedroom on the basis of medical or disability related factors.

Size	Minimum People	Maximum People	Example Types of Household
Studio	1	1	Single Person
One Bed	1	2	Single Person or childless couple
Two Bed	2	4	One to two child family or single person with live in carer
2 bed Sheltered	2	3	A single person/couple and live in carer
3 Bed	3	6+ depending on Size	Two or more children (different sex over the age of 10)
Four Bed	4	8+ depending on Size	Five or more children

## **Applicant with children following a family breakdown.**

As the council has a very limited supply of social housing the council is not able to offer an applicant additional bedrooms where the children have accommodation with the other parent. A person in this situation who is eligible and a qualifying person may be offered a one bedroom property to allow occasional access arrangement. This aligns the allocations policy with Housing Act 1996 Part VII<sup>31</sup>

## **Medical Assessment**

Medical priority is assessed by the Homemove Team and is based on the information supplied on the on-line or a self assessment medical form. Medical priority is not awarded solely on a person's medical condition. There is a need to show that there is an impact of the person's current housing circumstances along with the medical condition. If there is insufficient details on the on-line application or self assessment medical form, applicants may be requested to provide additional details before a full assessment can be undertaken.

Assessments are made on the effect of present housing considering the health condition of the member or anyone in the household (who is/are moving) and not on the medical condition alone. In reaching the decision we will consider whether the overall effect on the household (who is/are moving) or any member of the household (who is/are moving) is sufficient to warrant one of the medical priority bands.

The Homemove assessment officers have access to the council's Medical Advisor who can advise on the medical conditions and the impact of on the person's housing conditions to assist them in their decision making of when to award medical priority. The Medical Advisor must be requested to provide advice on the need for an extra bedroom over and above that an application is entitled to under this policy. The Medical Advisor may also make recommendations in relation to any mobility classification.

A medical assessment may be requested by applicants where a medical condition occurs after they have made an application. This will be assessed as above where the medical condition is having an impact based on their current housing conditions.

Medical awards can be made as follows:

### **Band A**

Overriding (severe and immediate) medical priority awarded by the assessor where there is a **need to move** - where the housing conditions are having a severe and immediate adverse effect on the medical condition of the applicant or member of the current household as to warrant emergency priority.

### **Band B**

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<sup>31</sup> Holmes-Moorhouse v London Borough of Richmond Upon Thames considered

High (major) medical priority awarded by the Medical Advisor –where there is a **need to move** where the housing conditions are having a major adverse effect on the medical condition of the applicant or member of the current household as to warrant extra priority.

### **No award**

Where a person does not meet the criteria to be awarded Band A or B then no award will be made under this policy. There must be an identified **need to move** in order to justify this priority.

### **Medical Assessment Accepted Homeless Case**

Where the council receives a request for a medical assessment for a person who the council has placed into temporary accommodation under s188<sup>32</sup> or s193<sup>33</sup> the request will be referred to the Housing Options Team<sup>34</sup> for a suitability assessment. If the Housing Options Team find that the accommodation is either suitable or that an alternative accommodation can be found within a reasonable time then there will be no medical priority awarded. The applicant will be notified of the decision by the Housing Options Team. The applicant will have the right to request a review of the suitability assessment under Part VII. If the Housing Options Team find that the accommodation is not suitable and no other accommodation can be found then the case may be passed to the Homemove manager to agree the case to be placed into Band A.

### **Assessment for accommodation in Mobility Groups.**

All properties adapted for disabled people will be advertised across all bands. Properties will have a mobility classification as below and priority will be given to those with a matching need for a property that is advertised.

Properties will also be advertised with notes where the potential for adaptations or further adaptations exists and any further restrictions applicable.

### **Mobility Groups**

Irrespective of the band assessment, where a member, or one of the household, has a substantial and permanent physical disability which may place them in mobility groups 1,2 and 3 (see below) the Homemove Team work with the Occupational Therapist Team, A report on their housing needs may be requested before any award is made. Taking into account the recommendations of the report the Homemove Team will place the member in one of the following mobility groups:

Mobility Group 1 – Typically suitable for a person who uses a wheelchair full time, i.e. indoors and outdoors. The property will provide full wheelchair access throughout.

Mobility Group 2 – Typically suitable for a person with restricted walking ability and for those that may need to use a wheelchair some of the time. The property will have

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<sup>32</sup> Housing Act 1996 Part VII

<sup>33</sup> Housing Act 1996 Part VII

<sup>34</sup> This is to ensure that there is consistent assessment of our statutory duty under Housing Act 1996 s210

internal and external level or ramped access, but some parts of the property may not be fully wheelchair accessible.

Mobility Group 3 – Typically suitable for a person able to manage two or three steps, may use wheelchair but not full time, or may be unable to manage steep gradients. The property may have adaptations to assist people with limited mobility.

Where a disabled applicant applied for accommodation which does not meet his or her access needs, the council will take into account whether it is reasonable and practicable to adapt that property when assessing the offer consistent with our duties under Equalities Act 2010 and the Housing Grants, Construction and Regeneration Act 1996 and also whether it would meet the housing need. On occasion accommodation offers may be withdrawn from a case where the housing need would not be met.

Mobility cases will be banded under the medical awards above unless there is a minor need to move in which case the case may be awarded Minor Need to Move Band C (mobility).

### **Unsatisfactory housing conditions and overcrowding. (Homeseekers only)**

#### **Unsatisfactory housing conditions**

The Homemove team may refer an application to the council's Private Sector Housing Team where there are major issues with regards to the condition of the property. A case will only be referred if the person agrees to work with the Private Sector Housing Team and any recommendations that are made. These referrals will require the Private Sector Housing Team to make contact with the relevant landlord or managing agent who is responsible for the property. Any applicant who withholds consent for the Private Sector Housing Team to contact the Landlord or Agent will not be eligible for a banding assessment under this policy. Following any inspection of the applicant's property if there is any required intervention and there is no prospect of this being completed within 6 months the following banding awards will apply:

Unsatisfactory housing conditions as confirmed after a visit from the Private Sector Housing Team and classed as a category 1 hazard(s) that cannot be rectified within 6 months (as assessed by the Private Sector Housing Team using the HHSRS (Housing Health and Safety Rating System (part 1 HA 2004)) will be awarded Band B.

If the works required are completed before an offer of accommodation is made then these priority award will be removed. Awards in this category will be reduced by up to one band if it is considered that the applicant has moved into accommodation that is not suitable to meet their needs or if the applicant refuses to cooperate with any works required.

#### **Overcrowding**

Where the property is deemed to be 'statutorily overcrowded' by the Private Sector Housing Team under Part X of the 1985 Housing Act and there are no practicable means to make the property suitable for the number of occupants within a reasonable time period the applicant will be placed in Band A. Applicants will be placed in Band B if they lack two or more bedrooms and Band C if they lack one bedroom below these minimum provisions



An independent adult (18 years+)	1 bedroom, including a bedsit or studio
Co-habiting couples	1 bedroom, including a s/c studio
A dependent child	1 bedroom
Two children of opposite gender where one is aged over 10 years	2 bedroom
Two children of the same gender (any age)	1 bedroom

Please note that if there is a second reception room it will generally be deemed to be available for use as a bedroom and box room, which can reasonably be used by a child, will count as a single bedroom.

**Assessment for full time carers (only given when caring from someone outside of your household)**

If a person who is eligible and a qualifying person and the prime applicant(s) provide care in an area of the city, the priority may be applied for in the area in which they provide the care (bids will only be considered within one square mile surrounding the household your are caring for). Carers must have been providing care to a named person for a continuous period of at least six months up to the point of application and the same at the point of offer. Care in this context is not the provision of child care. Care must be related to a physical, mental or learning disability.

**Proof required for full time care priority**

The prime applicant(s) must provide proof that full time care is required (this will be in the form of a care assessment from Adult Social Care or Children’s Services). A copy of the person welfare benefits DLA with care or mobility component or PIP and Carers allowance that is being paid. We will also require a letter for the person/people receiving care. If the care status changes whilst on the Housing Register or at the point of offer it is up to the prime applicant(s) to inform the Homeless Team immediately of the changes.

**Assessment for person with carer not required to live in full time.**

Someone that has an occasional need for a carer will not automatically be awarded an additional bedroom. If a person is currently occupying a one bedroom property then this will be assessed as being suitable as the occasional carer can be expected to sleep in the living room on an occasional basis.

Other cases will be considered on their merits and based on the facts of each case. There is however a severe shortage of social housing and the council and its partners have to ensure that this is used to its maximum potential. Any need for an occasional carer will need to be assessed as required and evidenced as part of a care plan before it can be considered in line with the assessment for a live in carer.

### **Accepted Homeless Applicants**

Accepted Homeless households owed the main duty by Brighton & Hove City Council under s193 of the 1996 Act or s.65 of the 1985 Act will be placed in the following bands **only**

#### Band A

- Accepted Homeless households owed the main duty by B&HCC, placed in temporary accommodation where the landlord requires the property back or the property is unsuitable<sup>35</sup> to meet the applicant's or a member of the household's needs, and where the household have been assessed as ready to manage independent accommodation and no other temporary accommodation can be sought.

#### Band C

- Accepted Homeless households owed the main duty by Brighton & Hove City Council placed in B&B or short term temporary accommodation.
- Accepted Homeless households owed the main duty by B&HCC making their own temporary arrangements or suffering family split due to a genuine lack of accommodation.
- Accepted Homeless households occupying temporary accommodation on an assured short hold or non-secure

### **Care Leavers & Care Leavers leaving supported accommodation**

Priority will be awarded to care leavers where Brighton & Hove City Council has a Corporate Parenting role. Care leavers will be given priority under this scheme under the care leaver protocol into Band A if they are deemed to be tenancy ready.

If the young person is not deemed to be ready to manage an independent tenancy and are offered a supported housing placement then they will awarded Band A once there is an agreement from Housing and Children's services that the young person is tenancy ready. There will be a six months bidding time and at the end of this time the Homemove Team will start to bid for the applicant until a suitable offer is made. No Band A will be given without a full support package in place and the applicant is ready for social housing.

### **Leaving Supported Accommodation**

In some case where a household is living in support accommodation funded by Brighton & Hove City Council , an assessment of housing need will take place. If the outcome of the assessment is that the household is not ready for independent general needs accommodation, as they are deemed not to be ready to manage an independent tenancy but need supported accommodation, then they will not be able to access general needs housing.

Households are supported in this accommodation and their skills and abilities are thoroughly assessed to ensure that they are ready to make steps to greater

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<sup>35</sup> Suitability assessment required under Housing Act 1996 Part VII

independence. Supported accommodation is designated as accommodation commissioned and funded through Adult Social Care (Housing).

When these households are ready to move on from supported accommodation reasonable preference will be awarded when a household is assessed as ready to move to independent settled housing on the recommendation of the supported accommodation Key Worker.

If any ongoing support needs are assessed and, and where appropriate, a support plan must be put in place. This means that only a household who is ready to manage a tenancy will be able to access social housing. The assessment will take account of being able to manage a tenancy, have no rent arrears, have no record of anti social behaviour in the last 9 months, and demonstrate that they have completed a life skills course.

## **Sheltered Housing**

Applicants can apply for sheltered housing using the Housing Registration Form or can be referred by a relative, support worker, GP, or by the Medical Advisor recommending sheltered housing. Generally applicants or at least one of joint applicants must be over 55 years old.

The council and housing association partners have a variety of sheltered accommodation specifically for an older community where it has been agreed that a housing and support need is called for. Applicants will be required to complete a support needs form. This form will be assessed and presented to the sheltered accommodation panel.

