

Equality Impact and Outcome Assessment (EIA)

EIAs make services better for everyone and support value for money by getting services right first time.

EIAs enable us to consider all the information about a service, policy or strategy from an equalities perspective and then action plan to get the best outcomes for staff and service-users¹. They analyse how all our work as a council might impact differently on different groups². They help us make good decisions and evidence how we have reached these decisions³.

See end notes for full guidance. Either hover the mouse over the end note link (eg: Age¹³) or use the hyperlinks ('Ctrl' key and left click).

1. Equality Impact and Outcomes Assessment (EIA)

Title of EIA⁴	Indicative proposed changes to the Housing Allocation Scheme	ID No.⁵	HNC-24-Jan-24-Housing-Allocation-Scheme
Team/Department⁶	Housing Needs – Housing, Neighbourhoods and Communities Directorate		
Focus of EIA⁷	<p>Indicative proposed changes to the Council's Housing Allocation Scheme (i.e., the policy on which persons qualify, and get priority, for social housing in Brighton & Hove.) The proposed changes are set out in Appendix 1 to the Housing Committee Report by Luke Harris dated 24 January 2024.</p> <p>The proposed changes include:</p> <ul style="list-style-type: none"> • Permitting direct offers. • Amendments to how management transfers are to be dealt with and prioritised. • Awarding priority where households in certain circumstances work with us to prevent their homelessness. • Removing the queue divisions set out in page 36 of the current policy. • Updating the policy to reflect the definition of domestic abuse in the Domestic Abuse Act 2021. • Broadening when a transfer request from a joint social housing tenant will be considered. • Changing the residency criteria so that applicants must have lived in Brighton & Hove for 5 out of the last 7 years to qualify to join the Housing Register. 		

2.0 Review of information, equality analysis and potential actions

Background

Under the current policy, applicants are placed into one of these four queues. When a property becomes available to let through the Housing Register, it is given to one of the four queues for applicants from that queue to bid on. Each queue receives a different proportion of the available lettings each year. When a property is advertised for applicants to bid on, the advert will state that applicants in a particular queue will receive priority for the property. The bids for each property are placed in priority order. Priority is decided first on the advertised queue, and then by the priority band, and, thirdly, by priority date within the band. The exception to this approach is for mobility classified properties, such as ground floor level-access accommodation which will meet the needs of applicants with a disability which means they cannot manage the stairs. Mobility classified properties are available for applicants from any queue to bid on. Where a property has been advertised to give preference to a mobility group, bids from mobility-coded applicants will be prioritised in band order above bids from members who do not have a need for mobility-classified accommodation.

The four queues are:

1. Homeless (50% of properties go to this queue)
2. Transfer (30% of properties go to this queue)
3. Homeseeker (10% of properties go to this queue)
4. Council's Interest (care leavers and other quotas with Children's Services and Adult Social Care) (10% of properties go to this queue)

The breakdown of applicants by queue is:

Row Labels	No. of live applicants	% of live applicants
Council Interest	109	2.24%
Homeless	1,536	31.59%
Homeseeker	2,060	42.37%
Transfer	1,138	23.41%
(blank)	19	0.39%
Total	4,862	100.00%

The data gathered for this Equality Impact Assessment is broken down by the protected characteristics of the applicants that make up each queue. This aids an assessment of how the proposal to remove the queue divisions and merge all four queues into one single queue will likely impact different groups that share a protected characteristic.

2.1 Group to assess: Age

What do you know⁸?

Summary of data about our service-users

Age Group	Council Interest		Homeless		Homeseeker		Transfer		All four queues	
	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants
<0 or (blank)		0.00%		0.00%	1	0.05%		0.00%	1	0.02%
15-19	4	3.67%	5	0.33%	1	0.05%		0.00%	10	0.21%
20-24	35	32.11%	97	6.32%	57	2.77%	11	0.97%	200	4.13%
25-29	12	11.01%	174	11.33%	230	11.17%	52	4.57%	468	9.66%
30-34	5	4.59%	259	16.86%	317	15.39%	114	10.02%	695	14.35%
35-39	12	11.01%	242	15.76%	323	15.68%	187	16.43%	764	15.78%
40-44	7	6.42%	225	14.65%	287	13.93%	170	14.94%	689	14.23%
45-49	3	2.75%	167	10.87%	219	10.63%	112	9.84%	501	10.34%
50-54	10	9.17%	135	8.79%	147	7.14%	99	8.70%	391	8.07%
55-59	5	4.59%	88	5.73%	136	6.60%	119	10.46%	348	7.19%
60-64	4	3.67%	73	4.75%	115	5.58%	76	6.68%	268	5.53%
65-69	4	3.67%	21	1.37%	79	3.83%	67	5.89%	171	3.53%
70-74	4	3.67%	24	1.56%	65	3.16%	52	4.57%	145	2.99%
75-79	1	0.92%	12	0.78%	37	1.80%	30	2.64%	80	1.65%
80-84	1	0.92%	10	0.65%	22	1.07%	31	2.72%	64	1.32%
85-89	1	0.92%	4	0.26%	11	0.53%	10	0.88%	26	0.54%
90-94		0.00%		0.00%	7	0.34%	4	0.35%	11	0.23%
95-99	1	0.92%		0.00%	4	0.19%	4	0.35%	9	0.19%
100-104		0.00%		0.00%	1	0.05%		0.00%	1	0.02%
105-109		0.00%		0.00%	1	0.05%		0.00%	1	0.02%
Total	109	100.00%	1,536	100.00%	2,060	100.00%	1,138	100.00%	4,843	100.00%

Table: Age of main applicants on the Council's Housing Register, by priority queue

Age Group	% of Brighton & Hove Population
0-15	15
16-19	5.4
20-24	10.1
25-34	15

35-49	21.3
50-64	19.1
65-74	7.6
75-84	4.4
85+	2

Table: Office for National Statistics 2021 Census Data on Age of Brighton & Hove Population

The majority of the main applicants in all queues are aged 20–49: Homeless (75.79%); Transfer (56.77%); Homeseeker (69.57%); Council’s Interest (67.89%).

In Brighton & Hove, people aged 20–49 are disproportionately in housing need and are therefore more likely to be impacted by these policy proposals. Children are most likely to be part of households where the main applicant is aged 20–49.

2.1.1 Policy proposal: Permitting direct offers

2.1.1.1 What does the policy proposal mean for this group⁹?

Impacts identified from data (actual and potential)

The current Allocations Policy does not permit the Council to use its discretion to make direct offers of socially rented accommodation, except in very limited circumstances for mobility classified properties. The policy proposal seeks to give the Council the broad discretionary power to make a direct offer of a property at any time to an applicant in exceptional circumstances, or where it considers this would meet the Council's strategic aims. Properties that are to be made as a direct offer will not normally be available for applicants to bid on via the Council's choice-based lettings approach. Similar to the current policy, applicants who refuse a suitable offer of accommodation will have their application closed.

The broad power to make direct offers of socially rented accommodation will allow the Council to meet the needs of applicants where choice-based lettings have not occurred or would not meet need efficiently.

Direct offers can be used to sensitively meet the needs of households including, but not limited to, former rough sleepers, households with health or social care needs, council tenants transferring or households who need a specialist type of housing such as disability adapted housing.

A potential example of where a household with the protected characteristic of age may be impacted by this policy could be where Children's Services make a direct offer of accommodation to a household subject to a child protection plan, where Children’s Services have a need to observe the ability of parents to care for their child, and the household is too large to live in a mother and baby unit. A direct offer would be appropriate in such a case where Children’s Services assess that affordable, stable accommodation is required for the household for Children’s Services to appropriately observe the parenting ability, and to safeguard and promote the welfare the children, and where no alternative accommodation options are reasonably practicable to secure, and where there is an immediate need

for the household to be rehoused and where the immediacy of that need overrides the general principle of the Allocations Scheme that applicants should be able to bid on properties of their choice.

The positive impacts of a direct offer include that households will tend to receive an offer of accommodation more quickly via a direct offer than via bidding, which can meet need more efficiently. Direct offers can promote tenancy stability and community cohesion. For example, a direct offer may be made to a household such as a young care leaver or a former rough sleeper who has a history of losing accommodation through their actions, to ensure that the likelihood of the applicant's tenancy stability is promoted, such as by accommodating them in a location where they may be best placed to access support, or be less likely to receive complaints from neighbours. For example, a former rough sleeper aged 55+ with active alcohol or substance addiction may be made a direct offer so that they are not housed in a sheltered housing scheme, where professional(s) in the Housing Directorate are of the view that living in a sheltered housing scheme would be likely to generate complaints about the applicant from other residents.

The negative impacts of a direct offer include an applicant not being able to exercise choice over where the offer of accommodation is made. Reduced choice by applicants could lead to a higher rate of refusals. It is envisaged that direct offers are most likely to be made to applicants who would previously have been in the Homeless queue, Council's Interest queue or the Transfer queue, although this will not always be the case.

2.1.1.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts¹⁰?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

A direct offer policy will allow the Council to achieve multiple legitimate aims. The aims that will be achieved by this policy include, but are not limited to:

- Helping to manage numbers of households owed a homelessness or social care duty in expensive temporary accommodation.
- Ensuring that households with specific accommodation needs are efficiently matched to a property where there is likely to be a very limited amount stock that would be likely to become available to meet that need.
- Promoting community cohesion.
- Promoting tenancy stability.
- Safeguarding and promoting the welfare of children.

I have considered whether a less intrusive measure could be adopted to meet these legitimate aims. I cannot identify a less intrusive measure that will reliably succeed in achieving the above objectives. The closest measure that exists in the current Allocations Policy is direct bidding – where the Council bids on behalf of applicants who have not placed a bid, or where the applicant has failed to bid successfully within a time limit. However, the direct bidding policy has the effect of restricting choice to a comparable degree as direct offers, but the direct bidding policy fails to achieve the above legitimate aims from time to time, because direct bidding does not guarantee that an applicant will be made an offer of a particular unit of accommodation at a particular time, because other applicants on

the Housing Register may come higher on a shortlist. Or an applicant who has become subject to direct bidding, may then begin bidding of their own volition, and may themselves bid successfully on a property which undermines the legitimate aim above – for example, where an applicant with a history of being evicted from accommodation for their own actions bids on a property in a block, where, for example, housing management staff know that the residents of the block are elderly and/or are sensitive to behaviours which fall short of antisocial behaviour but may be loud or busy.

As the policy proposal is no more than is necessary for achieving the legitimate objective(s), I am satisfied that the direct offers would be the proportionate means of meeting a legitimate aim.

Lastly, the impact of direct offers on restricting the choice by applicants can be mitigated by the positive benefits of fostering good relations between those groups who share a protected characteristic and those who do not, such as the community cohesion and tenancy sustainment benefits outlined above.

2.1.2 Policy proposal: Amendments to how management transfers are to be dealt with and prioritised

2.1.2.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

41 The current Allocations Policy requires all tenants of socially rented homes in the city who request to be transferred to alternative social housing to complete an application to be put on the Housing Register, at page 18 of the policy. The proposed change to the policy is to only require social housing tenants in the city who wish to transfer homes to do so via the Council's allocations scheme where the move is required by the tenant and where the tenant, or a member of their household, has a reasonable preference as defined by section 166A (3) of the Housing Act 1996. This will bring the Council's Allocations Policy in line with the statutory requirements of Part 6 of the Housing Act 1996. All other transfers of social housing tenants in the city will be able to occur via the landlord's internal processes. Accordingly, it is proposed that the only reasons a social housing transfer applicant will be entitled to priority under the scheme will be where the applicant's circumstances meet one or more of the criteria in section 166A (3) of the Housing Act 1996.

The policy proposal to reduce the groups of social housing tenants in the city wishing to transfer who will be required to complete an application to be put on the Housing Register and prove that they are a qualifying person is likely to be of most benefit to those applicants who are not digital natives by virtue of their age and are therefore more likely to find the Housing Register application process to be onerous. For example, under the current policy, an applicant aged 55+ seeking to move from one block of sheltered housing to another, who does not have any other housing need under the Allocations Policy or section 166A (3) of the Housing Act 1996, would need to complete an application form and provide proof that they are a qualifying person. These applicants who may struggle to use digital technology to apply to the Housing Register are likely to find the process of registering for a mutual exchange to be just as difficult. Under the new policy, an applicant aged 55+ in these circumstances would no longer need to go through the bureaucratic process of applying via the allocations scheme, and their landlord would instead have the power to simply exercise a discretion to move the applicant in line with their wishes.