On receipt of an application for sheltered housing, the Homemove Team will register the application and place it in the relevant housing and support need band. These are:

- High
- Medium
- Low

## **Social Welfare Considerations**

Band A – Severe Need Authorised by the Senior Homemove Officer (or above) where members are in ‘severe need’, who would otherwise be placed in Band B, has needs which when assessed cumulatively are deemed to warrant emergency priority as to warrant them being placed in Band A (Three or more band reasons from Band B)

Band B – Multiple Needs – Authorised by the Senior Homemove Officer (or above) where an applicant who would otherwise be placed in Band C, has needs which when assessed cumulatively are deemed to be so severe as to warrant them being placed in Band B (three or more band reasons from Band C).

Band B – Enabling Fostering/Adoption – Where social services make a recommendation that permanent accommodation be provided to enable someone to

foster or adopt a child, if the Homemove Team agrees this then the applicant will be placed in band B. This is only accepted with the full support of Brighton & Hove Council Children's Services.

Band C – Other social welfare/hardship – Households who need to move to a particular area in the city where failure to meet that need would cause hardship e.g. to give or receive care or support.

Band C – Delivering a Care Plan – This is where accommodation is required to assist Brighton & Hove City Council's Social Services in delivering a Care Plan (eg moving the member nearer to the source of care and support or to accommodate a carer), or to relieve other social/welfare hardship as agreed between Social Services and Housing.

### **Other priority categories (applicable to transfer applicants only)**

#### **Band A – Priority Transfers**

Agreed in exceptional circumstances by the Homemove Manager and Housing Manager where there significant insurmountable problems associated with the tenant's occupation of a dwelling and there is imminent personal risk to the tenant or their family if they remain in the dwelling.

Where the Homemove Manager and Housing Manager agree a non-urgent management transfer Band B will be awarded.

#### **Band A – Moving for major works**

Awarded to transfer applicants if their property is imminently required for essential works and the tenant cannot remain in the property. Although the council will encourage and assist such tenants to make bids through the Homemove system we recognise that we have a duty to provide suitable alternative accommodation and will make a reasonable bid within the necessary timescale.

#### **Band A is awarded to facilitate a tenant's move in one of the following circumstances:**

- Make best use of adapted sock – for example where providing adaptations in the current property is not feasible but there may be a suitable alternative property available as agreed under Tenants Incentive Scheme(TIS).
- Statutory successors to a property who are required to move due to the person under-occupying a property
- Non-statutory successors – approved by Tenancy Services, Housing Options and the Homemove Team for an offer of suitable accommodation
- Enable tenants under occupying family accommodation or adapted property they no longer require, to move to smaller accommodation or alternative accommodation under the Transfer Incentive Scheme (information on this scheme can be requested from Housing Customer Services). Under occupiers who do not qualify for this scheme will be placed in Band C

- Retiring council and HA employees, e.g. Sheltered Scheme Managers, Residential Estate Wardens where the council or HA has a contractual obligation to house

Band B is awarded to facilitate a tenant's move for the following circumstance:

- Ex-tenants returning from institutions, e.g. rehabilitation where a commitment has been made in order to secure the relinquishment of a council or HA tenancy on entering the institution.

### **Transfer Incentive Scheme (TIS)**

The TIS is a popular and successful route for many households, wanting to downsize to smaller flats from larger family homes they no longer need.

The TIS is available to council tenants who move out of a family size unit of accommodation and move to another area or into an affordable and sustainable private sector property of at least 12 months duration.

The table below shows the payment amounts (before any deductions)

Downsizing by one bedroom	£1,000
Downsizing by two bedrooms	£1,500
Downsizing by three bedrooms	£2,000
Downsizing by four bedrooms	£2,500
Moving from a wheelchair-adapted property, even if the same size	£1,000

The scheme to also include tenants moving from not just fully wheelchair adapted properties, but also partially adapted properties they no longer need (graded Mobility 2), to non-adapted, non-mobility rated properties. This is because there are very few fully wheelchair adapted properties in our council stock, but many that have been partially adapted (e.g. with level access showers, ramps).

It should be noted that some Housing Association Tenants can qualify for the Priority Banding but that the payments listed above are for Council tenants who have held standard tenancies for at least 12 months.

A person may only receive one payment under TIS

The TIS is a cash limited fund and applications may be refused if there are insufficient funds to make payments in any one financial year. A person who is refused on the basis of lack of funds may reapply to the scheme in future years.

Payments of the above amounts will be reduced if there is any remaining balance on the applicants rent account or if there are any amounts owing to Housing Benefits or any recharges following the ending of the tenancy. These amounts will be calculated by Tenants Service Income Management Team

Offers of accommodation may be restricted to council offers only if an applicant will still have any arrears or housing benefits overpayment to ensure that this may be recovered by the income management team

## **Council Interest Queue**

### **BHCC Children's Services Nominations under quota arrangements – Band A**

Under two schemes: 1. The Divert Scheme, which has been designed to prevent children being looked after by the Local Authority, and 2. General Social Services Nominations as agreed at Head of Service level.

### **BHCC Children's services Nominations early intervention – Band B**

The Homemove Manager agrees with social service an annual quota for housing client who would not be able to meet the criteria under the policy for Band B but is considered that the early intervention would enable the family to move forward with limited social care involvement.

### **BHCC Adult Social Care Nominations under quota arrangements - Band A**

The Homemove Manager agrees with Adult Social Services an annual quota for housing clients in housing need designed to enable the person to live independently in the community and have been assessed under a care plan to be able to sustain an independent tenancy. This quota can comprise of either general needs or sheltered accommodation (agreed by sheltered panel).

### **Care leavers Protocol – Band A**

Applications will be dealt with under the care leavers protocol for applications from BHCC Care leavers team for those deemed to be tenancy ready. The Council's Children's services will inform the Housing Department of expected demand for accommodation each year so the housing department may include this demand in the Council's interest queue.

### **Extra Care Housing.**

Extra care housing is specifically designed for applicants who have specific need of housing and support. Applicants can apply for this type of accommodation but applications will only be assessed for extra care housing if this is supported by a Social Worker working for Brighton & Hove City Council.

Applications for extra care are considered by the Extra Care Panel. This panel will look at the support needs to ensure that best use of this type of accommodation is made. Extra Care Housing deals with a range of support levels and allocation to Extra Care Housing may take account of the needs of existing residents in prioritising applicants.

Extra Care Housing in Patching Lodge and New Larchwood is restricted to applicants or one of joint applicants who are 55 years of age.

Extra Care Housing at Vernon Gardens and Brookmead will be open to applicants who are normally over 55 years old although applications can be considered under the age restrictions on a case by case basis. Applications may be refused if the balance of these schemes changed by the number of applicants under 55 as they are designed to meet the needs of older people.

## Other

### Witness Protection – Band A (Homeseekers queue)

The Homemove Manager agrees with NWMS (National Witness Mobility Service) an annual quota for housing clients in housing need.

### Banding structure

**Banding can only be awarded if an applicant is an eligible and qualifying person as outlined above.**

The four priority bands are:

<b>Band A</b>	Overriding (severe and immediate) priority awarded by the homemove assessor after seeking advice from the Medical Advisor – where a person needs to move as the housing conditions are having a severe and immediate adverse effect on the medical condition of the applicant or a member of the applicants current household as to warrant emergency priority
	Armed Forces personnel, or their spouses, with an urgent level of housing need who current serving members of the Armed Forces required to leave their accommodation or who have left within the last five years <sup>36</sup>
	Social Services nominations under the quota arrangements
	Witness protection nominations under a quota arrangement agreed by the National Witness Mobility Service
	Accepted homeless households owed the main duty by Brighton & Hove City Council and placed in temporary accommodation where the landlord requires the property back or the property is unsuitable to meet the applicants or member of the household's needs, and where the household have been assessed as ready to manage independent accommodation and no further accommodation can be sought as agreed by the Temporary Accommodation Allocations or Homemove Manager.
	Transfer applicants under-occupying family sized accommodation qualifying for the Transfer Incentive Scheme.
	Transfer applicants who are statutorily overcrowded and this overcrowding has occurred by family growth or two families joining together.
	Transfer applicants needing permanent or temporary decants where the property is imminently required for major repair.
	Where the property is deemed to be statutorily overcrowded by the Private Sector Housing Team under Part X Housing Act 1985 and there is no practicable means to make the property suitable for the number of occupants within a reasonable time period the applicant will be placed into Band A subject to a person intentionally overcrowding a property (see below).
	Priority Transfers, agreed in exceptional circumstances due to significant and insurmountable problems associated with the tenant's occupation and there is imminent personal risk to the household if they remain. This may include, but not be limited to, Domestic Violence, Racial Harassment, Homophobic, transphobic, bi-phobic abuse or harassment.

<sup>36</sup>(Additional preference for former armed forces personnel) (England) Regulations 2012

	Leaving a mother and baby unit funded by Brighton & Hove City Council who has successfully completed the support placement and requires a move.
	Statutory successors who are under occupying the tenancy where the council has grounds for seeking possession by offering suitable alternative accommodation. (This category will not be considered under the TIS scheme).
	Retiring council employees, e.g. Sheltered Scheme Managers, Residential Estate Wardens where the council or Housing Association has a contractual obligation to house the applicant.
	Care leavers – where Brighton & Hove are the corporate parent to the applicant and there is agreement from the Homemove Manager and professional colleagues within the council, this priority is not valid for care leavers where the corporate parenting role is held by another authority.
	Non statutory successors – where agreement has been provided by Tenancy Services and it is agreed that the applicant would be considered to be in priority need, as agreed by the Housing Options Service, and the council would therefore have a statutory duty to accommodate the person but the council considers that the property is too large to meet their needs.

<b>Band B</b>	Severe overcrowding – household lacking two or more separate bedrooms. This assessment may be qualified if a person is seen to have caused the overcrowding intentionally. (See below)
	Management Transfers – agreed by Housing Management for transfers on management grounds that do not satisfy the grounds of a Priority Transfer above. This will be agreed in consultation with the Homemove Manager.
	High (Major) priority awarded by the homemove assessor after seeking advice from the Medical Advisor – where a person needs to move where the housing conditions are having a major adverse effect on the medical condition of the applicant or a member of the applicants current household as to warrant emergency priority
	Ex-tenants returning from institutions e.g. rehabilitation, hospital – where a prior commitment has been made in writing in order to secure the relinquishment of a council or HA tenancy on entering the institution (this may also be considered for a person admitted under section in an emergency situation that would otherwise have been agreed on notice).
	To enable fostering or adoption – where agreement is reached to provide permanent accommodation or foster care arrangements on the recommendation from Brighton & Hove City Council Children and Families Service.
	Social Services nominations under the quota arrangements into Band B used as a preventative measure but does not warrant an emergency move under Band A above.
	Unsatisfactory housing conditions as confirmed after a visit from the Private Sector Housing Team and classed as a priority 1 hazard(s) that cannot be rectified within six months (as assessed by the Private Sector Housing Team using the HHSRS (Housing Health and Safety Rating System (part 1 Housing Act 2004))).
	Multiple needs that warrant high priority – applicants whose needs match more than three of the priority reasons from the Band C considered cumulatively (by the Homemove Manager are deemed to be so severe as to warrant being placed in a higher priority band.



<b>Band C</b>	Armed Forces personnel, or their spouses, with an urgent level of housing need who were former members of the Armed Forces who have left the service for more than five years <sup>37</sup>
	Moderate Overcrowding – households lacking one separate bedroom
	Council and housing association tenants under-occupying that do not qualify for the Transfer Incentive or Tenants Support Schemes.
	Accepted homeless households owed the main duty by Brighton & Hove City Council placed in temporary accommodation.
	Accepted Homeless households owed the main duty by B&HCC making their own temporary arrangements or suffering family split due to a genuine lack of accommodation. These temporary arrangements cannot be from the property that a person is considered homeless from.
	Unsanitary conditions that cannot be addressed by the Private Sector Housing Team within a reasonable time scale. Unsanitary conditions are lacking one or more of the following an inside WC or a bathroom or no access to cooking facilities.
	Applications for sheltered accommodation where there is no higher need (must have a support need) allocation to general needs accommodation will not be accepted under this band reason.
	People who need to move to a particular area in the city where failure to meet that need would cause hardship, e.g. to give or receive support.
	An applicant where a household is living in support accommodation funded by Brighton & Hove City Council and has been assessed as ready to leave supported accommodation.
	Council and Housing Association tenants who are seeking to transfer and who need to move from another local authority district to be closer to work, or to take up an offer of work and the council is satisfied that the relevant person has a genuine intention of taking up the offer of work.
	Minor Need to Move (mobility).

<b>Band D</b>	Any applicant who has applied to the council and who's application has been demoted from any other band to enable an investigation to take place on their application on the basis of false and misleading information.
	Key workers
	Applicants required to be on the Housing Register of the purpose of obtaining shared ownership. These applicants may only be assessed for the above purpose and will not receive an allocation of social housing or be nominated to a Housing Association.

### **Notification of assessed application**

Once assessed the application will be placed in the appropriate bedroom, mobility category and Band and awarded a priority date (see priority date). The Homemove Team will write to the applicant to inform them of the following:

- Registration Number
- Priority date
- Priority Band

<sup>37</sup> (Additional preference for former armed forces personnel) (England) Regulations 2012

- Band reason under the policy
- Bedroom size
- Medical assessment (if applicable)
- Mobility assessment (if applicable)
- Support Need – for sheltered (if applicable)
- Extra Care –(if applicable)

PLEASE KEEP THIS NOTIFICATION IN A SAFE PLACE AS YOU WILL NEED YOUR REGISTRATION NUMBER IN ORDER TO PLACE BIDS ON PROPERTIES.

These notifications will advise applicants that they have the right to see information held on the application under the Freedom of Information Act (subject access request). If they consider any information is inaccurate they may request that the information is corrected.

## **Reviews**

Applicants have a right of review on any decisions made under this policy in line with the provisions of the Housing Act 1996 Part VI. The notification will contain details of how to request a review. A request must be requested within 21 days of the decision. Requests for a review out side of the 21 day period will only be considered on an exceptional basis. There is no right to second review of the same decision. (See Reviews)

## **Change of circumstances/ moving**

Housing register assessments are based on an applicant's current circumstance. If you move it is the applicant's responsibly to inform the council. This can be done on the on-line change of circumstances form on the homemove web site. You should inform us if you wish to add or remove someone from your application. Adding someone to your application will be considered in line with the allocations policy above. A person may not appear on two applications at the same time.

Homeless applicants may have to be assessed to see if it is reasonable to add someone to their application. Having a child will automatically be approved. You should inform us if you wish a person to be removed from your application. We are not able to remove the main applicant from an application. If you do not wish to move with the main applicant you will need to make a new application.

Once an application has been re-assessed on the change of circumstances/moving a notification will be issued if there is any change to the applicants banding.

Applicants who have changed their accommodation will be reassessed on their new circumstances. Medical and mobility may also be reassessed. If your new property is suitable to meet your needs this may be reflected in a change to your banding.

## **Re- registration**

All homeseeker and transfer applicant must complete a review form to stay on the Housing Register once every 12 months. If you are sent a notification you will have up to six weeks following your registration anniversary date to return the form. If an applicant does not comply with this reregistration process the application will be cancelled and the applicant will be removed from the Housing Register. Applicants will be informed that they have been removed from the register and will have 21 day to appeal against this decision. (See reviews)

## **Closing of housing register applications & removal from the register**

Once a household has been moved via the homemove scheme it will be deemed that the housing need has been met and therefore the housing application will be automatically be closed. If there are other applications from the same address that are impacted by the household being moved i.e. overcrowding, then these applicants will be reassessed. If a household is moved by the scheme into council accommodation then the information contained in their file will become available to the as part of the tenancy file.

If a person is moved to one of the partner registered providers then the information may be passed to the registered provider to form part of their tenancy file.

The council will hold a copy of any application that is closed for a period of six years from the date that it is closed. After this date the council will destroy any information relating to the application. If a person reapplies within the six year period and is subsequently removed from the Housing Register then the time period will run from the date that the later application is removed.

## **Re-assessing need and priority dates**

The council may review all applications annually. If an applicant's circumstances change, at any time, they may be moved up or down the bands depending on their need.

All applicants must inform the Homemove Team immediately when their circumstances change. If any change results in a band change, the homemove will write to inform the applicant of the new band, their priority date, if applicable, and of their right to request a review of this decision. The principal of the scheme is that no one should overtake existing applicants in a Band.

## **Moving up a Band**

If an applicant moves up a Band their priority date will be as follows:

- Overcrowding due to the birth of a child. Date that information is received
- Priority or Management Transfer – date as agreed by the Housing Manager
- For Private Sector Housing Team reasons the date the decision is received from the Private Sector HousingTeam.

- For Social Services nominations, the date request is received from Social Services
- Medical reasons, the date the information is received into the Homemove Team.
- Homeless Households, the date the duty was accepted by Brighton & Hove City Council.
- All other Band changes, the date the information is received.

### **Moving down a Band**

If an applicant moves down a band, then their priority date will revert to the date that applied when the applicant was previously in that band, or an earlier date in a higher Band.

### **Multiple Needs**

As part of the assessment of an applicant's needs, those applicants who have a range of needs will be identified. These cases will be assessed to identify those applicants whose needs, when considered cumulatively, are deemed to be so severe as to warrant them being placed in a higher band. Where such exceptional circumstances exist and a higher priority band is thought appropriate the Homemove officer will, having fully considered the details of the case, forward their recommendation to the Senior Housing Needs Officer to seek authorisation that the applicant be placed into a higher priority band. The applicant will be notified of the decision of the Senior Housing Needs Officer and if this is refused the applicant will be notified and given the right of review. (See Reviews)

### **Circumstance that result in reduction of Band awarded.**

The council may reduce a person's Band award if there are indications that a person has moved into accommodation knowing that this accommodation is not suitable to meet the needs of their household. This will include moving into studio accommodation that causes statutory overcrowding and moving additional people into accommodation knowing that this will cause severe overcrowding. This is to ensure that applicants do not use the Housing Register to be housed over and above others that have waited to be accommodated. The Band reason may be reduced by one Band.

### **How does the council advertise properties?**

#### **Allocations Plan**

The council is facing a number of challenges and has to provide services with reduced resources. In order for the council to meet these challenges the council requires the allocation of social housing to be flexible. The applications will be assessed and be placed into one of four queues. These are

1. Homeseecker
2. Transfer
3. Homeless
4. Council's interest (care leavers and other agreed quotas)

The council will formulate an allocation plan each financial year that prioritise the proportion of lettings to each queue. The allocations plan will be based on the performance of the last financial year to take account of the number of lettings required to each of the above groups. This will be enable the council to balance the ongoing pressures and at the same time allow it to meet it statutory obligations, for example to discharge its homeless duty or to provide stable housing for some one leaving care or other commitments within children and adult social care.

The allocations plan must ensure that it still meets the requirements to those that are assessed as having a reasonable or additional preference. The allocations plan will be agreed by the Head of Housing each year and provide up to a certain level of lettings to each of the four queues.

The allocation plan will be applied to all adverts for properties that are available to let on the homemove scheme. Priority will be given to applicants in the allocated queue. If there are no successful applications from within the advertised queue then the property will be allocated in accordance with the allocation policy to an applicant in one of the alternative queues in priority order.

### **Advertising available properties**

The council uses Sussex Homemove <http://www.homemove.org.uk/> to advertise all properties that are available. Full details on how to bid are set out in the scheme user guide. The council will advertise properties in one of four queues, selected by the landlords, in accordance with the allocations plan (see above). These are:

- Transfer
- Homeseeker
- Homeless
- Council's interest

You may bid on properties in any of the queues; however priority will be given to applicants within the advertised queue before other applicants will be considered. You will be notified which queue you have been allocated to in your assessment letter. Other eligibility criteria will be laid out in the adverts for each property, such as

- The minimum and maximum number of persons in the household
- If there are age limits of households without young children
- The mobility group, if applicable, and details or potential for adaptations
- If pet are allowed
- Whether it is sheltered or extra care housing
- Who the landlord is ( either council or housing association)
- The minimum and maximum weekly charge<sup>38</sup> including any other charges

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<sup>38</sup> Housing & Planning Act 2016 pay to stay regulations

## **Security of Tenure & Fixed Term Tenancies**

The council has a Tenancy Strategy that lays out the expected security of tenure; Council tenancies will be issued as introductory tenancies. Housing Associations will normally issue a starter tenancy. Under the Localism Act 2011 and Housing & Planning Act 2016, landlords may offer different types of tenancy, which could be either a lifetime tenancy or a tenancy with a fixed number of years (that is then renewed if you are still in need).

New tenants will normally be given a 12 month starter or introductory tenancy before a longer tenancy is allowed. Existing tenants transferring will usually keep the same type of tenancy when moving.

The advert will clearly state which tenancy applies to that property. More information is available in landlords' respective Tenancy Policies.

Under the Housing and Planning Act 2016 it will be compulsory for all new council tenancies to be offered for a fixed term of between two and ten years. This Policy may be amended to comply with any future legislative provisions that have been passed that impact the council's ability to let properties on a fixed term basis and to align it with its Tenancy Strategy.

## **Housing & Planning Act 2016**

The Housing & Planning Act 2016 has introduced measures that will affect the levels of rents that will be charged. Any applicant(s) will be subject to a financial assessment. This assessment will look at the financial means of the household. All income must be disclosed on this assessment including income from any source of employment, saving, income from any other source including bank accounts. Any person who do not disclose all income may be withholding information that they should disclose and may be committing an offence under s171 Housing Act 1996.

The council will make such enquires into the financial details of any applicant and any other member of the household as required to under the Housing & Planning Act 2016. This may include credit checks on bank accounts and any other financial transactions that the person have had including any mortgages for example.

## **Size of property you can bid for**

An assessment of your housing need is made and you will be informed of the size of property you can bid for, please see the table below for guidance.

Size	Minimum People	Maximum People	Example Types of Household
Studio	1	1	Single Person
One Bed	1	2	Single Person or childless couple
Two Bed	2	4	One to two child family or single person with live in carer
2 bed Sheltered	2	3	A single person/couple

			and carer
3 Bed	3	6+ depending on Size	Two or more children of different sex over 10 years old
Four Bed	4	8+ depending on Size	Five or more children

In deciding the appropriate size of a property the age and gender of the children within the household are considered for example a male and female child where one is over 10 years are not expected to share a bedroom. Therefore some two child families are eligible for a two bed property and others with two children are eligible for a three bedroom property.

Extra bedrooms applicants may apply for extra bedrooms by submitting medical and or mobility information. This medical or mobility needs will have to be very high to meet the requirements of being awarded an additional bedroom.

### **Homeless applicants and property size**

In cases where households have been accepted as homeless under Part V11 Housing Act 1996 and have been awarded the relevant band, a household may bid for accommodation that falls outside of the above criteria if it has been assessed that the property is reasonable for the households needs. The offer will discharge the council's duty under Part VII Housing Act 1996.

### **In addition:**

- Where there is overriding medical need to support the request the council will allocate households up to one additional bedroom over the standards set above
- No applicants can bid for properties that would result in overcrowding or under-occupation
- Where a household is moving to smaller accommodation, they may be entitled to assistance under the Transfer Incentive Scheme
- If there are no eligible bidders over 50 years of age where an age restriction applies, applicants under 50 without children will be considered.