2.1.2.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

Under this policy, the applicants who are still required to undertake the bureaucratic process of applying via the allocations scheme will be those households where the operation of section 166A (3) of the Housing Act 1996 requires that the allocation of housing to these groups occurs in line with the Council's published allocations scheme. Compliance with the law is necessary in a democratic society.

For those households who must apply to transfer their social housing tenancies via the allocations scheme but have difficulty completing the application form by virtue of their age, they can get help from the Homemove team in completing an online application form by ringing 01273 294400 Option 1. If an applicant is housebound, they may request that a member of staff assists them to make a telephone application and in exceptional circumstances a member of the Tenancy Services, Housing Options or Homemove team will undertake a home visit to help the applicant to apply.

2.1.3 Policy proposal: Awarding priority where households in certain circumstances work with us to prevent their homelessness

2.1.3.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy proposal will give additional preference to households who were owed, or would be likely to be owed, the main housing duty under Part 7 of the Housing Act 1996 and worked with us to prevent or resolve their homelessness.

75.79% of the main applicants in the Homeless queue are aged 20 – 49, so applicants of this age are likely to benefit from this policy. Children in the Homeless queue are also most likely to benefit because they are most likely to be part of households where the main applicant is aged 20–49.

Applicants on the Housing Register of all ages in the same band or a lower band are likely to be adversely affected by this policy, because the policy will likely increase waiting times for rehousing for these groups.

2.1.3.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

The aim of this policy proposal is to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation, rather than the local authority owing the applicants a duty to provide the applicants with accommodation.

Households who will benefit from this proposal will overwhelmingly occupy accommodation which will be of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996.

It costs the Council an average of £9,200 per household per year for each household owed an accommodation duty by the local authority. In 2022/23 the Council expenditure on this accommodation to meet homelessness duties was £15.9m. The duty to provide accommodation to households who are homeless is contributing towards significant financial pressures on the Council and the department (Housing Needs & Supply) is forecasting an overspend of £1.6m for this financial year. The high cost to the Council of providing accommodation to homeless households is predicted to continue, in line with long-term and national trends. It is therefore a legitimate aim to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation.

The policy proposal is the proportionate means of meeting this aim. Many households who are homeless or faced with homelessness seek the stability associated with social housing tenure. Accordingly, giving additional preference – Band B - for social housing to households who resolve their homelessness problem is likely to be a powerful incentive to meet this aim. Giving a lower priority – Band C – would not achieve the aim, because it would result in these households getting the same priority banding as if they would achieve if they were homeless and in the Council’s temporary accommodation under section 193 (2) of the Housing Act 1996 – also Band C. This would therefore fail to produce an incentive for these households to accept accommodation of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996. There is therefore no other effective measure which can be adopted which will produce fewer adverse impacts on other groups.

2.1.4 Policy proposal: Removing the queue divisions set out in page 36 of the current policy

2.1.4.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

See section 2.0, ‘Background’, for information on how the queue system works under the current policy. Removing the queue divisions will mean that all applicants will be able to bid on any property which matches their bedroom size need and mobility.

The positive impact of this policy change will be that applicants from all groups will have a greater pool of properties to bid on (except mobility-coded applicants, who can already bid on all properties which match their bedroom and mobility need.) Households from the Homeseeker and Council’s Interest queues are very likely to benefit from these changes, as they currently are only able to bid on 10% of properties which become available.

Applicants in the Homeseeker queue form the largest proportion of the Housing Register, with 42.37% of applicants being in the Homeseeker queue. However, Homeseekers can currently only bid on 10% of available properties. 69.57% of the main applicants in the Homeseeker queue are aged 20 – 49, so applicants of this age are likely to benefit from this policy change. Children are also most likely to benefit because they are most likely to be part of households where the main applicant is aged 20–49.

Applicants in the Homeless queue will be adversely affected by this change. At present, applicants in the Homeless queue make up 31.59% of the Housing Register and can bid on 50% of properties that are advertised. 75.79% of the main applicants in the Homeless queue are aged 20 – 49, so applicants of this age are likely to be noticeably adversely affected by this policy change. Children in the Homeless queue will also be affected because they are most likely to be part of households where the main applicant is aged 20–49.

2.1.4.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The adverse impacts that will arise because of this policy change are justified.

The current policy requires applicants to be placed in four separate queues, and applicants can only bid for properties which have been assigned to their queue. This reduces the number of properties that are available to each queue. There have been times when a property most needed by a household in one queue has been given to a different queue for bidding. The current system has resulted in unintended indirect discrimination.

It has not been possible to devise a scheme with multiple queues which will ensure that the properties available for bidding will always be matched to the queue with the household who is most in need of that property. We have taken advice from a barrister who specialises in council housing allocations, who has, accordingly advised us to remove the queue divisions entirely. Removing the queue divisions will improve the transparency of the operation of our allocations scheme.

The policy change will achieve the legitimate aims of eliminating indirect discrimination and improving the transparency of the operation of the scheme. As it has not been possible to devise a scheme with multiple queues which will avoid indirect discrimination from occurring, the proposed policy change is no more than is necessary to achieve the legitimate aim. Accordingly, the proposed policy change is the proportionate means of meeting a legitimate aim.

Furthermore, the likely potential adverse effects of the proposed policy change on those aged 20-49 and their children in the Homeless queue are outweighed by the likely potential benefits the policy change offers for those aged 20-49 and their children in the Homeseeker queue, as these are a bigger group.

2.1.5 Policy proposal: Updating the policy to reflect the definition of domestic abuse in the Domestic Abuse Act 2021

2.1.5.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy will be updated to change references to ‘domestic violence’ to the broader definition of ‘domestic abuse’ adopted by Part 1 of the Domestic Abuse Act 2021.

This policy will increase the potential for applicants to qualify to join the Housing Register, where they have been a victim of domestic abuse that falls short of violence. National data shows that, in the year ending March 2022, a significantly higher proportion of adults aged 20 to 24 years were victims of any domestic abuse than any other age group¹¹, and in the year ending March 2023, a significantly higher proportion of people aged 16 to 19 years were victims of any domestic abuse¹² so, primarily women, of these age groups are most likely to benefit from this broadened definition of domestic abuse. Applicants on the Housing Register of all ages are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

2.1.5.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This policy change will achieve the legitimate aim of aligning the Council's Allocations Policy with the definition of domestic abuse set by Parliament in the Domestic Abuse Act 2021. This policy change is no more than is necessary to achieve this aim. This proposal will advance equality of opportunity by making sure that decision makers will not apply a narrow definition of domestic violence when assessing whether applicants qualify to join the Housing Register.

2.1.6 Policy proposal: Broadening when a transfer request from a joint social housing tenant will be considered

2.1.6.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy only allows applications from transferring social housing tenants who are joint tenants where both tenants are moving. The current policy requires a joint tenancy to be determined before a transfer applicant who is a joint social housing tenant can bid successfully.

The proposed policy change will consider applications from joint social housing tenants without requiring all joint tenancies to be determined before permitting an applicant to qualify to join the Housing Register.

Older applicants are likely to benefit from this change, as some joint social housing tenants are likely to experience a relationship breakdown over time and will therefore apply to transfer. This change will benefit those households where one member of the joint tenancy cannot or will not move from the home subject to the joint tenancy following the relationship breakdown.

Applicants on the Housing Register of all ages are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

2.1.6.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will achieve the legitimate aim of improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status. This policy change is no more than is necessary to achieve this aim. Accordingly, any adverse impacts that may arise because of this policy change are justified.

Improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status, will advance equality opportunity and foster community cohesion.

2.1.7 Policy proposal: Changing the residency criteria so that applicants must have lived in Brighton & Hove for 5 out of the last 7 years to qualify to join the Housing Register

2.1.7.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires that, to be a qualifying person, applicants must currently reside in Brighton & Hove, and must have done so continuously for the last 5 years. There are some extremely limited exceptions to this rule.

The proposed policy change will allow applicants to qualify to join the Housing Register on the basis that they have resided in Brighton & Hove for 5 out of the last 7 years.

The knowledge we have from our staff is that this policy proposal is most likely to benefit applicants who currently form the Homeseeker group. Applicants in the Homeseeker group may spend years as a qualifying person on the Council's Housing Register, but may lose their qualifying status before they are able to bid successfully when changes in their personal circumstances cause them to leave Brighton & Hove for a short amount of time – such as being evicted from a private rented sector tenancy and being unable to find affordable alternative accommodation in the city, or moving out of the city to take up an offer of work or to rent a home with a garden. 69.57% of the main applicants in the Homeseeker queue are aged 20 – 49, so applicants of this age are likely to benefit from this policy change. Children are also most likely to benefit because they are most likely to be part of households where the main applicant is aged 20–49.

Applicants on the Housing Register of all ages are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a relatively small number of extra applicants qualifying to join or remain on the Housing Register.

Applicants which currently form part of the Transfer queue under the current policy are the least likely to benefit from this policy proposal as, by their nature of being secure tenants in the city, applicants in this group will reside in the city long-term nearly without exception.

2.1.7.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will strike a balance between promoting localism, in retaining a 5-year residency criterion, while recognising that very high rents and the urban, densely populated nature of Brighton & Hove will mean that some applicants on the Housing Register will leave the city for a short period of time. Promoting localism and providing flexibility in the operation of the Council's allocations scheme are both legitimate aims which this policy proposal will achieve. This policy proposal strikes a balance in achieving these two competing aims. Accordingly, any adverse impacts caused by this policy proposal are justified.

3.1 Group to assess: Disability

What do you know?

Summary of data about our service-users

Our computerised record system does not record whether applicants on the Housing Register are disabled.

However, our computerised record system records whether applicants on the Housing Register have a 'mobility category'. Applicants are awarded a mobility category when a housing officer is satisfied that they are unable to traverse more than 3 stairs due to a long-term impairment. Any applicant with a mobility code would, by the above definition, also be disabled according to the definition set out in the Equality Act 2010. The mobility code group data is used a proxy for disability in this case. However, it is acknowledged that this approach is lacking, as it would be unlikely to include those applicants who are disabled because of a mental impairment and will exclude those applicants who can traverse the stairs but who are nonetheless disabled by a physical impairment.

The proportion of applicants with a mobility category in each priority queue tends to be lower than the average number of households in Brighton & Hove who are disabled. This is evidence that using the mobility category as a proxy for disability is lacking as, we believe, disabled households are disproportionately more likely to be in housing need than non-disabled households. For example, the 2021 Census showed that 44.1% of people identified as homeless were disabled¹³.

8.8% of applicants on the Housing Register have a mobility code. The Transfer queue has the highest proportion of applicants with a mobility code (21.87%). The second highest is the Council Interest queue (16.60%).

Mobility Category	Council Interest		Homeless		Homeseeker		Transfer		All four queues	
	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants
1	5	4.59%	7	0.46%	8	0.39%	36	3.16%	56	1.16%
2	4	3.67%	21	1.37%	18	0.87%	73	6.41%	116	2.40%
3	8	7.34%	41	2.67%	67	3.25%	140	12.30%	256	5.29%
None	92	84.40%	1465	95.38%	1956	94.95%	883	77.59%	4396	90.77%
(blank)		0.00%	2	0.13%	11	0.53%	6	0.53%	19	0.39%
Total	109	100.00%	1536	100.00%	2060	100.00%	1138	100.00%	4843	100.00%

Table: Mobility Category of households on the Council's Housing Register, by priority queue

Disability status	% of Brighton & Hove Population
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Disabled under the Equality Act: Day-to-day activities limited a lot	8.0
Disabled under the Equality Act: Day-to-day activities limited a little	11.5
Not disabled under the Equality Act	80.5

Table: Office for National Statistics 2021 Census Data on Disability status of Brighton & Hove Population

3.1.1 Policy proposal: Permitting direct offers

3.1.1.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy does not permit the Council to use its discretion to make direct offers of socially rented accommodation, except in very limited circumstances for mobility classified properties. The policy proposal seeks to give the Council the broad discretionary power to make a direct offer of a property at any time to an applicant in exceptional circumstances, or where it considers this would meet the Council's strategic aims. Properties that are to be made as a direct offer will not normally be available for applicants to bid on via the Council's choice-based lettings approach. Similar to the current policy, applicants who refuse a suitable offer of accommodation will have their application closed.

The broad power to make direct offers of socially rented accommodation will allow the Council to meet the needs of applicants where it is assessed that choice-based lettings have not occurred or would not be likely to meet a need efficiently.

Direct offers can also be used to sensitively meet the needs of households including, but not limited to, former rough sleepers, households with health or social care needs, council tenants transferring or households who need a specialist type of housing such as disability adapted housing.