### **The bidding process**

Eligible applicants can make bids for properties advertised, by telephone bidding or by bidding online via the website. Applicants can also nominate a proxy bidder, and in exceptional circumstances request that the council bid on their behalf (assisted bidding). Full details of how to bid are set out in the Scheme User Guide, which will be sent out to all new applicants and is available on the website [www.homemove.org.uk](http://www.homemove.org.uk).

Applicants with support needs and those who have difficulty with written English will be supported by an appointed support provider or the Homemove Team.

Applicants who urgently need to move and who do not bid for properties may receive a direct bid. (see 'Direct bidding').

All bids for a property are checked against the eligibility rules, for example any age restrictions or size of property. Ineligible bids are excluded from consideration. We will

provide advice and support to applicants who regularly bid for properties they are not eligible for.

Applicants can bid for up to a maximum of three properties they are eligible for. NO bids can be placed on any available property after a shortlist deadline. Applicants are not required to place all three bids at the same time. Shortlists will be created within three working days for housing associations properties.

Council tenancies will be shortlisted once the Housing department has notified Homemove that the property is vacant and ready for letting. Successful applicants will be contacted as soon as possible by the landlord. Homemove are not responsible for the letting process this is carried out by the landlord.

The shortlist sent to the landlords will include the three applications that are eligible for the property in accordance with the scheme. These will be:

- Top applicant
- 1<sup>st</sup> reserve candidate
- 2<sup>nd</sup> reserve candidate

If an applicant is the top applicant in any shortlist then they will still be able to place bids on other properties. However while the applicant is waiting to view the property they will not be considered for any other properties until the result of the offer is known. If the property is unsuitable then the applicant will be able to resume bidding. If the property is refused and deemed suitable the application will remain suspended until the result of the review is known.

If none of the shortlisted applicants accept the property then this will then be offered to the next eligible applicant and this will continue until the end of the shortlist. If no applicants accepts the property this will then be re-advertised.

### **Changes to advertising, shortlisting, selection and offers**

The council is in the process of tendering for a new IT system to underpin the assessment and allocation of social housing. This policy may be updated, without the need to refer changes to committee, to reflect changes that are made with any new IT system in how properties are advertised, shortlisted or offered to applicants and to reflect any enhancements that may be available that increases customer choice, such as automated bidding mobile apps or any enhancements that reduce property void times such as daily or continuous bidding so long as it does not make changes to eligibility, qualifying persons, local connection or exemptions agreed in the policy.

### **Detection of fraud**

The council is obliged to ensure that offers of a social housing tenancy are only awarded to those that are entitled to be offered the accommodation. Housing is a valuable community asset and unfortunately is sometimes obtained fraudulently. The council is committed to improving our detection of fraud and reducing our losses from fraud.



Fraud is an act of deception intended for personal gain or to cause loss to another party. The harm caused by fraud is not just financial; it causes harm to local people. It can include:

- Failure to disclose information - for example providing false information on the housing application.
- Abuse of a position that is carried out to make personal gain - for example someone using their knowledge of council policies and procedures to gain advantage such as gaining access to a council service.
- False representation – Someone submitting false information on your behalf that is untrue and designed to increase the chance of an applicant obtaining housing.

Before the shortlist is passed to the landlord the Homemove team will pass the successful candidates to the Council's Corporate Fraud Team who will carry out any necessary checks in relation to the application. These checks will include cross checking against council records, financial checks (including any bank accounts held), check with other local authorities or checks with utility and mobile phone companies.

If any information comes to light that contradicts any information held by the Homemove Team in any respect then the council will by-pass any application on the shortlist and may continue to investigate an application. If any fraud is found to be true then the applicant will be informed of the council's decision and removed from the Housing Register. If the information is not correct then the application will be reinstated. Offers of accommodation will not be held open if the case is suspected of being fraudulent or during an investigation.

Once an offer has been made the applicant has the choice to refuse the property. If they refuse they may be able to bid again the following cycle, there are exception to this and 'refusals' further in this scheme should be considered. If an applicant is an Accepted Homeless Band A case and refused a successful bid (irrespective of bidding deadlines) then the Housing Options Team and the Homemove Team may consider that this is a full discharge of duty. Any accepted homeless case considering refusing a part 6 offer should contact the Housing Options Team before formally refusing a property

### **The Selection Process**

All eligible bids for each property are placed in priority order. Priority is decided first on the advertised queue and then by the priority band, thirdly by priority date within the band. Where a property has been advertised to give preference to a mobility group, bids from these applicants will be prioritised in band order above bids from members who are not in that stated group. Every bid will be assigned a random number when the bid is made. This number is used to resolve a tie; the highest number gets the priority. If there are no eligible bidders for a property the Homemove Team may decide to re-advertise the property.

If the property is owned by a housing association, the prioritised list will be referred to the landlord.

To minimise delays all landlords may arrange multiple viewings for up to three applicant households per property. Applicants will be required to bring proof of identity (for example Driving Licence or Passport) to the viewing. For general needs housing, the Rehousing will:

- Contact the applicant using the telephone or e-mail contact provided; applicants are responsible to keep homemove updated of any changes to contact details. Any contact details that are not kept up to date may result in an applicant being by-passed on a shortlist.
- Offer the applicant the option to accept and invite to sign for the tenancy or agree a decision within 24 hours
- If the applicant chooses to refuse, the Rehousing Officer will note the reasons for the refusal and the next applicant is selected for an offer. Applicants will be offered one offer of suitable accommodation to meet their housing needs, except in certain circumstances contained in this policy. Properties are not kept open if they are refused.
- Applicants who do not provide proof of identity at the viewing will be given 24 hours to provide proof at a council office prior to signing for the tenancy, if this is not provided there is the chance the offer may be withdrawn and the case referred back to the Homemove Team for investigation
- Once an offer of accommodation has been accepted the Housing Application will be closed by the Homemove Team or the Rehousing Team
- A failure to respond to an offer or viewing will be deemed for the purposes of this policy as a refusal. A failure to contact the Rehousing Team following a viewing will also count as a refusal.

If the property is considered to be a sensitive let any issues surrounding this will be discussed with the incoming tenant prior to a tenancy being granted. If a property is considered to be a sensitive let and an applicant refuses the property this will not count as a suitable offer of housing.

### **How shortlisting takes place**

Offers will normally be made to applicants at the top of the shortlist. In very exceptional circumstances we may need to reject an applicant on the shortlist for a particular property to ensure that we meet the following objectives:

#### **To ensure that communities are as balanced as possible**

Landlords may adopt Local Lettings Plans for specific areas. These plans will need to be agreed by stakeholders and Brighton & Hove City Council and will consider the problems that need addressing, backed up by evidence. Properties subject to Local Lettings Plans will be clearly advertised and priority will be given to those that meet the agreed criteria.

#### **To ensure that allocations are sensitively made**

In exceptional cases, for housing management reasons, we may not offer to the person at the top of the shortlist. You will be contacted by the landlord in writing with the reasons for this decision. Any property that requires a “sensitive let” will be notified to the Homemove Team before it is advertised. Any person that requires a sensitive let will be notified as part of the assessment process.

### **To make best use of the council’s stock and to reduce under occupation**

From time to time a property may be advertised for those who are releasing larger council accommodation or reserved for those who need to move urgently because the council is undertaking work on the property

### **To ensure properties are let quickly**

This is important to minimise rent loss and empty property turn around time. Applicants must be available and able to take up an offer of accommodation, applicants will be contacted by telephone or e-mail or in certain cases by letter, and if there is no contact after three days then the offer will be withdrawn and counted as a refusal.

If an offer is not made to the applicant at the top of the shortlist, the reasons will need to be agreed by the Homemove Manager in line with this policy.

### **Time limits for bidding for properties**

There is a three-month time limit for bidding for the following categories of applicants (except where otherwise noted):

- Social Services nominations under quota arrangements
- Witness Protection nominations under a quota arrangement and agreed through the National Witness Mobility Service
- Reciprocal letting arrangements with another landlord or local authority
- Accepted homeless households owed the main duty by Brighton & Hove City Council Band A
- Accepted Homeless Household in Band C who are not bidding under the scheme.
- Households who are statutorily overcrowded
- Transfer applicants needing a permanent or temporary decant where the property is imminently required for major repair
- Where the property is deemed to be 'statutorily overcrowded' by the Private Sector Housing Team under section X of the 1985 Housing Act and there are no practicable means to make the property suitable for the number of occupants within a reasonable time period.
- Priority transfer, agreed in exceptional circumstances due to significant and insurmountable problems associated with the tenant's occupation and there is imminent personal risk to the household if they remain.
- Retiring council and HA employees, e.g. Sheltered Scheme Managers, Residential Estate Wardens where the council or HA has a contractual obligation to house.
- Non-statutory successors – where agreement has been provided by Tenancy

Services and Housing Options that the council will try to re-house in accommodation suitable for the applicant's housing need.

- Under-occupiers who have succeeded to the tenancy where the council has grounds for seeking possession by offering suitable alternative accommodation.
- Care leavers – where the applicant has been placed by Brighton & Hove City Council and there is agreement from the Homemove Manager and professional colleagues within the council, this priority is not valid for care leavers from other authorities.
- Management Transfers - agreed by Housing Management for transfers on management grounds.
- Ex-council and HA tenants released or discharged from an institution that the council has given an undertaking to house who have not successfully bid within the timescale will be made one offer before duty is discharged or priority lost.

After the bidding time allowed above has passed and the applicant has not been successful the council will then place bids on behalf of the applicant that are more likely to receive an offer of accommodation this is known as direct bidding.

### **Applicants not bidding**

Applicants who are not subject to a minimum bidding time limit who fail to make any bids within a 12 month period will be informed that they must be actively bidding. Applicants will be given one written warning giving them a further month to make a bid. If an applicant fails to make bid then the application will be cancelled and removed from the housing register. Applicants may reapply to the housing register but this will be considered to be a new application and be assessed accordingly. There will be no backdating of any priority dates to a former application that is removed.

### **Direct Bidding**

It is our aim to advertise all properties through Homemove but there may be circumstances where we will make bids on behalf of households.

- Special circumstances, e.g. applicants who are assessed as high risk offenders have their application processed through a multi-agency panel. This group will be restricted from bidding and a property identified as recommended by the panel. The panel will make one reasonable offer and if refused the applicant can request a review. The final decision on eligibility to bid lies with the Homemove Manager.
- Accepted Homeless households in Band A or C who have failed to exercise choice through the bidding process within the three month timescale or who have bid within the timescale but have not been successful. The council may make one reasonable offer of accommodation before duty is discharged.
- Retiring council employees or those who have highly specific requirements or

who have failed to bid successfully within their bidding time will be offered one property. If refused, the Homemove Manager will review the case and priority may be lost and/or request proceedings possession begins.

- Tenants who need to be temporarily or permanently decanted who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost.
- Ex-council & HA tenants released or discharged from an institution that the council has given an undertaking to house who have not successfully bid within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost and/or request possession proceedings begins.
- Non-statutory successors who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost and/or request proceedings possession begins.
- Statutory successors who need to downsize who have failed to bid successfully within their bidding time will be offered one property
- Priority Transfers who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost and/or request proceedings possession begins.
- Social Services nominations under quota arrangements who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost.
- Witness Protection nominations under a quota arrangement and agreed through the National Witness Mobility Service who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost.
- Care leavers – where the applicant has been placed by Brighton & Hove City Council and there is agreement from the Homemove Manager and professional colleagues within the council, this priority is not valid for care leavers from other authorities. If refused the Homemove Manager will review the case and priority may be lost.
- Management Transfers — agreed by Tenants Service for transfers on management grounds who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost and/or request proceedings possession begins.
- Where the property is deemed to be 'statutorily overcrowded' by the Private Sector Housing Team under Part X of the 1985 Housing Act and there are no practicable means to make the property suitable for the number of occupants within a reasonable time period who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost.
- Reciprocal housing agreement with another landlord or local authority who have failed to bid successfully within their bidding time will be offered one property. If

refused the Homemove Manager will review the case and priority may be lost.

### **Offers of accommodation.**

With such high demand for accommodation and the need for landlords to let properties to keep down void periods and any subsequent rent loss the council will only make one suitable offer of accommodation to applicants who are bidding themselves or are receiving assisted bidding, except in the circumstances below.

### **Exceptions to one offer policy.**

- Applicants accepted under the Tenants Incentive Scheme (TIS) or Tenants Support Scheme (TSS) downsizing from family accommodation
- Applicants accepted under the TIS or TSS Scheme releasing adapted properties
- Applicants in Homeseeker and Transfer groups seeking sheltered accommodation ( three reasonable offers of accommodation in any one 12 month period will apply)

### **Suitability of offers**

In order to maintain a transparent and open system that aligns offers of accommodation across all groups the allocations policy will apply suitability of all offers of accommodation using the criteria that is used for homeless applicants under the Housing Act 1996<sup>39</sup>

### **Refusals following bidding or direct bidding**

In the above cases the council will make a suitable offer, one that as far as possible matches the size, and type of property the applicant is eligible for. The applicant must give their reasons for refusing. The property will **not** be held empty while the refusal is reviewed but will be let to another applicant.

If the offer is to a homeless household the Temporary Accommodation Allocations Manager will check the case and see if the offer will be enforced. Applicants will be given the required notification on their rights to request a review under Housing Act 1996 Part VII s202. Applicants will be advised that they should accept an offer of accommodation and can still request a review under Part VII. This will at least leave the person with some accommodation if the review process does not uphold their review.

If an offer is to other categories of applicant the Homemove will consider the reasons for refusal. If there is a clear mismatch, eg where applicant or property details were incorrect, the offer will be withdrawn and the applicant notified. If the offer was found to be a reasonable one, the Homemove Manager will advise the

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<sup>39</sup> Housing Act 1996 Part VII s210

applicant of the reasons for this finding and of the effect that this decision has on their application.

### **Refusals of suitable accommodation member bidding**

Applicants who have refused a suitable offer of accommodation will have their application closed, please note that if applicants who are second or third become first for an offer and refuse will be deemed 'first' under this part of the policy.

It should be noted that if a tenancy is accepted and then refused without the tenancy being moved into this will result in the application being closed. There is no facility for an application set to a status of let being reopened. This will be seen as a refusal and dealt with as the above.

All cases will be dealt with based on information supplied and submitted. There is no right to request a further review of the decision.

It should also be noted that this does not include Accepted Homeless cases where if households in this group are successful in obtaining an offer of accommodation within three months, this will be considered a final offer. Any refusal of offers for accepted homeless case will be dealt with under the reviews procedure under Part VII Housing Act 1996 and not under the allocations policy.

The council may exercise discretion to retain the current bandings or priority dates in certain instances, for example where a council or housing association tenant is releasing a property they are under occupying or one that has been adapted that could meet the needs of households who are waiting in a high banding.

### **Feedback on let properties**

All properties let will be listed on the Homemove website showing the number of bidders for each property and the band and priority date of the successful applicant.

### **Ending a joint tenancy when one party to the tenancy leaves**

Joint tenants remain jointly and severally liable for the terms of any tenancy granted by the council of housing association. A tenancy agreement is a legal contract between the landlord and the tenant. If one of the joint tenants leaves or abandons the property it is the responsibility of the remaining tenant to take action to resolve the situation. As the council is an interested party the remaining joint tenants will be advised to seek independent legal advice on how to bring a tenancy to an end.

Broadly speaking the council will grant a joint tenancy to partners applying together for housing as long as both parties are eligible. A joint tenancy remains in joint names until one or both joint tenants terminate the tenancy. Where there has been a relationship breakdown then one of the joint tenants may make an application for a property adjustment order. If there is a dispute as to who should remain in the property the courts will make a decision on who can remain.

### **Local Lettings Plans**

A local lettings plan is an agreement between the social landlord and local tenants and residents that restricts lettings in the area to certain households. This is done to tackle a specific issue or problem that has been identified locally at either block,

street, estate, neighbourhood or city level, or to achieve a sustainable community on a new development. Local lettings plans allow the council or HA to:

- Identify and explore the barriers to access housing.
- Deliver better outcomes and improve life chances for current tenants and future residents.
- Developing a stock and demand profile of the area alongside the views of local tenants and residents groups will primarily identify the need for any local lettings plans.

Four key elements will be considered when developing a new local lettings plan:

- Selective lettings - there may be some restrictions as to who can apply for certain properties or areas. For example this may involve age restrictions or a requirement to have a local connection.
- Making the best use of housing stock.
- Developing a balanced and sustainable community - where a local policy would promote community cohesion and balance the needs of existing and new tenants to create more inclusive neighbourhoods where people want to live. This may be in areas where there is a high turnover of properties either within an estate or amongst certain property types.
- Attract potential tenants - for example certain properties may be offered with a level of furnishings.

### **Key stages of development**

Developing a stock and demand profile of the area - this may include a breakdown of and information on:

- Property types and numbers
- Household type, including customer profile information of residents
- Voids and lettings within last financial year
- Numbers and reasons for refusal
- Reasons for rehousing and reasons why tenants leave
- Where most availability has occurred and why
- Number of registered transfers
- The level of demand for properties in the area
- How long tenancies are lasting
- How quickly vacancies are filled
- The layout of the area and services available
- Social issues within the area and any multi-agency involvement
- An estimate of vacancies expected
- Local targets for performance

### **Involving and consulting residents and tenants**

The landlords and partners will be responsible for consulting with residents and existing tenants and involving them in the development of any proposals for Local Lettings Plans. This may involve carrying out 'door to door' surveys to collate resident and tenant's views. Partner landlords who have stock within the area will be consulted on the need or otherwise for a local plan. Full Equality Impact Assessments will be carried out on all Plans.



## **Evaluating the information**

The council will evaluate the information in the stock and demand profile. It will also take account of tenants' views when identifying recommendations to develop local lettings criteria. The council must also consider diversity and equal opportunity issues of local communities when formulating any local lettings plans.

## **Making recommendations**

Recommendations may include some of the following criteria:

- Setting a maximum or minimum age limit for certain properties.
- Preference to tenants / applicants with a local connection or who already live or work in that area.
- Preference to tenants / applicants who are giving or receiving support to or from family/extended family, voluntary work, day care, playgroups or other support from locally based organisations.
- Preference to people who are employed.
- Preference to other household types who would not normally be eligible under the council's letting policy — e.g. this could be couples without children, where there is a high density already in the area of families with children.
- Preference to specific groups of people for specific types of properties or in specific localities where this would benefit the community.
- Preference to people from BME and religious cultures.
- Meeting need of a category of people to ensure most appropriate use of stock.

## **Impact of Local Lettings Plans on the Allocations Policy**

Once a report with recommendations has been finalised, the council will have to formally adopt the plan and this will override the current eligibility criteria. This will take into account the impact of overall lettings in the district. Any property subject to a Local Lettings Plan will be clearly labelled (LLP) within the advertisements.

## **Review of Local Lettings Plans**

The council will ensure that Local Lettings Plans are publicised and implemented. In addition, they will ensure that these plans are continuously monitored and reviewed annually or in line with the Local Lettings Plan recommendation of any review period not exceeding four years, with the involvement of local tenants and residents. If a Local Lettings Plan is agreed it will be promoted within the affected area. If a Local Lettings Plan is not reviewed on an annual basis or in line with the recommendations agreed by committee, then the Local Lettings Plan will lapse.

## **Reviews under Part VI Housing Act 1996**

An applicant will be notified of the right to a review under the allocations policy. The Right of Review under the allocations policy are as follows:

- (i) A decision an applicant is not eligible<sup>40</sup>
- (ii) A decision concerning the facts of the case which are likely to be or have been taken into account in considering whether to allocate accommodation<sup>41</sup>
- (iii) A decision that an applicant is not a qualifying person for an allocation<sup>42</sup>

### **Reviews concerning the facts of the case in above (ii) above include**

- a) The type of property for which an applicant will be considered
- b) The extend of the applicant's household to be considered for housing with the applicant
- c) The applicant's medical condition or welfare needs
- d) Other fact used to determine whether the applicant in entitled to a reasonable preference
- e) Whether the applicant should receive additional preference on the grounds of urgent housing need or otherwise and
- f) Determining the applicant's priority including his or her financial resources, behaviour ( or that of his or her family), and local connection.

### **Procedures on review**

The Secretary of State has issued guidance<sup>43</sup> on how the local authority should carry out reviews under the allocations policy.<sup>44</sup>

The review procedures should be clearly set out, including timescales for each stage of the process, and must accord with the principles of transparency and fairness. Failure to put in place a fair procedure for reviews, which allows for all relevant factors to be considered, could result in a judicial review of any decision reached. The following are general principles of good administrative practice:

### **Review time scales**

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<sup>40</sup> Housing Act 1996 160ZA(9)(a) & (c)

<sup>41</sup> Housing Act 1996 166A (a)(b) & (c)

<sup>42</sup> Housing Act 1996 160ZA 9(b) & 166A(9)(c)

<sup>43</sup> Allocation of accommodation: guidance for local housing authorities in England June 2012

<sup>44</sup> Housing Act 1996 s166a (10)

Applicants will be notified that they will have 21 days to request a review of any decision that is statutorily reviewable.

Review requests that are received outside of the 21 day time limit may be accepted if there are exceptional circumstances as to why the applicant was unable to request a review within 21 days.

Applicants will be notified that the request for review should be made in writing, and that it would also be acceptable for the request to be submitted by a representative on their behalf. Applicants will also be advised of the information which should accompany the request.

Representation for the review will normally be made in writing setting out the grounds for the review and any other submissions that the applicant wishes to be considered as part of the review. In exceptional circumstances the council may allow an applicant to make verbal representations to the person carrying out the review, if for example the case is extremely complex.

The review will be carried out by an officer who is senior to the person who made the original decision by at least one grade. It will not be carried out by a person who made the original decision or involved in the decision that is subject to the review.

The review will be considered on the basis of the authority's allocation scheme, any legal requirements and all relevant information. This should include information provided by the applicant on any relevant developments since the original decision was made – for instance, the settlement of arrears or establishment of a repayment plan or departure of a member of the household responsible for anti-social behaviour or a change in a person's medical or mobility.

Reviews should be completed wherever practicable within eight weeks from the date the review is requested. The applicant or their representative may request an extension of time to submit representations. The council will look to notify an applicant if the review cannot be completed within eight weeks with the reason for the extension.

Applicants will be notified in writing of the outcome of the review. The notification will set out the reasons for the decision. This is to assist the applicant and the authority if, for example, the applicant is not satisfied with the outcome and decides to seek a judicial review or to take their case to the Local Government Ombudsman.

### **Rights of Applicants following a review.**

An applicant who is dissatisfied with the outcome of a decision made on review can either decide to pursue their case to the Local Government Ombudsman or to seek a judicial review. If an applicant is seeking to pursue the matter by way of judicial review then they are advised that to seek advice from a legal advisor before doing so.