One potential example of where a household with the protected characteristic of disability may be impacted by this policy could be where an applicant with a learning disability, with a history of being exploited by others due to their learning disability, is made a direct offer of accommodation to ensure that they do not successfully bid on a property in a block where Tenancy Services have received reports that vulnerable tenants have been subjected to exploitation or cuckooing in the past, and there is a real possibility this could recur.

Another potential example of where a household with the protected characteristic of disability may be impacted by this policy could be where a household with a need for a scarce type of accommodation due to multiple needs arising from a disability - such as the combined need for a property with 4 bedrooms to accommodate a family, and a property where the ground floor is level-access throughout with a level-access bathroom to meet the needs of a household member who is wheelchair dependent – and where it is likely that meeting this need will require a 4-bed property to be adapted to meet this need, and where, under choice-based lettings, the household would normally be overlooked for a 4-bed property, because the property would not be suitable for the household without adaptations first being made. In such a case, a direct offer could be made of a property which could be adapted to meet the household's needs.

The positive impacts of a direct offer include that households will tend to receive an offer of accommodation more quickly via a direct offer than via bidding, which can meet need more efficiently. Direct offers can promote tenancy stability and community cohesion.

The negative impacts of a direct offer include an applicant not being able to exercise choice over where the offer of accommodation is made. Reduced choice by applicants could lead to a higher rate of refusals. It is envisaged that direct offers are most likely to be made to applicants who would previously have been in the Homeless queue, Council's Interest queue or the Transfer queue, although this will not always be the case.

3.1.1.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts¹⁴?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

A direct offer policy will allow the Council to achieve multiple legitimate aims. The aims that will be achieved by this policy include, but are not limited to:

- Helping to manage numbers of households owed a homelessness or social care duty in expensive temporary accommodation.
- Ensuring that households with specific accommodation needs are efficiently matched to a property where there is likely to be a very limited amount stock that would be likely to become available to meet that need.
- Promoting community cohesion.
- Promoting tenancy stability.
- Safeguarding and promoting the welfare of children.

I have considered whether a less intrusive measure could be adopted to meet these legitimate aims. I cannot identify a less intrusive measure that will reliably succeed in achieving the above objectives. The closest measure that exists in the current Allocations Policy is direct bidding – where the Council bids on behalf of applicants who have not placed a bid, or where the applicant has failed to bid successfully within a time limit. However, the direct bidding policy has the effect of restricting choice to a comparable degree as direct offers, but the direct bidding policy fails to achieve the above legitimate aims from time to time, because direct bidding does not guarantee that an applicant will be made an offer of a particular unit of accommodation at a particular time, because other applicants on the Housing Register may come higher on a shortlist, or because the household would normally be likely to be overlooked for the property because the property would not be suitable for the household without adaptations first being made. Alternatively, an applicant who has become subject to direct bidding, may then begin bidding of their own volition, and may themselves bid successfully on a property which undermines the legitimate aim above – for example, where an applicant with a history of being evicted due to behaviours arising because of a disability of personality disorder, bids on a property in a block, where housing management staff know that the residents of the block are elderly and/or are sensitive to behaviours which fall short of antisocial behaviour but may be loud or busy.

As the policy proposal is no more than is necessary for achieving the legitimate objective(s), I am satisfied that the direct offers would be the proportionate means of meeting a legitimate aim.

Lastly, the impact of direct offers on restricting the choice by applicants can be mitigated by the positive benefits of fostering good relations between those groups who share a protected characteristic and those who do not, such as the community cohesion and tenancy sustainment benefits outlined above.

3.1.2 Policy proposal: Amendments to how management transfers are to be dealt with and prioritised

3.1.2.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires all tenants of socially rented homes in the city who request to be transferred to alternative social housing to complete an application to be put on the Housing Register, at page 18 of the policy. The proposed change to the policy is to only require social housing tenants in the city who wish to transfer homes to do so via the Council's allocations scheme where the move is required by the tenant and where the tenant, or a member of their household, has a reasonable preference as defined by section 166A (3) of the Housing Act 1996. This will bring the Council's Allocations Policy in line with the statutory requirements of Part 6 of the Housing Act 1996. All other transfers of social housing tenants in the city will be able to occur via the landlord's internal processes. Accordingly, it is proposed that the only reasons a social housing transfer applicant will be entitled to priority under the scheme will be where the applicant's circumstances meet one or more of the criteria in section 166A (3) of the Housing Act 1996.

The policy proposal to reduce the groups of social housing tenants in the city wishing to transfer who will be required to complete an application to be put on the Housing Register and prove that they are a qualifying person is likely to be of most benefit to those applicants who have difficulty bidding online regularly, or at all, by virtue of a disability, such as a learning disability or mental health impairment, and are therefore more likely to experience a significant impairment in applying to join the Housing Register and/or to bid regularly. For example, under the current policy, an applicant, whose learning disability is associated with a significant impairment in using digital technology, who seeks to move from one block of sheltered housing to another, and does not have any other housing need under the Allocations Policy or section 166A (3) of the Housing Act 1996, would need to complete an application form and provide proof that they are a qualifying person. Such an applicant may struggle to use digital technology to apply to the Housing Register and are likely to find the process of registering for a mutual exchange to be just as difficult. Under the new policy, a disabled applicant in these circumstances would no longer need to go through the bureaucratic process of applying via the allocations scheme, and their landlord would instead have the power to simply exercise a discretion to move the applicant in line with their wishes.

3.1.2.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

Under this policy, the applicants who are still required to undertake the bureaucratic process of applying via the allocations scheme will be those households where the operation of section 166A (3) of the Housing Act 1996 requires that the allocation of housing to these groups occurs in line with the Council's published allocations scheme. Compliance with the law is necessary in a democratic society.

For those households who must apply to transfer their social housing tenancies via the allocations scheme but have difficulty completing the application form by virtue of disability, they can get help from the Homemove team in completing an online application form by ringing 01273 294400 Option 1. If an applicant is housebound, they may request that a member of staff assists them to make a telephone application and in exceptional circumstances a member of the Tenancy Services, Housing Options or Homemove team will undertake a home visit to help the applicant to apply.

3.1.3 Policy proposal: Awarding priority where households in certain circumstances work with us to prevent their homelessness

3.1.3.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy proposal will give additional preference (Band B) to households who were owed, or would be likely to be owed, the main housing duty under Part 7 of the Housing Act 1996 and worked with us to prevent or resolve their homelessness.

Disabled applicants on the Housing Register in the same band or a lower band are likely to be adversely affected by this policy, because the policy will likely increase waiting times for rehousing for these groups.

3.1.3.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

The aim of this policy proposal is to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation, rather than the local authority owing the applicants a duty to provide the applicants with accommodation. Households who will benefit from this proposal will overwhelmingly occupy accommodation which will be of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996.

It costs the Council an average of £9,200 per household per year for each household owed an accommodation duty by the local authority. In 2022/23 the Council expenditure on this accommodation to meet homelessness duties was £15.9m. The duty to provide accommodation to households who are homeless is contributing towards significant financial pressures on the Council and the department (Housing Needs & Supply) is forecasting an overspend of £1.6m for this financial year. The high cost to the Council of providing accommodation to homeless households is predicted to continue, in line with long-term and national trends. It is therefore a legitimate aim to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation.

The policy proposal is the proportionate means of meeting this aim. Many households who are homeless or faced with homelessness seek the stability associated with social housing tenure. Accordingly, giving additional preference – Band B - for social housing to households who resolve their homelessness problem is likely to be a powerful incentive to meet this aim. Giving a lower priority – Band C – would not achieve the aim, because it would result in these households getting the same priority banding as if they would achieve if they were homeless and in the Council’s temporary accommodation under section 193 (2) of the Housing Act 1996 – also Band C. This would therefore fail to produce an incentive for these households to accept accommodation of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996. There is therefore no other effective measure which can be adopted which will produce fewer adverse impacts on other groups.

3.1.4 Policy proposal: Removing the queue divisions set out in page 36 of the current policy

3.1.4.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

See section 2.0, ‘Background’, for information on how the queue system works under the current policy. Removing the queue divisions will mean that all applicants will be able to bid on any property which matches their bedroom size need and mobility.

5 The positive impact of this policy change will be that applicants from all groups will have a greater pool of properties to bid on (except mobility-coded applicants, who can already bid on all properties which match their bedroom and mobility need.) Households from the Homeseeker and Council’s Interest queues are very likely to benefit from these changes, as they currently are only able to bid on 10% of properties which become available.

The data shows that applicants from the Transfer queue are more likely to be disabled than the average population of Brighton & Hove. However, Transfers can currently only able to bid on 30% of available properties. Accordingly, disabled applicants are likely to benefit from this policy change.

Applicants in the Homeless queue will be adversely affected by this change. At present, applicants in the Homeless queue make up 31.59% of the Housing Register and can bid on 50% of properties that are advertised. The current system disproportionately benefits applicants in the Homeless queue, when compared with applicants in other queues. Applicants from the Homeless queue will likely be noticeably adversely affected by this policy change.

3.1.4.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The adverse impacts that will arise because of this policy change are justified.

The current policy requires applicants to be placed in four separate queues, and applicants can only bid for properties which have been assigned to their queue. This reduces the number of properties that are available to each queue. There have been times when a property most needed by a household in one queue has been given to a different queue for bidding. The current system has resulted in unintended indirect discrimination.

It has not been possible to devise a scheme with multiple queues which will ensure that the properties available for bidding will always be matched to the queue with the household who is most in need of that property. We have taken advice from a barrister who specialises in council housing allocations, who has, accordingly advised us to remove the queue divisions entirely. Removing the queue divisions will improve the transparency of the operation of our allocations scheme.

The policy change will achieve the legitimate aims of eliminating indirect discrimination and improving the transparency of the operation of the scheme. As it has not been possible to devise a scheme with multiple queues which will avoid indirect discrimination from occurring, the proposed policy change is no more than is necessary to achieve the legitimate aim. Accordingly, the proposed policy change is the proportionate means of meeting a legitimate aim.

Furthermore, the likely potential adverse effects of the proposed policy change on those disabled in the Homeless queue are outweighed by the likely potential benefits the policy change offers for those disabled applicants in the Transfer queue, as these are a bigger group.

3.1.5 Policy proposal: Updating the policy to reflect the definition of domestic abuse in the Domestic Abuse Act 2021

3.1.5.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy will be updated to change references to 'domestic violence' to the broader definition of 'domestic abuse' adopted by Part 1 of the Domestic Abuse Act 2021.

This policy will increase the potential for applicants to qualify to join the Housing Register, where they have been a victim of domestic abuse that falls short of violence. National data shows that, in the year ending March 2019, disabled women were more than twice as likely to have experienced domestic abuse than non-disabled women¹⁵, so disabled women are most likely to benefit from this broadened definition of domestic abuse. Disabled applicants who have not experienced domestic abuse are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

3.1.5.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This policy change will achieve the legitimate aim of aligning the Council's Allocations Policy with the definition of domestic abuse set by Parliament in the Domestic Abuse Act 2021. This policy change is no more than is necessary to achieve this aim. This proposal will

advance equality of opportunity by making sure that decision makers will not apply a narrow definition of domestic violence when assessing whether applicants qualify to join the Housing Register.

3.1.6 Policy proposal: Broadening when a transfer request from a joint social housing tenant will be considered

3.1.6.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy only allows applications from transferring social housing tenants who are joint tenants where both tenants are moving. The current policy requires a joint tenancy to be determined before a transfer applicant who is a joint social housing tenant can bid successfully.

The proposed policy change will consider applications from joint social housing tenants without requiring all joint tenancies to be determined before permitting an applicant to qualify to join the Housing Register.

This change will benefit those households where one member of the joint tenancy cannot or will not move from the home subject to the joint tenancy following the relationship breakdown.

Disabled applicants on the Housing Register to whom this policy change does not apply are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

3.1.6.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will achieve the legitimate aim of improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status. This policy change is no more than is necessary to achieve this aim. Accordingly, any adverse impacts that may arise because of this policy change are justified.

Improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status, will advance equality opportunity and foster community cohesion. National data shows that, in the year ending March 2019, disabled women were more than twice as likely to have experienced domestic abuse than non-disabled women¹⁶, so disabled women are most likely to benefit from this policy proposal.

3.1.7 Policy proposal: Changing the residency criteria so that applicants must have lived in Brighton & Hove for 5 out of the last 7 years to qualify to join the Housing Register

3.1.7.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires that, to be a qualifying person, applicants must currently reside in Brighton & Hove, and must have done so continuously for the last 5 years. There are some extremely limited exceptions to this rule.