**There is no right for an applicant to request a second right of review.**

## **Right to Move (Transferring tenants from another local authority only)**

### **Work**

In order to qualify for an exemption of the local connection criteria the following will be taken into account in assessing if an exemption applies.

The Right to Move qualification regulations 2015<sup>45</sup> only apply if work is not short-term or marginal in nature, nor ancillary to work in another district. Voluntary work is also excluded.

### **Short-term**

In determining whether work is short-term, the following are relevant considerations:

- whether work is regular or intermittent (This is likely to be particularly relevant in the case of the self-employed).
- the period of employment and whether or not work was intended to be short-term or long-term at the outset
- if a contract of employment that was intended to last for less than 12 months would be considered to be short-term.

### **Marginal**

The following considerations would be relevant in determining whether work is marginal:

- the number of hours worked
- if less than 16 hours a week could be considered to be marginal in nature. This is the threshold below which a person may be able to claim Income Support and the threshold for a single person's entitlement to Working Tax Credit. (The fact that a tenant only works 15 hours a week, for example, may not be determinative if they are able to demonstrate that the work is regular and the remuneration is substantial).
- the level of earnings.

### **Ancillary**

Work must not be ancillary to work in another local authority's district. This means that, if the person works occasionally in the local authority's district, even if the pattern of

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<sup>45</sup> Statutory guidance on social housing allocations for local housing authorities in England 2015

work is regular, but their main place of work is in a different local authority's district, the work is excluded for the purposes of this policy.

A further relevant consideration would also be whether the tenant is expected eventually to return to work in the original local authority district. If a local authority has reason to believe this is the case, they should seek verification from the tenant's employer.

A person who seeks to move to Brighton and Hove to be closer to work in a neighbouring authority – for example, where the transport links are better in the first local are also excluded from the right to work

### **Voluntary work**

Regulations exclude voluntary work. Voluntary work means work where no payment is received or the only payment is in respect of any expenses reasonably incurred.

### **Apprenticeship**

The term 'work' includes an apprenticeship. This is because an apprenticeship normally takes place under an apprenticeship agreement which is an employment contract (specifically a contract of service).

### **Genuine intention to take up an offer of work**

Where the tenant has been offered a job and needs to move to take it up, they must be able to demonstrate to the local authority's satisfaction that they have a genuine intention to take up the offer.

### **Verification and evidence**

In all case the council will want verification and evidence that the work or job-offer is genuine and therefore the following documentary evidence will be required:

- a contract of employment
- wage/salary slips covering a certain period of time, or bank statements (this is likely to be particularly relevant in the case of zero-hours contracts)
- tax and benefits information – e.g. proof that the applicant is in receipt of working tax credit (if eligible) P60 or other information related to the employment.
- a formal offer letter and letter of acceptance
- the employer to verify the position.
- Letters should be on company headed paper.

Applicant must qualify for an allocation under the right to move both at the time of the initial application **and** when considering making an allocation. This means that proof we have to be provided that the person's circumstances have not changed.

Any application that is suspected of attempting to supply false or misleading statements in order to obtain accommodation with the council commits an offence and may be

prosecuted. If a property is allocated following false or misleading statements a person may face eviction.

Section 166A provides that the council must frame the allocations policy to ensure that reasonable preference is given to move to the area, where failure to meet that need would cause hardship to themselves or others. Reasonable preference for the Right to Move Scheme has been set at Band C under the banding structure. In exceptional circumstances an applicant may be awarded a higher band under the scheme on the basis of a medical condition to Band B. This will be assessed on the same basis as those with a local connection if they meet the relevant criteria above.

### **Quota of properties under right to work**

The secretary of state recommends that council set a quota to allow people to move under this scheme. The recommended quota is advised to at one percent of letting each year. Councils that wish to set aside less than one percent of allocations have to be ready to explain publicly why this is the case.

In this allocations policy it is recommended that the council sets aside half a percent (0.5) as a quota for the Right to Work Scheme. The rationale for this figure is that Brighton and Hove is an area of high housing demand that the council is unable to meet the needs of local residents including those that the council has a statutory duty to accommodate. Since the introduction of the right to move scheme there have been no applications to the council under this scheme. It is likely that people that move to the city are likely to move to employment that affords them the ability to source their own accommodation. It is also likely that the job market in the locality may only provide seasonal work to those on lower incomes.

This quota will be kept under review to see if it meets demand. This quota may be varied to a maximum of one percent of allocations by the Assistant Director-Housing.

### **Rehabilitation periods for certain types of sentence/disposal under the 1974 Act (as amended by the 2012 Act)**

Sentence/disposal	Rehabilitation period if aged 18 or over when convicted/disposal administered	Rehabilitation period if aged under 18 when convicted/disposal administered
A custodial sentence of over 48 months	Never spent	Never spent
A custodial sentence of over 30 months but not exceeding 48 months	7 years from the date on which the sentence (including any licence period) is completed	42 months from the date on which the sentence (including any licence period) is completed
A custodial sentence of over 6 months but not exceeding 30 months	48 months from the date on which the sentence (including any licence period) is completed	24 months from the date on which the sentence (including any licence period) is completed
A custodial sentence of up to 6 months	24 months from the date on which the sentence	18 months from the date on which the sentence(including any

	(including any licence period) is completed	licence period) is completed
Fine	12 months from the date of the conviction in respect of which the fine was imposed	6 months from the date of conviction in respect of which the fine was imposed
Community order	12 months from the last day on which the order has effect	6 months from the last day on which the order has effect
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)

All offences that are not spent must be disclosed to the council on the application form. No offences that are spent have to be disclosed under the Rehabilitation of Offenders Act 1974.

### **Sexual Offences Act 2003**

Applicants who are required to sign onto the sex offenders register are required to inform the council that they are required to do so. Offers of accommodation for this group may require authorisation from the public protection or Multi-Agency Public Protection Arrangements before they can proceed to an offer of accommodation. Any refusal by public protection or MAPPA to agree to the offer will result in the offer being bypassed.

### **Reciprocals**

The council recognise the need for the allocations scheme to contain an element of social mobility whilst protecting social housing as a valuable and scarce resource. In order to strike a balance the council will enter into reciprocal arrangement with another local authority or housing association.

All reciprocal arrangements are agreed on a discretionary basis and the council retains the right to decline a request for a reciprocal agreement if it is not considered to be in the interests of the council.

Applicants must have been registered on a mutual exchange system and have been unable to obtain housing through these schemes, except in the case of domestic violence.

The Homemove Manager must approve all reciprocal arrangements both in and out bound.

Requests for a reciprocal agreement will only be accepted if a person would otherwise meet the eligibility and qualification criteria contained in this policy requests for a reciprocal agreement for anti social behaviour and rent arrears will usually be refused. Applications will be considered to take into account the Benefit Cap on any reciprocal request.

Reciprocals are only agreed when there is no material loss to the council in terms of available housing stock. In most cases, this means that the council will expect back a property of equal or larger size than the unit offered. The unit must also be comparable

in terms of quality and type. If a property requirement is within mobility groups one or two it will be mandatory that the reciprocal is of the same group and in the case of an inbound request that an outbound reciprocal will have to be identified before a request will be agreed.

In exceptional circumstances, the council may agree to accept an equal number of bedrooms in exchange for a larger unit of the same number of bedrooms, i.e. 1 three bed for 3 three beds or 1 one bed and 1 two bed, This will only be considered where there is no other re-housing option available to the applicant and where there is a strong welfare reason to support the request. This request may be agreed where a tenant under the TIS or TSS schemes will vacate family size accommodation.

The council expects to receive back the replacement unit within twelve months of the original re-housing.

The local authority or housing association concerned will be required to provide a written commitment to the terms of the reciprocal, as agreed by the Homemove Manager.

Applicants approved on a reciprocal basis will be placed in and be able to bid for the agreed housing appropriate to meet their needs for three months and if unsuccessful during this period will be given one direct offer of suitable accommodation. If this is unreasonably refused the application will be closed. The council's one offer policy applies.

The council will contact the applicant's landlord at the point of re-housing, to notify them of the move and to request details of the property being provided in replacement.

The applicant will not be re-housed out of turn and all of the terms of bidding, shortlisting and letting apply.

Brighton & Hove Allocations Scheme guidance to officers on the assessment and implementation of this policy.

In order to implement the council's allocations scheme the following is guidance to officers on the use of council systems and procedures following council's agreement of the scheme by Members. This will be developed following the policy above. This guidance may change from time to time to reflect changes in the law or service delivery within the housing department or other services involved.



## **ANNEX 1: ELIGIBILITY**

i.) As a local housing authority we must consider all applications made in accordance with the procedural requirements of our allocation scheme (Housing Act 1996 sections 166(3) and 166A(14)). In considering applications, we must decide:

- if an applicant is eligible for an allocation of accommodation, and
- if he or she qualifies for an allocation of accommodation

### **Eligibility**

ii.) An applicant may be ineligible for an allocation of accommodation under s.160ZA(2) or (4).

We will consider an applicant's eligibility at the time of the initial application and again when considering making an allocation to them, particularly where a substantial amount of time has elapsed since the original application.

### **Joint Tenancies**

iii.) Under s.160ZA(1)(b), we must not grant a joint tenancy to two or more people if any one of them is a person from abroad who is ineligible. However, where two or more people apply and one of them is eligible, we may grant a tenancy to the person who is eligible. In addition, while ineligible family members must not be granted a tenancy, we should take them into account in determining the size of accommodation which is to be allocated.

### **Existing Tenants**

iv.) The eligibility provisions do not apply to applicants who are already our tenants. Most transferring tenants fall outside the scope of the allocation legislation (s.159(4A)); while those who are considered to have reasonable preference for an allocation are specifically exempted from the eligibility provisions by virtue of s.160ZA(5).

### **Persons from abroad**

v.) A person may not be allocated accommodation under Part 6 if he or she is a person from abroad who is ineligible for an allocation under s.160ZA of the 1996 Act. There are two categories for the purposes of s.160ZA:

- a person subject to immigration control - such a person is not eligible for an allocation of accommodation unless he or she comes within a class prescribed in regulations made by the Secretary of State (s.160ZA(2)), and
- a person from abroad other than a person subject to immigration control – regulations may provide for other descriptions of persons from abroad who,

although not subject to immigration control, are to be treated as ineligible for an allocation of accommodation (s.160ZA(4))

vi.) The regulations setting out which classes of persons from abroad are eligible or ineligible for an allocation are the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 (SI 2006 No.1294) ('the Eligibility Regulations'). Persons subject to immigration control

vii.) The term 'person subject to immigration control' is defined in s.13(2) of the Asylum and Immigration Act 1996 as a person who under the Immigration Act 1971 requires leave to enter or remain in the United Kingdom (whether or not such leave has been given)

The following categories of persons do not require leave to enter or remain in the UK:

- British citizens
- certain Commonwealth citizens with a right of abode in the UK
- Irish citizens, who are not subject to immigration control in the UK because the Republic of Ireland forms part of the Common Travel Area (see paragraph 3.11 (iii) below) with the UK which allows free movement
- EEA nationals<sup>46</sup>, and their family members, who have a right to reside in the UK that derives from EU law. Whether an EEA national (or family member) has a particular right to reside in the UK (or another Member State) will depend on the circumstances, particularly their economic status (e.g. whether he or she is a worker, self-employed, a student, or economically inactive) persons who are exempt from immigration control under the Immigration Acts, including diplomats and their family members based in the UK, and some military personnel.

viii.) Any person who does not fall within one of the four categories in paragraph x.) will be a person subject to immigration control and will be ineligible for an allocation of accommodation unless they fall within a class of persons prescribed by regulation 3 of the Eligibility Regulations (see further below).

xi.) If there is any uncertainty about an applicant's immigration status, we will contact the UK Border Agency (UKBA). UKBA provides a service to housing authorities to confirm the immigration status of an applicant from abroad (non asylum seekers) by email at LA@UKBA.gsi.gov.uk . Where UKBA indicates the applicant may be an asylum seeker, enquiries of their status can be made to the Immigration Enquiry Bureau helpline on 0870 606 7766.

x.) Regulation 3 of the Eligibility Regulations provides that the following classes of persons subject to immigration control are eligible for an allocation of accommodation:

- a person granted refugee status: granted 5 years' limited leave to remain in the UK

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<sup>46</sup> European Economic Area nationals are nationals of any EU member state (except the UK), and nationals of Iceland, Norway, Liechtenstein and Switzerland

- a person granted exceptional leave to enter or remain in the UK without condition that they and any dependants should make no recourse to public funds: granted for a limited period where there are compelling humanitarian or compassionate circumstances for allowing them to stay. However, if leave is granted on condition that the applicant and any dependants are not a charge on public funds, the applicant will not be eligible for an allocation of accommodation. Exceptional leave to remain (granted at the Secretary of State's discretion outside the Immigration Rules) now takes the form of 'discretionary leave'.
- a person with current leave to enter or remain in the UK with no condition or limitation, and who is habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland (the Common Travel Area): such a person will have indefinite leave to enter (ILE) or remain (ILR) and is regarded as having settled status. However, where ILE or ILR status is granted as a result of an undertaking that a sponsor will be responsible for the applicant's maintenance and accommodation, the person must have been resident in the Common Travel Area for five years since the date of entry - or the date of the sponsorship undertaking, whichever is later – to be eligible. Where all sponsors have died within the first five years, the applicant will be eligible for an allocation of accommodation.
- a person who has humanitarian protection granted under the Immigration Rules<sup>47</sup>: a form of leave granted to persons who do not qualify for refugee status but would face a real risk of suffering serious harm if returned to their state of origin (see paragraphs 339C-344C of the Immigration Rules (HC 395))

### **Other persons from abroad who may be ineligible for an allocation**

xi.) By virtue of regulation 4 of the Eligibility Regulations, a person who is not subject to immigration control and who falls within one of the following descriptions is to be treated as a person from abroad who is ineligible for an allocation of accommodation:

- a person who is not habitually resident in the Common Travel Area (subject to certain exceptions - see paragraph 3.14 below)
- a person whose only right to reside in the UK is derived from his status as a jobseeker (or his status as the family member of a jobseeker). 'Jobseeker' has the same meaning as in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 (SI 2006/1003) ('the EEA Regulations').
- a person whose only right to reside in the UK is an initial right to reside for a period not exceeding three months under regulation 13 of the EEA Regulations
- a person whose only right to reside in the Common Travel Area is a right equivalent to one of the rights mentioned in (ii) or (iii) above and which is derived from EU Treaty rights

xii.) See Annex 2 for guidance on rights to reside in the UK derived from EU law.

Xiii.) The following persons from abroad are eligible for an allocation of accommodation even if they are not habitually resident in the Common Travel Area:

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<sup>47</sup> Inserted by the Allocation of Housing and Homelessness (Miscellaneous Provisions) (England) Regulations 2006

- an EEA national who is in the UK as a worker (which has the same meaning as in regulation 6(1) of the EEA Regulations)
- an EEA national who is in the UK as a self-employed person (which has the same meaning as in regulation 6(1) of the EEA Regulations)
- a person who is treated as a worker for the purposes of regulation 6(1) of the EEA Regulations, pursuant to the Accession (Immigration and Worker Authorisation) Regulations 2006 (i.e. nationals of Bulgaria and Romania required to be authorised by the Home Office to work until they have accrued 12 months uninterrupted authorised work)<sup>48</sup>
- a person who is a family member of a person referred to in (a) to (c) above
- a person with a right to reside permanently in the UK by virtue of regulation 15(c), (d) or (e) of the EEA Regulations f) a person who left Montserrat after 1 November 1995 because of the effect of volcanic activity there
- a person who is in the UK as a result of his deportation, expulsion or other removal by compulsion of law from another country to the UK. This could include EEA nationals, if the person was settled in the UK and exercising EU Treaty rights prior to deportation from the third country. Where deportation occurs, most countries will signal this in the person's passport.

xiv.) A person who is no longer working or no longer in self-employment will retain his or her status as a worker or self-employed person in certain circumstances. However, accession state workers requiring authorisation will generally only be treated as a worker when they are actually working as authorised and will not retain 'worker' status between jobs until they have accrued 12 months continuous authorised employment. 'Family member' does not include a person who is an extended family member who is treated as a family member by virtue of regulation 7(3) of the EEA Regulations (see annexes 2 and 3 for further guidance).

xv.) The term 'habitual residence' is intended to convey a degree of permanence in the person's residence in the Common Travel Area; it implies an association between the individual and the place of residence and relies substantially on fact.

xvi.) Applicants who have been resident in the Common Travel Area continuously during the two year period prior to their housing application are likely to be habitually resident (periods of temporary absence, e.g. visits abroad for holidays or to visit relatives may be disregarded). Where two years' continuous residency has not been established, housing authorities will need to conduct further enquiries to determine whether the applicant is habitually resident (see annex 4 for further guidance).

## **ANNEX 2: RIGHTS TO RESIDE IN THE UK DERIVED FROM EU LAW**

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<sup>48</sup> As of 1 May 2011, nationals of the 8 Eastern European countries (A8 nationals) which acceded to the EU in 2004 are no longer required to register with the Workers Registration Scheme in order to work in the UK.

Regulation 4(2)(c) of the Eligibility Regulations no longer applies to applications from A8 workers as of that date. Rather applications from A8 workers should be considered on the same basis as those from other EU workers under regulation 4(2)(a).

i.) EEA nationals and their family members who have a right to reside in the UK that derives from EU law are not persons subject to immigration control. This means that they will be eligible for an allocation of accommodation under Part 6 unless they fall within one of the categories of persons to be treated as a person from abroad who is ineligible for an allocation of accommodation by virtue of regulation 4 of the Eligibility Regulations.

## **General**

### **Nationals of EU countries**

ii.) Nationals of EU countries enjoy a number of different rights to reside in other Member States, including the UK. These rights derive from the EU Treaties, EU secondary legislation (in particular Directive 2004/38), and the case law of the European Court of Justice.

iii.) Whether an individual EU national has a right to reside in the UK will depend on his or her circumstances, particularly his or her economic status (e.g. whether employed, self employed, seeking work, a student, or economically inactive etc).

### **Nationals of Bulgaria and Romania - the A2 accession states**

iv.) A slightly different regime applies to EU nationals who are nationals of Bulgaria and Romania which acceded to the EU on 1 January 2007. Bulgaria and Romania are referred to in this guidance as the A2 accession states. The Immigration (European Economic Area) Regulations 2006

### **The Immigration (European Economic Area) Regulations 2006**

v.) The EEA Regulations' – SI 2006/1003) implement into UK domestic law Directive 2004/38. Broadly, the EEA Regulations provide that EU nationals have the right to reside in the UK without the requirement for leave to remain under the Immigration Act 1971 for the first 3 months of their residence, and for longer, if they are a 'qualified person' or they have acquired a permanent right of residence.

### **Nationals of Iceland, Liechtenstein and Norway, and Switzerland**

vi.) The EEA Regulations extend the same rights to reside in the UK to nationals of Iceland, Liechtenstein and Norway as those afforded to EU nationals. (The EU countries plus Iceland, Liechtenstein and Norway together comprise the EEA.) The EEA Regulations also extend the same rights to reside in the UK to nationals of Switzerland. For the purposes of this guidance, 'EEA nationals' means nationals of any of the EU member states (excluding the UK), and nationals of Iceland, Norway, Liechtenstein and Switzerland.

## **Initial 3 months residence**

vii.) Regulation 13 of the EEA Regulations provides that EEA nationals have the right to reside in the UK for a period of up to 3 months without any conditions or formalities other than holding a valid identity card or passport. Therefore, during their first 3 months of residence in the UK, EEA nationals will not be subject to immigration control (unless the right to reside is lost following a decision by an immigration officer in accordance with regulation 13(3) of the EEA Regulations).

viii.) However, regulations 4(1)(b)(ii) and (c) of the Eligibility Regulations provide that a person who is not subject to immigration control is not eligible for an allocation of accommodation if:

his or her only right to reside in the UK is an initial right to reside for a period not exceeding 3 months under regulation 13 of the EEA Regulations, or his or her only right to reside in the Channel Islands, the Isle of Man or the Republic of Ireland (the Common Travel Area) is a right equivalent to the right mentioned in (i) above which is derived from the EU Treaty

### **Rights of residence for 'qualified persons'**

ix.) Regulation 14 of the EEA Regulations provides that 'qualified persons' have the right to reside in the UK so long as they remain a qualified person. Under regulation 6 of the EEA Regulations, 'qualified person' means:

- a) a jobseeker
- b) a worker
- c) a self-employed person
- d) a self-sufficient person
- e) a student

### **Jobseekers**

x.) For the purposes of regulation 6(1)(a) of the EEA Regulations, 'jobseeker' means a person who enters the UK in order to seek employment and can provide evidence that he or she is seeking employment and has a genuine chance of being employed.

xi.) Nationals of Bulgaria and Romania who need to be authorised to work do not have a right to reside in the UK as a jobseeker<sup>49</sup>. However, they may have a right to reside by virtue of another status, e.g. as a self-sufficient person.

xii.) Although a person who is a jobseeker is not subject to immigration control, regulation 4 of the Eligibility Regulations provides that a person is not eligible for an allocation of accommodation if:

- his or her only right to reside in the UK is derived from his or her status as a jobseeker or the family member of a jobseeker, or
- his or her only right to reside in the Channel Islands, the Common Travel Area is a right equivalent to the right mentioned in (i) above which is derived from the Treaty establishing the European Community

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<sup>49</sup> Regulation 6(2) of the Accession (Immigration and Worker Authorisation) Regulations 2006 (SI 2006/3317).

## Workers

xiii.) In order to be a worker for the purposes of the EEA Regulations, a person must be employed. That is to say, he or she is obliged to provide services for another person in return for monetary reward and is subject to the control of that other person as regards the way in which the work is to be done.

xiv.) Activity as an employed person may include part time work, seasonal work and cross-border work (i.e. where a worker is established in another Member State and travels to work in the UK). However, case law provides that the employment must be effective and genuine economic activity, and not on such a small scale as to be regarded as purely marginal and ancillary.

xv.) Provided the employment is effective and genuine economic activity, the fact that a person's level of remuneration may be below the level of subsistence or below the national minimum wage, or the fact that a person may be receiving financial assistance from public benefits, would not exclude that person from being a 'worker'.

xvi.) A person who is a worker is not subject to immigration control, and is eligible for an allocation of accommodation whether or not he or she is habitually resident in the Common Travel Area.

## Retention of worker status

xvii.) A person who is no longer working does not cease to be treated as a 'worker' for the purpose of regulation 6(1)(b) of the EEA Regulations, if he or she:

(a) is temporarily unable to work as the result of an illness or accident; or

(b) is recorded as involuntarily unemployed after having being employed in the UK, provided that he or she has registered as a jobseeker with the relevant employment office, and:

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(i) was employed for one year or more before becoming unemployed, or

(ii) has been unemployed for no more than 6 months, or

(iii) can provide evidence that he or she is seeking employment in the UK and has a genuine chance of being engaged; or

(c) is involuntarily unemployed and has embarked on vocational training; or

(d) has voluntarily ceased working and embarked on vocational training that is related to his or her previous employment.