The proposed policy change will allow applicants to qualify to join the Housing Register on the basis that they have resided in Brighton & Hove for 5 out of the last 7 years.

The knowledge we have from our staff is that this policy proposal is most likely to benefit applicants who currently form the Homeseeker group. Applicants in the Homeseeker group may spend years as a qualifying person on the Council's Housing Register, but may lose their qualifying status before they are able to bid successfully when changes in their personal circumstances cause them to leave Brighton & Hove for a short amount of time – such as being evicted from a private rented sector tenancy and being unable to find affordable alternative accommodation in the city, or moving out of the city to take up an offer of work or to rent a home with a garden.

Disabled applicants who do not benefit from this change of policy are likely to be minimally adversely affected, because the policy change will likely increase waiting times for rehousing by resulting in a relatively small number of extra applicants qualifying to join or remain on the Housing Register.

Applicants which currently form part of the Transfer queue under the current policy are the least likely to benefit from this policy proposal as, by their nature of being secure tenants in the city, applicants in this group will reside in the city long-term nearly without exception. The data shows that applicants in the Transfer queue are more likely to be disabled, compared to other queues.

3.1.7.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will strike a balance between promoting localism, in retaining a 5-year residency criterion, while recognising that very high rents and the urban, densely populated nature of Brighton & Hove will mean that some applicants on the Housing Register will leave the city for a short period of time. Promoting localism and providing flexibility in the operation of the Council's allocations scheme are both legitimate aims which this policy proposal will achieve. This policy proposal strikes a balance in achieving these two competing aims. Accordingly, any adverse impacts caused by this policy proposal are justified.

4.1 Group to assess: Gender reassignment

What do you know?

Summary of data about our service-users

Our computerised record system does not hold data on whether applicants on the Housing Register have undergone, or proposed to undergo, gender reassignment.

Gender identity	% of Brighton & Hove Population
Gender identity the same as sex registered at birth	92.97
Gender identity different from sex registered at birth	0.99
Not answered	6.21

Table: Office for National Statistics 2021 Census Data on Gender identity of Brighton & Hove Population

4.1.1 Policy proposal: Permitting direct offers

4.1.1.1 What does the policy proposal mean for this group¹⁷?

Impacts identified from data (actual and potential)

The current Allocations Policy does not permit the Council to use its discretion to make direct offers of socially rented accommodation, except in very limited circumstances for mobility classified properties. The policy proposal seeks to give the Council the broad discretionary power to make a direct offer of a property at any time to an applicant in exceptional circumstances, or where it considers this would meet the Council's strategic aims. Properties that are to be made as a direct offer will not normally be available for applicants to bid on via the Council's choice-based lettings approach. Similar to the current policy, applicants who refuse a suitable offer of accommodation will have their application closed.

The broad power to make direct offers of socially rented accommodation will allow the Council to meet the needs of applicants where choice-based lettings have not occurred or would not meet need efficiently.

Direct offers can be used to sensitively meet the needs of households including, but not limited to, former rough sleepers, households with health or social care needs, council tenants transferring or households who need a specialist type of housing such as disability adapted housing.

A potential example of where a household with the protected characteristic of gender reassignment may be impacted by this policy could be where a direct offer of accommodation is made to an applicant who has undergone gender reassignment so that they do not bid successfully on a property in a block where Tenancy Services have identified that transphobic harassment has occurred and is likely to recur.

The negative impacts of a direct offer include an applicant not being able to exercise choice over where the offer of accommodation is made. Reduced choice by applicants could lead to a higher rate of refusals. It is envisaged that direct offers are most likely to be made to applicants who would previously have been in the Homeless queue, Council's Interest queue or the Transfer queue, although this will not always be the case.

4.1.1.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts¹⁸?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

A direct offer policy will allow the Council to achieve multiple legitimate aims. The aims that will be achieved by this policy include, but are not limited to:

- Helping to manage numbers of households owed a homelessness or social care duty in expensive temporary accommodation.
- Ensuring that households with specific accommodation needs are efficiently matched to a property where there is likely to be a very limited amount stock that would be likely to become available to meet that need.
- Promoting community cohesion.
- Promoting tenancy stability.
- Safeguarding and promoting the welfare of children.

I have considered whether a less intrusive measure could be adopted to meet these legitimate aims. I cannot identify a less intrusive measure that will reliably succeed in achieving the above objectives. The closest measure that exists in the current Allocations Policy is direct bidding – where the Council bids on behalf of applicants who have not placed a bid, or where the applicant has failed to bid successfully within a time limit. However, the direct bidding policy has the effect of restricting choice to a comparable degree as direct offers, but the direct bidding policy fails to achieve the above legitimate aims from time to time, because direct bidding does not guarantee that an applicant will be made an offer of a particular unit of accommodation at a particular time, because other applicants on the Housing Register may come higher on a shortlist. Or an applicant who has become subject to direct bidding, may then begin bidding of their own volition, and may themselves bid successfully on a property which undermines the legitimate aim above – for example, where an applicant with the protected characteristic of gender reassignment has bid on a property in a block where Tenancy Services have identified that transphobic harassment has occurred and is likely to recur, and that bid is likely to result in them coming top of the shortlist for the property.

As the policy proposal is no more than is necessary for achieving the legitimate objective(s), I am satisfied that the direct offers would be the proportionate means of meeting a legitimate aim.

Lastly, the impact of direct offers on restricting the choice by applicants can be mitigated by the positive benefits of fostering good relations between those groups who share a protected characteristic and those who do not, such as the community cohesion and tenancy sustainment benefits outlined above.

4.1.2 Policy proposal: Amendments to how management transfers are to be dealt with and prioritised

4.1.2.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires all tenants of socially rented homes in the city who request to be transferred to alternative social housing to complete an application to be put on the Housing Register, at page 18 of the policy. The proposed change to the policy is to only require social housing tenants in the city who wish to transfer homes to do so via the Council's allocations scheme where the move is required by the tenant and where the tenant, or a member of their household, has a reasonable preference as defined by section 166A (3) of the Housing Act 1996. This will bring the Council's Allocations Policy in line with the statutory requirements of Part 6 of the Housing Act 1996. All other transfers of social housing tenants in the city will be able to occur via the landlord's internal processes. Accordingly, it is proposed that the only reasons a social housing transfer applicant will be entitled to priority under the scheme will be where the applicant's circumstances meet one or more of the criteria in section 166A (3) of the Housing Act 1996.

No actual or potential disproportionate impacts are predicted to occur to any gender reassignment groups as a result of this policy proposal.

4.1.2.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

Any impacts of this policy proposal are justified.

Under this policy, the applicants who are still required to undertake the bureaucratic process of applying via the allocations scheme will be those households where the operation of section 166A (3) of the Housing Act 1996 requires that the allocation of housing to these groups occurs in line with the Council's published allocations scheme. Compliance with the law is necessary in a democratic society.

For those households who must apply to transfer their social housing tenancies via the allocations scheme, but have difficulty completing the application form, they can get help from the Homemove team in completing an online application form by ringing 01273 294400 Option 1. If an applicant is housebound, they may request that a member of staff assists them to make a telephone application and in exceptional circumstances a member of the Tenancy Services, Housing Options or Homemove team will undertake a home visit to help the applicant to apply.

4.1.3 Policy proposal: Awarding priority where households in certain circumstances work with us to prevent their homelessness

4.1.3.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy proposal will give additional preference to households who were owed, or would be likely to be owed, the main housing duty under Part 7 of the Housing Act 1996 and worked with us to prevent or resolve their homelessness.

Applicants on the Housing Register with the protected characteristic of gender reassignment in the same band or a lower band are likely to be adversely affected by this policy, because the policy will likely increase waiting times for rehousing for these groups.

4.1.3.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

The aim of this policy proposal is to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation, rather than the local authority owing the applicants a duty to provide the applicants with accommodation. Households who will benefit from this proposal will overwhelmingly occupy accommodation which will be of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996.

It costs the Council an average of £9,200 per household per year for each household owed an accommodation duty by the local authority. In 2022/23 the Council expenditure on this accommodation to meet homelessness duties was £15.9m. The duty to provide accommodation to households who are homeless is contributing towards significant financial pressures on the Council and the department (Housing Needs & Supply) is forecasting an overspend of £1.6m for this financial year. The high cost to the Council of providing accommodation to homeless households is predicted to continue, in line with long-term and national trends. It is therefore a legitimate aim to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation.

The policy proposal is the proportionate means of meeting this aim. Many households who are homeless or faced with homelessness seek the stability associated with social housing tenure. Accordingly, giving additional preference – Band B - for social housing to households who resolve their homelessness problem is likely to be a powerful incentive to meet this aim. Giving a lower priority – Band C – would not achieve the aim, because it would result in these households getting the same priority banding as if they would achieve if they were homeless and in the Council's temporary accommodation under section 193 (2) of the Housing Act 1996 – also Band C. This would therefore fail to produce an incentive for these households to accept accommodation of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996. There is therefore no other effective measure which can be adopted which will produce fewer adverse impacts on other groups.

4.1.4 Policy proposal: Removing the queue divisions set out in page 36 of the current policy

4.1.4.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

See section 2.0, 'Background', for information on how the queue system works under the current policy. Removing the queue divisions will mean that all applicants will be able to bid on any property which matches their bedroom size need and mobility.

The positive impact of this policy change will be that applicants from all groups will have a greater pool of properties to bid on (except mobility-coded applicants, who can already bid on all properties which match their bedroom and mobility need.) Households from the Homeseeker and Council's Interest queues are very likely to benefit from these changes, as they currently are only able to bid on 10% of properties which become available.

No actual or potential disproportionate impacts are predicted to occur to any gender reassignment groups as a result of this policy proposal.

4.1.4.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

Any adverse impacts that may arise because of this policy change are justified.

The current policy requires applicants to be placed in four separate queues, and applicants can only bid for properties which have been assigned to their queue. This reduces the number of properties that are available to each queue. There have been times when a property most needed by a household in one queue has been given to a different queue for bidding. The current system has resulted in unintended indirect discrimination.

It has not been possible to devise a scheme with multiple queues which will ensure that the properties available for bidding will always be matched to the queue with the household who is most in need of that property. We have taken advice from a barrister who specialises in council housing allocations, who has, accordingly advised us to remove the queue divisions entirely. Removing the queue divisions will improve the transparency of the operation of our allocations scheme.

The policy change will achieve the legitimate aims of eliminating indirect discrimination and improving the transparency of the operation of the scheme. As it has not been possible to devise a scheme with multiple queues which will avoid indirect discrimination from occurring, the proposed policy change is no more than is necessary to achieve the legitimate aim. Accordingly, the proposed policy change is the proportionate means of meeting a legitimate aim.

4.1.5 Policy proposal: Updating the policy to reflect the definition of domestic abuse in the Domestic Abuse Act 2021

4.1.5.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy will be updated to change references to 'domestic violence' to the broader definition of 'domestic abuse' adopted by Part 1 of the Domestic Abuse Act 2021.

This policy will increase the potential for applicants to qualify to join the Housing Register, where they have been a victim of domestic abuse that falls short of violence. Data from third sector organisations has found that up to 80% of people who have undergone gender reassignment have been victims of domestic abuse¹⁹. This group will likely benefit from this policy proposal. Disabled applicants who have not experienced domestic abuse are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

4.1.5.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This policy change will achieve the legitimate aim of aligning the Council's Allocations Policy with the definition of domestic abuse set by Parliament in the Domestic Abuse Act 2021. This policy change is no more than is necessary to achieve this aim. This proposal will advance equality of opportunity by making sure that decision makers will not apply a narrow definition of domestic violence when assessing whether applicants qualify to join the Housing Register.

4.1.6 Policy proposal: Broadening when a transfer request from a joint social housing tenant will be considered

4.1.6.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy only allows applications from transferring social housing tenants who are joint tenants where both tenants are moving. The current policy requires a joint tenancy to be determined before a transfer applicant who is a joint social housing tenant can bid successfully.

The proposed policy change will consider applications from joint social housing tenants without requiring all joint tenancies to be determined before permitting an applicant to qualify to join the Housing Register.

This change will benefit those households where one member of the joint tenancy cannot or will not move from the home subject to the joint tenancy following the relationship breakdown.

Applicants with the protected characteristic of gender reassignment on the Housing Register to whom this policy change does not apply are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

4.1.6.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will achieve the legitimate aim of improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status. This policy change is no more than is necessary to achieve this aim. Accordingly, any adverse impacts that may arise because of this policy change are justified.

Improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status, will advance equality opportunity and foster community cohesion. Data from third sector organisations has found that up to 80% of people who have undergone gender reassignment have been victims of domestic abuse²⁰, so this group will likely benefit from this policy proposal.

4.1.7 Policy proposal: Changing the residency criteria so that applicants must have lived in Brighton & Hove for 5 out of the last 7 years to qualify to join the Housing Register

4.1.7.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires that, to be a qualifying person, applicants must currently reside in Brighton & Hove, and must have done so continuously for the last 5 years. There are some extremely limited exceptions to this rule.

The proposed policy change will allow applicants to qualify to join the Housing Register on the basis that they have resided in Brighton & Hove for 5 out of the last 7 years.

The knowledge we have from our staff is that this policy proposal is most likely to benefit applicants who currently form the Homeseeker group. Applicants in the Homeseeker group may spend years as a qualifying person on the Council's Housing Register, but may lose their qualifying status before they are able to bid successfully when changes in their personal circumstances cause them to leave Brighton & Hove for a short amount of time – such as being evicted from a private rented sector tenancy and being unable to find affordable alternative accommodation in the city, or moving out of the city to take up an offer of work or to rent a home with a garden.

Applicants with the protected characteristic of gender reassignment who do not benefit from this change of policy are likely to be minimally adversely affected, because the policy change will likely increase waiting times for rehousing by resulting in a relatively small number of extra applicants qualifying to join or remain on the Housing Register.

4.1.7.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will strike a balance between promoting localism, in retaining a 5-year residency criterion, while recognising that very high rents and the urban, densely populated nature of Brighton & Hove will mean that some applicants on the Housing Register will leave the

city for a short period of time. Promoting localism and providing flexibility in the operation of the Council's allocations scheme are both legitimate aims which this policy proposal will achieve. This policy proposal strikes a balance in achieving these two competing aims. Accordingly, any adverse impacts caused by this policy proposal are justified.

5.1 Group to assess: Pregnancy/maternity

What do you know?

Summary of data about our service-users

Our computerised record system does not record whether applicants on the Housing Register are pregnant. Applicants are typically on the Housing Register for years while waiting to bid successfully for accommodation. Pregnancy status will be very unlikely to remain constant between when an applicant first registers on the Housing Register and the point they are offered a property. Maternity is therefore the more pertinent characteristic. Data on the proportion of households in each priority queue which contain children is presented below. The likely impact and proportionality of the policy proposals on households who contain children is outlined under 'Age' above.

Priority Queue	No. of live applicants whose household contains children	Queue % of live applicants whose household contains children
Council Interest	22	20.18%
Homeless	890	57.94%
Homeseeker	862	41.84%
Transfer	561	49.3%
All four queues (Total)	2335	48.21%

Table: Households on the Council's Housing Register which contain children, by priority queue

Household composition	% of Brighton & Hove Population
Single family household	53.0
One-person household	34.7

Table: Office for National Statistics 2021 Census Data on Household composition of Brighton & Hove Population

5.2: Policy proposals, likely impacts, justification and mitigation options.

Refer to section 2 ('Age') for the likely impact and proportionality of the policy proposals on households who contain children.

6.1 Group to assess: Race/ethnicity

What do you know?

Summary of data about our service-users

Data on the proportion of main applicants by ethnic group in each priority queue on the Housing Register is set out below.

Ethnic Group	Council Interest		Homeless		Homeseeker		Transfer		All four queues	
	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants
Arabic	3	2.75%	18	1.17%	5	0.24%	2	0.18%	28	0.58%
Asian or Asian British - Bangladeshi	1	0.92%	14	0.91%	22	1.07%	18	1.58%	55	1.14%
Asian or Asian British - Indian		0.00%	2	0.13%	12	0.58%	2	0.18%	16	0.33%
Asian or Asian British - Other	8	7.34%	26	1.69%	21	1.02%	9	0.79%	64	1.32%
Asian or Asian British - Pakistani		0.00%	2	0.13%	4	0.19%	2	0.18%	8	0.17%
Black or Black British - African	6	5.50%	47	3.06%	42	2.04%	21	1.85%	116	2.40%
Black or Black British - Caribbean	1	0.92%	9	0.59%	10	0.49%	5	0.44%	25	0.52%
Black or Black British - other	1	0.92%	7	0.46%	3	0.15%	5	0.44%	16	0.33%
Chinese		0.00%	5	0.33%	11	0.53%		0.00%	16	0.33%
Gypsy or Traveller		0.00%	2	0.13%		0.00%		0.00%	2	0.04%
Mixed - other	2	1.83%	13	0.85%	28	1.36%	5	0.44%	48	0.99%
Mixed - White and Asian		0.00%	4	0.26%	10	0.49%	4	0.35%	18	0.37%
Mixed - White and Black African	1	0.92%	19	1.24%	23	1.12%	9	0.79%	52	1.07%
Mixed - White and Black Caribbean	1	0.92%	16	1.04%	18	0.87%	6	0.53%	41	0.85%
Not Known	15	13.76%	423	27.54%	286	13.88%	258	22.67%	982	20.28%
Other	6	5.50%	40	2.60%	48	2.33%	24	2.11%	118	2.44%
White - British	59	54.13%	706	45.96%	1286	62.43%	724	63.62%	2775	57.30%
White - Irish	2	1.83%	6	0.39%	16	0.78%	10	0.88%	34	0.70%
White - other	1	0.92%	88	5.73%	209	10.15%	22	1.93%	320	6.61%
(blank)	2	1.83%	89	5.79%	6	0.29%	12	1.05%	109	2.25%
Total	109	100.00%	1536	100.00%	2060	100.00%	1138	100.00%	4843	100.00%

Table: Ethnic group of households on the Council's Housing Register, by priority queue

Ethnic group	% of Brighton &
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	Hove Population
Asian, Asian British or Asian Welsh	4.8
Black, Black British, Black Welsh, Caribbean or African	2.0
Mixed or multiple ethnic groups	4.8
White	85.4
Other ethnic group	3.1

Table: Office for National Statistics 2021 Census Data on Household composition of Brighton & Hove Population

6.1.1 Policy proposal: Permitting direct offers

6.1.1.1 What does the policy proposal mean for this group²¹?

Impacts identified from data (actual and potential)

The current Allocations Policy does not permit the Council to use its discretion to make direct offers of socially rented accommodation, except in very limited circumstances for mobility classified properties. The policy proposal seeks to give the Council the broad discretionary power to make a direct offer of a property at any time to an applicant in exceptional circumstances, or where it considers this would meet the Council's strategic aims. Properties that are to be made as a direct offer will not normally be available for applicants to bid on via the Council's choice-based lettings approach. Similar to the current policy, applicants who refuse a suitable offer of accommodation will have their application closed.

The broad power to make direct offers of socially rented accommodation will allow the Council to meet the needs of applicants where choice-based lettings have not occurred or would not meet need efficiently.

Direct offers can be used to sensitively meet the needs of households including, but not limited to, former rough sleepers, households with health or social care needs, council tenants transferring or households who need a specialist type of housing such as disability adapted housing.

A potential example of where a household with the protected characteristic of race may be impacted by this policy could be where a direct offer of accommodation is made to an ethnically minoritised applicant so that they do not bid successfully on a property in a block where Tenancy Services have identified that racist harassment has occurred and is likely to recur.

The negative impacts of a direct offer include an applicant not being able to exercise choice over where the offer of accommodation is made. Reduced choice by applicants could lead to a higher rate of refusals. It is envisaged that direct offers are most likely to be made to applicants who would previously have been in the Homeless queue, Council's Interest queue or the Transfer queue, although this will not always be the case.

6.1.1.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts²²?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

A direct offer policy will allow the Council to achieve multiple legitimate aims. The aims that will be achieved by this policy include, but are not limited to:

- Helping to manage numbers of households owed a homelessness or social care duty in expensive temporary accommodation.
- Ensuring that households with specific accommodation needs are efficiently matched to a property where there is likely to be a very limited amount stock that would be likely to become available to meet that need.
- Promoting community cohesion.
- Promoting tenancy stability.
- Safeguarding and promoting the welfare of children.

I have considered whether a less intrusive measure could be adopted to meet these legitimate aims. I cannot identify a less intrusive measure that will reliably succeed in achieving the above objectives. The closest measure that exists in the current Allocations Policy is direct bidding – where the Council bids on behalf of applicants who have not placed a bid, or where the applicant has failed to bid successfully within a time limit. However, the direct bidding policy has the effect of restricting choice to a comparable degree as direct offers, but the direct bidding policy fails to achieve the above legitimate aims from time to time, because direct bidding does not guarantee that an applicant will be made an offer of a particular unit of accommodation at a particular time, because other applicants on the Housing Register may come higher on a shortlist. Or an applicant who has become subject to direct bidding, may then begin bidding of their own volition, and may themselves bid successfully on a property which undermines the legitimate aim above – for example, where an applicant has bid on a property in a block, where, for example, housing management staff know that a resident of the block has subjected neighbours to racist harassment and the risk of further racist harassment remains.

As the policy proposal is no more than is necessary for achieving the legitimate objective(s), I am satisfied that the direct offers would be the proportionate means of meeting a legitimate aim.

Lastly, the impact of direct offers on restricting the choice by applicants can be mitigated by the positive benefits of fostering good relations between those groups who share a protected characteristic and those who do not, such as the community cohesion and tenancy sustainment benefits outlined above.

6.1.2 Policy proposal: Amendments to how management transfers are to be dealt with and prioritised

6.1.2.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires all tenants of socially rented homes in the city who request to be transferred to alternative social housing to complete an application to be put on the Housing Register, at page 18 of the policy. The proposed change to the policy is to only require social housing tenants in the city who wish to transfer homes to do so via the Council's allocations scheme where the move is required by the tenant and where the tenant, or a member of their household, has a reasonable preference as defined by section 166A (3) of the Housing Act 1996. This will bring the Council's Allocations Policy in line with the statutory requirements of Part 6 of the Housing Act 1996. All other transfers of social housing tenants in the city will be able to occur via the landlord's internal processes. Accordingly, it is proposed that the only reasons a social housing transfer applicant will be entitled to priority under the scheme will be where the applicant's circumstances meet one or more of the criteria in section 166A (3) of the Housing Act 1996.

The policy proposal to reduce the groups of social housing tenants in the city wishing to transfer who will be required to complete an application to be put on the Housing Register and prove that they are a qualifying person is likely to be of most benefit to those applicants for whom English is not their first language and are therefore more likely to find the Housing Register application process to be onerous. For example, under the current policy, an ethnically minoritized applicant, for whom English is not their first language, seeking to move from one block of sheltered housing to another, who does not have any other housing need under the Allocations Policy or section 166A (3) of the Housing Act 1996, would need to complete an application form and provide proof that they are a qualifying person. These applicants who may struggle to apply to the Housing Register due to a language barrier are likely to find the process of registering for a mutual exchange to be just as difficult. Under the new policy, an ethnically minoritized applicant in these circumstances would no longer need to go through the bureaucratic process of applying via the allocations scheme, and their landlord would instead have the power to simply exercise a discretion to move the applicant in line with their wishes.

6.1.2.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

Under this policy, the applicants who are still required to undertake the bureaucratic process of applying via the allocations scheme will be those households where the operation of section 166A (3) of the Housing Act 1996 requires that the allocation of housing to these groups occurs in line with the Council's published allocations scheme. Compliance with the law is necessary in a democratic society.

For those households who must apply to transfer their social housing tenancies via the allocations scheme but have difficulty completing the application form by virtue of not speaking, reading or writing in English fluently, they can get help from the Homemove team in completing an online application form by ringing 01273 294400 Option 1. We have the facilities to arrange interpreters to assist applicants. If an applicant is housebound, they may request that a member of staff assists them to make a telephone application and in exceptional circumstances a member of the Tenancy Services, Housing Options or Homemove team will undertake a home visit to help the applicant to apply.

6.1.3 Policy proposal: Awarding priority where households in certain circumstances work with us to prevent their homelessness

6.1.3.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy proposal will give additional preference to households who were owed, or would be likely to be owed, the main housing duty under Part 7 of the Housing Act 1996 and worked with us to prevent or resolve their homelessness.

At least 14.59% of the main applicants in the Homeless queue are not white. Applicants in the Homeless queue are most likely to benefit from this policy. The Homeless queue has the greatest number of ethnically minoritised applicants.

Applicants on the Housing Register of all races/ethnic groups in the same band or a lower band are likely to be adversely affected by this policy, because the policy will likely increase waiting times for rehousing for these groups.