## A2 state workers requiring authorisation who are treated as workers

xviii.) By virtue of the Accession (Immigration and Worker Authorisation) Regulations 2006 ('the Accession Regulations'), nationals of the A2 states (with certain exceptions) must obtain authorisation to work in the UK until they have accrued a period of 12 months continuous employment.

xix.) An A2 national requiring authorisation is only treated as a worker if he or she is actually working and:

- (i) holds an accession worker authorisation document, and
- (ii) is working in accordance with the conditions set out in that document (regulation 9(1) of the Accession Regulations)

xx.) We may need to contact the employer named in the authorisation document, to confirm that the applicant continues to be employed.

### **Self-employed persons**

xxi.) 'Self-employed person' means a person who establishes himself in the UK in order to pursue activity as a self-employed person in accordance with Article 49 of the Treaty on the Functioning of the European Union.

xxii.) A self-employed person should be able to confirm that he or she is pursuing activity as a self-employed person by providing documents relating to their business. A person who is no longer in self-employment does not cease to be treated as a self-employed person for the purposes of regulation 6(1)(c) of the EEA regulations, if he or she is temporarily unable to pursue his or her activity as a self-employed person as the result of an illness or accident.

xxiii.) A2 nationals are not required to be authorised in order to establish themselves in the UK as a self-employed person.

xxiv.) A person who is a self-employed is not subject to immigration control and is eligible for an allocation of accommodation whether or not he or she is habitually resident in the Common Travel Area.

### **Self-sufficient persons**

xxv.) Regulation 4(1)(c) of the EEA regulations defines 'self-sufficient person' as a person who has:

- (i) sufficient resources not to become a burden on the social assistance system of the UK during his or her period of residence, and
- (ii) comprehensive sickness insurance cover in the UK

xxvi.) By regulation 4(4) of the EEA Regulations, the resources of a person who is a self-sufficient person (or a student – see below) and, where applicable, any family members, are to be regarded as sufficient if (a) they exceed the maximum level of resources which a UK national and his or her family members may possess if he or she is to become eligible for social assistance under the UK benefit system or, if (a) does not apply, (b) taking into account the personal situation of the person concerned and, where applicable, any family members, it appears to the council that the resources of the person or persons concerned should be regarded as sufficient.

xxvii.) Where an EEA national applies for an allocation of accommodation as a self-sufficient person and does not appear to meet the conditions of regulation 4(1)(c) of the EEA regulations, the housing authority will need to consider whether he or she may have some other right to reside in the UK.



xxviii.) Where the applicant does not meet the conditions of regulation 4(1)(c) but has previously done so during his or her residence in the UK, the case will be referred to the Home Office for clarification of their status.

xxix.) A person who is a self-sufficient person is not subject to immigration control, but must be habitually resident in the Common Travel Area to be eligible for an allocation of accommodation.

## **Students**

xxx.) Regulation 4(1)(d) of the EEA regulations defines 'student' as a person who :

- a. is enrolled at a private or public establishment included on the Register of Education and Training Providers<sup>50</sup>, or is financed from public funds, for the principal purpose of following a course of study, including vocational training, and
- b. has comprehensive sickness insurance cover in the UK, and
- c. assures the Secretary of State, by means of a declaration or such equivalent means as the person may choose, that he or she (and if applicable his or her family members) has sufficient resources not to become a burden on the social assistance system of the UK during his or her period of residence.

xxxi.) A person who is a student is not subject to immigration control but must be habitually resident in the Common Travel Area to be eligible for an allocation of accommodation

## **Permanent right of residence**

xxxii.) Regulation 15 of the EEA Regulations provides that the following persons shall acquire the right to reside in the UK permanently :

- a. an EEA national who has resided in the UK in accordance with the EEA regulations for a continuous period of 5 years
- b. a non-EEA national who is a family member of an EEA national and who has resided in the UK with the EEA national in accordance with the EEA regulations for a continuous period of 5 years
- c. a worker or self-employed person who has ceased activity (see regulation 5 of the EEA Regulations for the definition of worker or self-employed person who has ceased activity)
- d. the family member of a worker or self-employed person who has ceased activity
- e. a person who was the family member of a worker or self-employed person who has died, where the family member resided with the worker or self-employed person immediately before the death and the worker or self-employed person had resided continuously in the UK for at least 2 years before the death (or the death was the result of an accident at work or an occupational disease)

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<sup>50</sup> Now known as the register of sponsors and held by the UKBA

- f. a person who has resided in the UK in accordance with the EEA regulations for a continuous period of 5 years, and at the end of that period was a family member who has retained the right of residence (see regulation 10 of the EEA Regulations for the definition of a family member who has retained the right of residence).

Once acquired, the right of permanent residence can be lost through absence from the UK for a period exceeding two consecutive years.

xxxiii.) A person with a right to reside permanently in the UK arising from (c), (d) or (e) above is eligible for an allocation of accommodation whether or not he or she is habitually resident in the Common Travel Area. Persons with a permanent right to reside by virtue of (a), (b), or (f) must be habitually resident to be eligible.

## **Rights of residence for certain family members**

### **The right to reside**

xxxiv.) Regulation 14 of the EEA Regulations provides that the following family members are entitled to reside in the UK:

- (i) a family member of a qualified person residing in the UK
- (ii) a family member of an EEA national with a permanent right of residence under regulation 15
- (iii) a family member who has retained the right of residence (see regulation 10 of the EEA Regulations for the definition)

xxxv.) A person who has a right to reside in the UK as the family member of an EEA 38 national under the EEA Regulations will not be subject to immigration control. The eligibility of such a person for an allocation of accommodation should therefore be considered in accordance with regulation 4 of the Eligibility Regulations.

xxxvi.) When considering the eligibility of a family member, we will consider whether the person has acquired a right to reside in their own right, for example a permanent right to reside under regulation 15 of the EEA Regulations.

### **Who is a 'family member'?**

xxxvii.) Regulation 7 of the EEA regulations provides that the following persons are treated as the family members of another person (with certain exceptions for students – see below):

- (a) the spouse of the person
- (b) the civil partner of the person
- (c) a direct descendant of the person, or of the person's spouse or civil partner, who is under the age of 21
- (d) a direct descendant of the person, or of the person's spouse or civil partner, who is over 21 and dependent on the person, or the spouse or civil partner
- (e) an ascendant relative of the person, or of the person's spouse or civil partner, who is dependent on the person or the spouse or civil partner

(f) a person who is an extended family member and is treated as a family member by virtue of regulation 7(3) of the EEA regulations (see below)

### **Family members of students**

xxxviii.) Regulation 7(2) of the EEA regulations provides that a person who falls within (c), (d) or (e) above shall not be treated as a family member of a student residing in the UK after the period of 3 months beginning on the date the student is admitted to the UK unless:

(i) in the case of paragraph 37(c) and (d) above, the person is the dependant child of the student, or of the spouse or civil partner, or

(ii) the student is also a qualified person (for the purposes of regulation 6(1) of the EEA regulations) other than as a student

### **Extended family members**

xxxix.) Broadly, extended family members will be persons who:

(a) do not fall within any of the categories (a) to (e) in paragraph 37 above, and

(b) are either a relative of an EEA national (or of the EEA national's spouse or civil partner) or the partner of an EEA national, and

(c) have been issued with an EEA family permit, a registration certificate or a residence card which is valid and has not been revoked

### **Family members' eligibility for an allocation of accommodation**

#### **Relationship with other rights to reside**

xxxx.) This section concerns the eligibility of an applicant for an allocation of accommodation whose right to reside is derived from his or her status as the family member of an EEA national with a right to reside. In some cases, a family member will have acquired a right to reside in his or her own right. In particular, a person who arrived in the UK as the family member of an EEA national may have subsequently acquired a permanent right of residence under regulation 15 of the EEA Regulations, as outlined in paragraph 32 (a) – (f) above. The eligibility for an allocation of accommodation of those with a permanent right of residence is discussed at paragraphs xxxii.) and xxxiii.)

#### **Family members who must be habitually resident**

xxxxi.) For family members with a right to reside under regulation 14 of the EEA Regulations, the following categories of persons must be habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland in order to be eligible for an allocation of accommodation:

- a) a person whose right to reside derives from their status as a family member of an EEA national who is a self-sufficient person for the purposes of regulation 6(1)(d) of the EEA regulations
- b) a person whose right to reside derives from their status as a family member of an EEA national who is a student for the purposes of regulation 6(1)(e) of the EEA regulations
- c) a person whose right to reside is dependent on their status as a family member of an EEA national with a permanent right to reside  
a person whose right to reside is dependent on their status as a family member who
- d) has retained the right of residence

### **Family members who are exempt from the habitual residence requirement**

xxxii.) A person with a right to reside under regulation 14 as a family member of an EEA national who is a worker or a self-employed person for the purposes of regulation 6(1) of the EEA regulations is exempted from the requirement to be habitually resident by regulation 4(2)(d) of the Eligibility Regulations. However, we note that an extended family

member (see above) is not counted as a family member for the purposes of regulation 4(2)(d) of the Eligibility Regulations (see regulation 2(3) of the Eligibility Regulations).

### **Family members of UK nationals exercising rights under the EU Treaty**

xxxiii.) There are some limited cases in which the non-EEA family member of a UK national may have a right to reside under EU law. Under regulation 9 of the EEA Regulations, the family member of a UK national should be treated as an EEA family member where the following conditions are met:

- (i) the UK national is residing in an EEA State as a worker or self-employed person,  
or  
was so residing before returning to the UK, and
- (ii) if the family member of the UK national is his spouse or civil partner, the parties are  
living together in the EEA State, or had entered into a marriage or civil  
partnership  
and were living together in that State before the UK national returned to the UK

xxxiv.) Where the family member of a UK national is to be treated as an EEA family member by virtue of regulation 9 of the EEA Regulations, that person is not subject to immigration control, and his or her eligibility for an allocation of accommodation should therefore be determined in accordance with regulation 4 of the Eligibility Regulations.

## ANNEX 3: STATUTORY OVERCROWDING

### **The statutory overcrowding standard**

There are two standards in Part X of the 1985 Housing Act that are used to assess whether a home is 'statutorily overcrowded.' If either or both of these standards are breached a dwelling will be statutorily overcrowded.

#### **1.1 The room standard**

Section 325 of the Housing Act 1985 provides that there is overcrowding wherever there are so many people in a house that any two or more of those persons, being ten or more years old, and of opposite sexes, not being persons living together as husband and wife, have to sleep in the same room. For these purposes children under ten may be disregarded and a room means any room normally used as either a bedroom or a living room. A kitchen can be considered to be a living room provided it is big enough to accommodate a bed. When interpreting this definition a local authority looks at how the sleeping arrangements within the premises could be organised rather than how they are actually organised

Thus, a couple, with two children of opposite sexes and aged ten years old or more, with two living rooms (e.g. bedrooms), are not statutorily overcrowded because the couple could occupy separate rooms, with one each of the children (of the appropriate sex). There is no limit on the number of people of the same sex who can live in the same room although there may be a contravention of the space standard (see below).

#### **1.2 The space standard**

This standard works by the calculating the permitted number of people for a dwelling in one of two ways. The lower number thus calculated is the permitted number for the dwelling. One test is based on the number of living rooms in the dwelling (disregarding rooms of less than 50 square feet):

One room = two persons

Two rooms = three persons

Three rooms = five persons

Four rooms = seven and a half persons

Five rooms or more = ten persons plus two for each room in excess of five rooms.

A child below the age of one does not count and a child between the age of one and ten counts as a half person.

The other test is based on floor areas of each room size:

less than 50 square feet = no-one

50 to less than 70 square feet = half a person

70 to less than 90 square feet = one person

90 to less than 110 square feet = one and a half persons

110 square feet or larger = two persons.