6.1.3.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

8 The aim of this policy proposal is to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation, rather than the local authority owing the applicants a duty to provide the applicants with accommodation. Households who will benefit from this proposal will overwhelmingly occupy accommodation which will be of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996.

It costs the Council an average of £9,200 per household per year for each household owed an accommodation duty by the local authority. In 2022/23 the Council expenditure on this accommodation to meet homelessness duties was £15.9m. The duty to provide accommodation to households who are homeless is contributing towards significant financial pressures on the Council and the department (Housing Needs & Supply) is forecasting an overspend of £1.6m for this financial year. The high cost to the Council of providing accommodation to homeless households is predicted to continue, in line with long-term and national trends. It is therefore a legitimate aim to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation.

The policy proposal is the proportionate means of meeting this aim. Many households who are homeless or faced with homelessness seek the stability associated with social housing tenure. Accordingly, giving additional preference – Band B - for social housing to households who resolve their homelessness problem is likely to be a powerful incentive to meet this aim. Giving a lower priority – Band C – would not achieve the aim, because it would result in these households getting the same priority banding as if they would achieve if they were homeless and in the Council's temporary accommodation under section 193 (2) of the Housing Act 1996 – also Band C. This would therefore fail to produce an incentive for these households to accept accommodation of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996. There is therefore no other effective measure which can be adopted which will produce fewer adverse impacts on other groups.

6.1.4 Policy proposal: Removing the queue divisions set out in page 36 of the current policy

6.1.4.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

See section 2.0, 'Background', for information on how the queue system works under the current policy. Removing the queue divisions will mean that all applicants will be able to bid on any property which matches their bedroom size need and mobility.

The positive impact of this policy change will be that applicants from all groups will have a greater pool of properties to bid on (except mobility-coded applicants, who can already bid on all properties which match their bedroom and mobility need.) Households from the Homeseeker and Council's Interest queues are very likely to benefit from these changes, as they currently are only able to bid on 10% of properties which become available.

Applicants in the Council's Interest queue can currently only able to bid on 10% of available properties. 22.03% of the main applicants in the Council's Interest queue are ethnically minoritised, so ethnically minoritised applicants are likely to benefit from this policy change in this respect.

Applicants in the Homeless queue will be adversely affected by this change. At present, applicants in the Homeless queue make up 31.59% of the Housing Register and can bid on 50% of properties that are advertised. The Homeless queue has the greatest number of ethnically minoritised applicants – ethnically minoritised in this queue are likely to be noticeably adversely affected by this policy change.

6.1.4.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The adverse impacts that will arise because of this policy change are justified.

The current policy requires applicants to be placed in four separate queues, and applicants can only bid for properties which have been assigned to their queue. This reduces the number of properties that are available to each queue. There have been times when a property most needed by a household in one queue has been given to a different queue for bidding. The current system has resulted in unintended indirect discrimination against disabled applicants in the Transfer queue.

It has not been possible to devise a scheme with multiple queues which will ensure that the properties available for bidding will always be matched to the queue with the household who is most in need of that property. We have taken advice from a barrister who specialises in council housing allocations, who has, accordingly advised us to remove the queue divisions entirely. Removing the queue divisions will improve the transparency of the operation of our allocations scheme.

The policy change will achieve the legitimate aims of eliminating indirect discrimination and improving the transparency of the operation of the scheme. As it has not been possible to devise a scheme with multiple queues which will avoid indirect discrimination from occurring, the proposed policy change is no more than is necessary to achieve the legitimate aim. Accordingly, the proposed policy change is the proportionate means of meeting a legitimate aim.

6.1.5 Policy proposal: Updating the policy to reflect the definition of domestic abuse in the Domestic Abuse Act 2021

6.1.5.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy will be updated to change references to 'domestic violence' to the broader definition of 'domestic abuse' adopted by Part 1 of the Domestic Abuse Act 2021.

This policy will increase the potential for applicants to qualify to join the Housing Register, where they have been a victim of domestic abuse that falls short of violence. National data shows²³ that, for successive years²⁴, almost twice as many in the Mixed and White ethnic groups were recorded to have experienced domestic abuse when compared with Black, Black British, Asian and Asian British groups. Applicants on the Housing Register of all ages are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

6.1.5.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This policy change will achieve the legitimate aim of aligning the Council's Allocations Policy with the definition of domestic abuse set by Parliament in the Domestic Abuse Act 2021. This policy change is no more than is necessary to achieve this aim. This proposal will advance equality of opportunity by making sure that decision makers will not apply a narrow definition of domestic violence when assessing whether applicants qualify to join the Housing Register.

6.1.6 Policy proposal: Broadening when a transfer request from a joint social housing tenant will be considered

6.1.6.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy only allows applications from transferring social housing tenants who are joint tenants where both tenants are moving. The current policy requires a joint tenancy to be determined before a transfer applicant who is a joint social housing tenant can bid successfully.

The proposed policy change will consider applications from joint social housing tenants without requiring all joint tenancies to be determined before permitting an applicant to qualify to join the Housing Register.

This change will benefit those households where one member of the joint tenancy cannot or will not move from the home subject to the joint tenancy following the relationship breakdown.

Applicants on the Housing Register of all ethnic groups are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

6.1.6.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will achieve the legitimate aim of improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status. This policy change is no more than is necessary to achieve this aim. Accordingly, any adverse impacts that may arise because of this policy change are justified.

Improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status, will advance equality opportunity and foster community cohesion.

6.1.7 Policy proposal: Changing the residency criteria so that applicants must have lived in Brighton & Hove for 5 out of the last 7 years to qualify to join the Housing Register

6.1.7.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires that, to be a qualifying person, applicants must currently reside in Brighton & Hove, and must have done so continuously for the last 5 years. There are some extremely limited exceptions to this rule.

The proposed policy change will allow applicants to qualify to join the Housing Register on the basis that they have resided in Brighton & Hove for 5 out of the last 7 years.

The knowledge we have from our staff is that this policy proposal is most likely to benefit applicants who currently form the Homeseeker group. Applicants in the Homeseeker group may spend years as a qualifying person on the Council's Housing Register, but may lose their qualifying status before they are able to bid successfully when changes in their personal circumstances cause them to leave Brighton & Hove for a short amount of time – such as being evicted from a private rented sector tenancy and being unable to find affordable alternative accommodation in the city, or moving out of the city to take up an offer of work or to rent a home with a garden.

Households where the main applicant is African or Mixed: White and Black African appear in the Homeseeker queue in greater proportions than the average for Brighton & Hove, so this policy change is disproportionately likely to benefit these groups in the Homeseeker queue.

Applicants on the Housing Register of all ethnic groups are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a relatively small number of extra applicants qualifying to join or remain on the Housing Register.

Applicants which currently form part of the Transfer queue under the current policy are the least likely to benefit from this policy proposal as, by their nature of being secure tenants in the city, applicants in this group will reside in the city long-term nearly without exception.

6.1.7.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will strike a balance between promoting localism, in retaining a 5-year residency criterion, while recognising that very high rents and the urban, densely populated nature of Brighton & Hove will mean that some applicants on the Housing Register will leave the city for a short period of time. Promoting localism and providing flexibility in the operation of the Council's allocations scheme are both legitimate aims which this policy proposal will achieve. This policy proposal strikes a balance in achieving these two competing aims. Accordingly, any adverse impacts caused by this policy proposal are justified.

7.1 Group to assess: Religion or belief

What do you know?

Summary of data about our service-users

Data on the proportion of main applicants by religion or belief in each priority queue on the Housing Register is set out below.

Religion	Council Interest		Homeless		Homeseeker		Transfer		All four queues	
	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants
Agnostic		0.00%	1	0.07%		0.00%		0.00%	1	0.02%
Buddhist		0.00%	6	0.39%	20	0.97%	6	0.53%	32	0.66%
Christian	6	5.50%	79	5.14%	352	17.09%	125	10.98%	562	11.60%
Hindu		0.00%		0.00%	5	0.24%		0.00%	5	0.10%
Jewish		0.00%	2	0.13%	7	0.34%	1	0.09%	10	0.21%
Muslim	3	2.75%	27	1.76%	63	3.06%	34	2.99%	127	2.62%
No Religion	38	34.86%	360	23.44%	846	41.07%	363	31.90%	1607	33.18%
NOT CAPTURED	14	12.84%	521	33.92%	380	18.45%	305	26.80%	1220	25.19%
OTHER	3	2.75%	8	0.52%	51	2.48%	16	1.41%	78	1.61%
Prefer not to say	8	7.34%	155	10.09%	236	11.46%	172	15.11%	571	11.79%
Sikh		0.00%		0.00%	2	0.10%	1	0.09%	3	0.06%
(blank)	37	33.94%	377	24.54%	98	4.76%	115	10.11%	627	12.95%
Grand Total	109	100.00%	1536	100.00%	2060	100.00%	1138	100.00%	4843	100.00%

Table: Religion or belief of households on the Council's Housing Register, by priority queue

Ethnic group	% of Brighton & Hove Population
No religion	55.2
Christian	30.9
Buddhist	0.9
Hindu	0.8
Jewish	0.9
Muslim	3.1
Sikh	0.1
Other religion	1.0
Not answered	7.1

Table: Office for National Statistics 2021 Census Data on Religion of Brighton & Hove Population

7.1.1 Policy proposal: Permitting direct offers

7.1.1.1 What does the policy proposal mean for this group²⁵?

Impacts identified from data (actual and potential)

The current Allocations Policy does not permit the Council to use its discretion to make direct offers of socially rented accommodation, except in very limited circumstances for mobility classified properties. The policy proposal seeks to give the Council the broad

discretionary power to make a direct offer of a property at any time to an applicant in exceptional circumstances, or where it considers this would meet the Council's strategic aims. Properties that are to be made as a direct offer will not normally be available for applicants to bid on via the Council's choice-based lettings approach. Similar to the current policy, applicants who refuse a suitable offer of accommodation will have their application closed.

The broad power to make direct offers of socially rented accommodation will allow the Council to meet the needs of applicants where choice-based lettings have not occurred or would not meet need efficiently.

Direct offers can be used to sensitively meet the needs of households including, but not limited to, former rough sleepers, households with health or social care needs, council tenants transferring or households who need a specialist type of housing such as disability adapted housing.

A potential example of where a household with the protected characteristic of race may be impacted by this policy could be where a direct offer of accommodation is made to a religious applicant so that they do not bid successfully on a property in a block where Tenancy Services have identified that acts of hatred against their religion has occurred and is likely to recur.

The negative impacts of a direct offer include an applicant not being able to exercise choice over where the offer of accommodation is made. Reduced choice by applicants could lead to a higher rate of refusals. It is envisaged that direct offers are most likely to be made to applicants who would previously have been in the Homeless queue, Council's Interest queue or the Transfer queue, although this will not always be the case.

7.1.1.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts²⁶?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

A direct offer policy will allow the Council to achieve multiple legitimate aims. The aims that will be achieved by this policy include, but are not limited to:

- Helping to manage numbers of households owed a homelessness or social care duty in expensive temporary accommodation.
- Ensuring that households with specific accommodation needs are efficiently matched to a property where there is likely to be a very limited amount stock that would be likely to become available to meet that need.
- Promoting community cohesion.
- Promoting tenancy stability.
- Safeguarding and promoting the welfare of children.

I have considered whether a less intrusive measure could be adopted to meet these legitimate aims. I cannot identify a less intrusive measure that will reliably succeed in achieving the above objectives. The closest measure that exists in the current Allocations Policy is

direct bidding – where the Council bids on behalf of applicants who have not placed a bid, or where the applicant has failed to bid successfully within a time limit. However, the direct bidding policy has the effect of restricting choice to a comparable degree as direct offers, but the direct bidding policy fails to achieve the above legitimate aims from time to time, because direct bidding does not guarantee that an applicant will be made an offer of a particular unit of accommodation at a particular time, because other applicants on the Housing Register may come higher on a shortlist. Or an applicant who has become subject to direct bidding, may then begin bidding of their own volition, and may themselves bid successfully on a property which undermines the legitimate aim above – for example, where an applicant has bid on a property in a block, where, for example, housing management staff know that a resident of the block has subjected neighbours to acts of religious hatred and the risk of further religious hate crime remains.

As the policy proposal is no more than is necessary for achieving the legitimate objective(s), I am satisfied that the direct offers would be the proportionate means of meeting a legitimate aim.

Lastly, the impact of direct offers on restricting the choice by applicants can be mitigated by the positive benefits of fostering good relations between those groups who share a protected characteristic and those who do not, such as the community cohesion and tenancy sustainment benefits outlined above.

7.1.2 Policy proposal: Amendments to how management transfers are to be dealt with and prioritised

7.1.2.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires all tenants of socially rented homes in the city who request to be transferred to alternative social housing to complete an application to be put on the Housing Register, at page 18 of the policy. The proposed change to the policy is to only require social housing tenants in the city who wish to transfer homes to do so via the Council's allocations scheme where the move is required by the tenant and where the tenant, or a member of their household, has a reasonable preference as defined by section 166A (3) of the Housing Act 1996. This will bring the Council's Allocations Policy in line with the statutory requirements of Part 6 of the Housing Act 1996. All other transfers of social housing tenants in the city will be able to occur via the landlord's internal processes. Accordingly, it is proposed that the only reasons a social housing transfer applicant will be entitled to priority under the scheme will be where the applicant's circumstances meet one or more of the criteria in section 166A (3) of the Housing Act 1996.

No disproportionate adverse actual or potential impacts are anticipated against any religious group due to this policy.

7.1.2.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

Under this policy, the applicants who are still required to undertake the bureaucratic process of applying via the allocations scheme will be those households where the operation of section 166A (3) of the Housing Act 1996 requires that the allocation of housing to these groups occurs in line with the Council's published allocations scheme. Compliance with the law is necessary in a democratic society.

For those households who must apply to transfer their social housing tenancies via the allocations scheme but have difficulty completing the application form by virtue of not speaking, reading or writing in English fluently, they can get help from the Homemove team in completing an online application form by ringing 01273 294400 Option 1. We have the facilities to arrange interpreters to assist applicants. If an applicant is housebound, they may request that a member of staff assists them to make a telephone application and in exceptional circumstances a member of the Tenancy Services, Housing Options or Homemove team will undertake a home visit to help the applicant to apply.

7.1.3 Policy proposal: Awarding priority where households in certain circumstances work with us to prevent their homelessness

7.1.3.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy proposal will give additional preference to households who were owed, or would be likely to be owed, the main housing duty under Part 7 of the Housing Act 1996 and worked with us to prevent or resolve their homelessness.

Applicants on the Housing Register of all religions in the same band or a lower band are likely to be adversely affected by this policy, because the policy will likely increase waiting times for rehousing for these groups.

7.1.3.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

The aim of this policy proposal is to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation, rather than the local authority owing the applicants a duty to provide the applicants with accommodation. Households who will benefit from this proposal will overwhelmingly occupy accommodation which will be of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996.

It costs the Council an average of £9,200 per household per year for each household owed an accommodation duty by the local authority. In 2022/23 the Council expenditure on this accommodation to meet homelessness duties was £15.9m. The duty to provide accommodation to households who are homeless is contributing towards significant financial pressures on the Council and the department (Housing Needs & Supply) is forecasting an overspend of £1.6m for this financial year. The high cost to the Council of

providing accommodation to homeless households is predicted to continue, in line with long-term and national trends. It is therefore a legitimate aim to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation.

The policy proposal is the proportionate means of meeting this aim. Many households who are homeless or faced with homelessness seek the stability associated with social housing tenure. Accordingly, giving additional preference – Band B - for social housing to households who resolve their homelessness problem is likely to be a powerful incentive to meet this aim. Giving a lower priority – Band C – would not achieve the aim, because it would result in these households getting the same priority banding as if they would achieve if they were homeless and in the Council’s temporary accommodation under section 193 (2) of the Housing Act 1996 – also Band C. This would therefore fail to produce an incentive for these households to accept accommodation of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996. There is therefore no other effective measure which can be adopted which will produce fewer adverse impacts on other groups.

7.1.4 Policy proposal: Removing the queue divisions set out in page 36 of the current policy

7.1.4.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

See section 2.0, ‘Background’, for information on how the queue system works under the current policy. Removing the queue divisions will mean that all applicants will be able to bid on any property which matches their bedroom size need and mobility.

The positive impact of this policy change will be that applicants from all groups will have a greater pool of properties to bid on (except mobility-coded applicants, who can already bid on all properties which match their bedroom and mobility need.) Households from the Homeseeker and Council’s Interest queues are very likely to benefit from these changes, as they currently are only able to bid on 10% of properties which become available.

Applicants in the Council’s Interest queue can currently only able to bid on 10% of available properties.

Applicants in the Homeless queue will be adversely affected by this change. At present, applicants in the Homeless queue make up 31.59% of the Housing Register and can bid on 50% of properties that are advertised.

No disproportionate adverse actual or potential impacts are anticipated against any religious group due to this policy.

7.1.4.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The adverse impacts that will arise because of this policy change are justified.

The current policy requires applicants to be placed in four separate queues, and applicants can only bid for properties which have been assigned to their queue. This reduces the number of properties that are available to each queue. There have been times when a property most needed by a household in one queue has been given to a different queue for bidding. The current system has resulted in unintended indirect discrimination against disabled applicants in the Transfer queue.

It has not been possible to devise a scheme with multiple queues which will ensure that the properties available for bidding will always be matched to the queue with the household who is most in need of that property. We have taken advice from a barrister who specialises in council housing allocations, who has, accordingly advised us to remove the queue divisions entirely. Removing the queue divisions will improve the transparency of the operation of our allocations scheme.

The policy change will achieve the legitimate aims of eliminating indirect discrimination and improving the transparency of the operation of the scheme. As it has not been possible to devise a scheme with multiple queues which will avoid indirect discrimination from occurring, the proposed policy change is no more than is necessary to achieve the legitimate aim. Accordingly, the proposed policy change is the proportionate means of meeting a legitimate aim.

7.1.5 Policy proposal: Updating the policy to reflect the definition of domestic abuse in the Domestic Abuse Act 2021

7.1.5.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy will be updated to change references to 'domestic violence' to the broader definition of 'domestic abuse' adopted by Part 1 of the Domestic Abuse Act 2021.

This policy will increase the potential for applicants to qualify to join the Housing Register, where they have been a victim of domestic abuse that falls short of violence.

No disproportionate adverse actual or potential impacts are anticipated against any religious group due to this policy.

7.1.5.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This policy change will achieve the legitimate aim of aligning the Council's Allocations Policy with the definition of domestic abuse set by Parliament in the Domestic Abuse Act 2021. This policy change is no more than is necessary to achieve this aim. This proposal will advance equality of opportunity by making sure that decision makers will not apply a narrow definition of domestic violence when assessing whether applicants qualify to join the Housing Register.

7.1.6 Policy proposal: Broadening when a transfer request from a joint social housing tenant will be considered

7.1.6.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy only allows applications from transferring social housing tenants who are joint tenants where both tenants are moving. The current policy requires a joint tenancy to be determined before a transfer applicant who is a joint social housing tenant can bid successfully.

The proposed policy change will consider applications from joint social housing tenants without requiring all joint tenancies to be determined before permitting an applicant to qualify to join the Housing Register.

This change will benefit those households where one member of the joint tenancy cannot or will not move from the home subject to the joint tenancy following the relationship breakdown.

Applicants on the Housing Register of all religions are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

7.1.6.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will achieve the legitimate aim of improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status. This policy change is no more than is necessary to achieve this aim. Accordingly, any adverse impacts that may arise because of this policy change are justified.

Improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status, will advance equality of opportunity and foster community cohesion.

7.1.7 Policy proposal: Changing the residency criteria so that applicants must have lived in Brighton & Hove for 5 out of the last 7 years to qualify to join the Housing Register

7.1.7.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires that, to be a qualifying person, applicants must currently reside in Brighton & Hove, and must have done so continuously for the last 5 years. There are some extremely limited exceptions to this rule.

The proposed policy change will allow applicants to qualify to join the Housing Register on the basis that they have resided in Brighton & Hove for 5 out of the last 7 years.

The knowledge we have from our staff is that this policy proposal is most likely to benefit applicants who currently form the Homeseeker group. Applicants in the Homeseeker group may spend years as a qualifying person on the Council's Housing Register, but may lose their qualifying status before they are able to bid successfully when changes in their personal circumstances cause them to leave Brighton & Hove for a short amount of time – such as being evicted from a private rented sector tenancy and being unable to find affordable alternative accommodation in the city, or moving out of the city to take up an offer of work or to rent a home with a garden.

Applicants on the Housing Register of all religions are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a relatively small number of extra applicants qualifying to join or remain on the Housing Register.

Applicants which currently form part of the Transfer queue under the current policy are the least likely to benefit from this policy proposal as, by their nature of being secure tenants in the city, applicants in this group will reside in the city long-term nearly without exception.

7.1.7.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will strike a balance between promoting localism, in retaining a 5-year residency criterion, while recognising that very high rents and the urban, densely populated nature of Brighton & Hove will mean that some applicants on the Housing Register will leave the city for a short period of time. Promoting localism and providing flexibility in the operation of the Council's allocations scheme are both legitimate aims which this policy proposal will achieve. This policy proposal strikes a balance in achieving these two competing aims. Accordingly, any adverse impacts caused by this policy proposal are justified.

8.1 Group to assess: Sex

What do you know?

Summary of data about our service-users

Our computerised record system was not able to produce a report on the sex of the applicants on the Housing Register. While far from ideal, data on the title of main applicants in each priority queue on the Housing Register has been used as a proxy for sex and is set out below.

Title	Council Interest		Homeless		Homeseeker		Transfer		All four queues	
	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants
Miss	30	27.52%	298	19.40%	650	31.55%	413	36.29%	1391	28.72%
Mr	49	44.95%	286	18.62%	783	38.01%	302	26.54%	1420	29.32%
Mrs	6	5.50%	66	4.30%	187	9.08%	226	19.86%	485	10.01%
Ms	12	11.01%	191	12.43%	168	8.16%	150	13.18%	521	10.76%
Mx		0.00%	5	0.33%		0.00%		0.00%	5	0.10%
Other	1	0.92%	9	0.59%	9	0.44%	2	0.18%	21	0.43%
(blank)	11	10.09%	681	44.34%	263	12.77%	45	3.95%	1000	20.65%
Total	109	100.00%	1536	100.00%	2060	100.00%	1138	100.00%	4843	100.00%

Table: Title of main applicant on the Council's Housing Register, by priority queue

Sex	% of Brighton & Hove Population
Female	51.1
Male	48.9

Table: Office for National Statistics 2021 Census Data on sex of the Brighton & Hove resident completing the census

8.1.1 Policy proposal: Permitting direct offers

8.1.1.1 What does the policy proposal mean for this group²⁷?

Impacts identified from data (actual and potential)

The current Allocations Policy does not permit the Council to use its discretion to make direct offers of socially rented accommodation, except in very limited circumstances for mobility classified properties. The policy proposal seeks to give the Council the broad discretionary power to make a direct offer of a property at any time to an applicant in exceptional circumstances, or where it considers this would meet the Council's strategic aims. Properties that are to be made as a direct offer will not normally be available for applicants to bid on via the Council's choice-based lettings approach. Similar to the current policy, applicants who refuse a suitable offer of accommodation will have their application closed.

The broad power to make direct offers of socially rented accommodation will allow the Council to meet the needs of applicants where choice-based lettings have not occurred or would not meet need efficiently.

Direct offers can be used to sensitively meet the needs of households including, but not limited to, former rough sleepers, households with health or social care needs, council tenants transferring or households who need a specialist type of housing such as disability adapted housing.

A potential example of where a household with the protected characteristic of sex may be impacted by this policy could be where a direct offer of accommodation is made to an applicant that has previously been a victim of domestic abuse so that they do not bid successfully on a property in a block where Tenancy Services have identified that an individual who has previously perpetrated domestic abuse against the applicant lives, unbeknownst to the applicant.

The negative impacts of a direct offer include an applicant not being able to exercise choice over where the offer of accommodation is made. Reduced choice by applicants could lead to a higher rate of refusals. It is envisaged that direct offers are most likely to be made to applicants who would previously have been in the Homeless queue, Council's Interest queue or the Transfer queue, although this will not always be the case.

8.1.1.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts²⁸?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

A direct offer policy will allow the Council to achieve multiple legitimate aims. The aims that will be achieved by this policy include, but are not limited to:

- Helping to manage numbers of households owed a homelessness or social care duty in expensive temporary accommodation.
- Ensuring that households with specific accommodation needs are efficiently matched to a property where there is likely to be a very limited amount stock that would be likely to become available to meet that need.
- Promoting community cohesion.
- Promoting tenancy stability.
- Safeguarding and promoting the welfare of children.

I have considered whether a less intrusive measure could be adopted to meet these legitimate aims. I cannot identify a less intrusive measure that will reliably succeed in achieving the above objectives. The closest measure that exists in the current Allocations Policy is direct bidding – where the Council bids on behalf of applicants who have not placed a bid, or where the applicant has failed to bid successfully within a time limit. However, the direct bidding policy has the effect of restricting choice to a comparable degree as direct offers, but the direct bidding policy fails to achieve the above legitimate aims from time to time, because direct bidding does not guarantee that an applicant will be made an offer of a particular unit of accommodation at a particular time, because other applicants on the Housing Register may come higher on a shortlist. Or an applicant who has become subject to direct bidding, may then begin bidding of their own volition, and may themselves bid successfully on a property which undermines the legitimate aim above – for example, where an applicant that has previously been a victim of domestic abuse bids on a property in a block where Tenancy Services have identified that an individual who has previously perpetrated domestic abuse against the applicant lives, unbeknownst to the applicant.

As the policy proposal is no more than is necessary for achieving the legitimate objective(s), I am satisfied that the direct offers would be the proportionate means of meeting a legitimate aim.

Lastly, the impact of direct offers on restricting the choice by applicants can be mitigated by the positive benefits of fostering good relations between those groups who share a protected characteristic and those who do not, such as the community cohesion and tenancy sustainment benefits outlined above.

8.1.2 Policy proposal: Amendments to how management transfers are to be dealt with and prioritised

8.1.2.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires all tenants of socially rented homes in the city who request to be transferred to alternative social housing to complete an application to be put on the Housing Register, at page 18 of the policy. The proposed change to the policy is to only require social housing tenants in the city who wish to transfer homes to do so via the Council's allocations scheme where the move is required by the tenant and where the tenant, or a member of their household, has a reasonable preference as defined by section 166A (3) of the Housing Act 1996. This will bring the Council's Allocations Policy in line with the statutory requirements of Part 6 of the Housing Act 1996. All other transfers of social housing tenants in the city will be able to occur via the landlord's internal processes. Accordingly, it is proposed that the only reasons a social housing transfer applicant will be entitled to priority under the scheme will be where the applicant's circumstances meet one or more of the criteria in section 166A (3) of the Housing Act 1996.

No disproportionate actual or potential adverse impacts are predicted to occur as a result of this policy on a group which shares the protected characteristic of sex.

8.1.2.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

Under this policy, the applicants who are still required to undertake the bureaucratic process of applying via the allocations scheme will be those households where the operation of section 166A (3) of the Housing Act 1996 requires that the allocation of housing to these groups occurs in line with the Council's published allocations scheme. Compliance with the law is necessary in a democratic society.

For those households who must apply to transfer their social housing tenancies via the allocations scheme, but have difficulty completing the application form, they can get help from the Homemove team in completing an online application form by ringing 01273 294400 Option 1. If an applicant is housebound, they may request that a member of staff assists them to make a telephone application and in exceptional circumstances a member of the Tenancy Services, Housing Options or Homemove team will undertake a home visit to help the applicant to apply.

8.1.3 Policy proposal: Awarding priority where households in certain circumstances work with us to prevent their homelessness

8.1.3.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy proposal will give additional preference to households who were owed, or would be likely to be owed, the main housing duty under Part 7 of the Housing Act 1996 and worked with us to prevent or resolve their homelessness.

The data shows that, in the Homeless queue, there are nearly twice the number of households where women are the main applicant compared with men. Women are therefore disproportionately likely to benefit from this policy proposal.

Applicants on the Housing Register of all sexes in the same band or a lower band are likely to be adversely affected by this policy, because the policy will likely increase waiting times for rehousing for these groups.

8.1.3.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

The aim of this policy proposal is to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation, rather than the local authority owing the applicants a duty to provide the applicants with accommodation. Households who will benefit from this proposal will overwhelmingly occupy accommodation which will be of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996.

It costs the Council an average of £9,200 per household per year for each household owed an accommodation duty by the local authority. In 2022/23 the Council expenditure on this accommodation to meet homelessness duties was £15.9m. The duty to provide accommodation to households who are homeless is contributing towards significant financial pressures on the Council and the department (Housing Needs & Supply) is forecasting an overspend of £1.6m for this financial year. The high cost to the Council of providing accommodation to homeless households is predicted to continue, in line with long-term and national trends. It is therefore a legitimate aim to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation.

The policy proposal is the proportionate means of meeting this aim. Many households who are homeless or faced with homelessness seek the stability associated with social housing tenure. Accordingly, giving additional preference – Band B - for social housing to households who resolve their homelessness problem is likely to be a powerful incentive to meet this aim. Giving a lower priority – Band C – would not achieve the aim, because it would result in these households getting the same priority banding as if they would achieve if they were homeless and in the Council's temporary accommodation under section 193 (2) of the Housing Act 1996 – also Band C. This would therefore fail to produce an incentive for these households to accept accommodation of a less secure tenure than accommodation

provided by the Council pursuant to section 193 (2) of the Housing Act 1996. There is therefore no other effective measure which can be adopted which will produce fewer adverse impacts on other groups.

8.1.4 Policy proposal: Removing the queue divisions set out in page 36 of the current policy

8.1.4.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

See section 2.0, 'Background', for information on how the queue system works under the current policy. Removing the queue divisions will mean that all applicants will be able to bid on any property which matches their bedroom size need and mobility.

The positive impact of this policy change will be that applicants from all groups will have a greater pool of properties to bid on (except mobility-coded applicants, who can already bid on all properties which match their bedroom and mobility need.) Households from the Homeseeker and Council's Interest queues are very likely to benefit from these changes, as they currently are only able to bid on 10% of properties which become available.

Applicants in the Homeseeker queue form the largest proportion of the Housing Register, with 42.37% of applicants being in the Homeseeker queue. However, Homeseekers can currently only bid on 10% of available properties. The data shows that there are 10.78% more households where women are the main applicant compared with men in the Homeseeker queue, so women are more likely to benefit from this policy change.

Applicants in the Homeless queue will be adversely affected by this change. At present, applicants in the Homeless queue make up 31.59% of the Housing Register and can bid on 50% of properties that are advertised. The data shows that, in the Homeless queue, there are nearly twice the number of households where women are the main applicant compared with men, so women in this queue are likely to be noticeably adversely affected by this policy change.

8.1.4.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The adverse impacts that will arise because of this policy change are justified.

The current policy requires applicants to be placed in four separate queues, and applicants can only bid for properties which have been assigned to their queue. This reduces the number of properties that are available to each queue. There have been times when a property most needed by a household in one queue has been given to a different queue for bidding. The current system has resulted in unintended indirect discrimination against disabled applicants in the Transfer queue.

It has not been possible to devise a scheme with multiple queues which will ensure that the properties available for bidding will always be matched to the queue with the household who is most in need of that property. We have taken advice from a barrister who specialises in

council housing allocations, who has, accordingly advised us to remove the queue divisions entirely. Removing the queue divisions will improve the transparency of the operation of our allocations scheme.

The policy change will achieve the legitimate aims of eliminating indirect discrimination and improving the transparency of the operation of the scheme. As it has not been possible to devise a scheme with multiple queues which will avoid indirect discrimination from occurring, the proposed policy change is no more than is necessary to achieve the legitimate aim. Accordingly, the proposed policy change is the proportionate means of meeting a legitimate aim.

Furthermore, the likely potential adverse effects of the proposed policy change on households where women are the main applicant in the Homeless queue are outweighed by the likely potential benefits the policy change offers for households where women are the main applicant in the Homeseeker queue, as these are a bigger group.

8.1.5 Policy proposal: Updating the policy to reflect the definition of domestic abuse in the Domestic Abuse Act 2021

8.1.5.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy will be updated to change references to 'domestic violence' to the broader definition of 'domestic abuse' adopted by Part 1 of the Domestic Abuse Act 2021.

This policy will increase the potential for applicants to qualify to join the Housing Register, where they have been a victim of domestic abuse that falls short of violence. National data shows that, in the year ending March 2023, women are about twice as likely to be the victims of domestic abuse as men²⁹ so, women are most likely to benefit from this broadened definition of domestic abuse. Applicants on the Housing Register of all sexes who do not benefit from this policy change are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

8.1.5.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This policy change will achieve the legitimate aim of aligning the Council's Allocations Policy with the definition of domestic abuse set by Parliament in the Domestic Abuse Act 2021. This policy change is no more than is necessary to achieve this aim. This proposal will advance equality of opportunity by making sure that decision makers will not apply a narrow definition of domestic violence when assessing whether applicants qualify to join the Housing Register.

8.1.6 Policy proposal: Broadening when a transfer request from a joint social housing tenant will be considered

8.1.6.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy only allows applications from transferring social housing tenants who are joint tenants where both tenants are moving. The current policy requires a joint tenancy to be determined before a transfer applicant who is a joint social housing tenant can bid successfully.

The proposed policy change will consider applications from joint social housing tenants without requiring all joint tenancies to be determined before permitting an applicant to qualify to join the Housing Register.

Women are more likely to benefit from this change, as women are more likely to be victims of domestic abuse and will therefore be more likely to need to flee their home following a relationship breakdown and will therefore apply to transfer. This change will benefit those households where one member of the joint tenancy cannot or will not move from the home subject to the joint tenancy following the relationship breakdown.

Applicants on the Housing Register of all sexes are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

8.1.6.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will achieve the legitimate aim of improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status. This policy change is no more than is necessary to achieve this aim. Accordingly, any adverse impacts that may arise because of this policy change are justified.

Improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status, will advance equality of opportunity and foster community cohesion.

8.1.7 Policy proposal: Changing the residency criteria so that applicants must have lived in Brighton & Hove for 5 out of the last 7 years to qualify to join the Housing Register

8.1.7.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires that, to be a qualifying person, applicants must currently reside in Brighton & Hove, and must have done so continuously for the last 5 years. There are some extremely limited exceptions to this rule.

The proposed policy change will allow applicants to qualify to join the Housing Register on the basis that they have resided in Brighton & Hove for 5 out of the last 7 years.

The knowledge we have from our staff is that this policy proposal is most likely to benefit applicants who currently form the Homeseeker group. Applicants in the Homeseeker group may spend years as a qualifying person on the Council's Housing Register, but may lose their qualifying status before they are able to bid successfully when changes in their personal circumstances cause them to leave Brighton & Hove for a short amount of time – such as being evicted from a private rented sector tenancy and being unable to find affordable alternative accommodation in the city, or moving out of the city to take up an offer of work or to rent a home with a garden. The data shows that there are 10.78% more households where women are the main applicant compared with men in the Homeseeker queue, so women are more likely to benefit from this policy change.

Applicants on the Housing Register of all sexes who do not benefit from this change are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a relatively small number of extra applicants qualifying to join or remain on the Housing Register.

Applicants which currently form part of the Transfer queue under the current policy are the least likely to benefit from this policy proposal as, by their nature of being secure tenants in the city, applicants in this group will reside in the city long-term nearly without exception.

8.1.7.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will strike a balance between promoting localism, in retaining a 5-year residency criterion, while recognising that very high rents and the urban, densely populated nature of Brighton & Hove will mean that some applicants on the Housing Register will leave the city for a short period of time. Promoting localism and providing flexibility in the operation of the Council's allocations scheme are both legitimate aims which this policy proposal will achieve. This policy proposal strikes a balance in achieving these two competing aims. Accordingly, any adverse impacts caused by this policy proposal are justified.

9.1 Group to assess: Sexual orientation

What do you know?

Summary of data about our service-users

Data on the sexual orientation of main applicants in each priority queue on the Housing Register is set out below.

Sexual Orientation	Council Interest		Homeless		Homeseeker		Transfer		All four queues	
	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants	No. of live applicants	% of live applicants
Bisexual	4	3.67%	56	3.65%	80	3.88%	30	2.64%	170	3.51%
Gay	1	0.92%	10	0.65%	73	3.54%	23	2.02%	107	2.21%
Heterosexual	71	65.14%	509	33.14%	1162	56.41%	511	44.90%	2253	46.52%
Lesbian		0.00%	6	0.39%	29	1.41%	5	0.44%	40	0.83%
Not Declared	18	16.51%	665	43.29%	300	14.56%	286	25.13%	1269	26.20%
Other		0.00%	4	0.26%	2	0.10%	3	0.26%	9	0.19%
Prefer not to say	10	9.17%	72	4.69%	194	9.42%	112	9.84%	388	8.01%
(blank)	5	4.59%	214	13.93%	220	10.68%	168	14.76%	607	12.53%
Total	109	100.00%	1536	100.00%	2060	100.00%	1138	100.00%	4843	100.00%

Table: Sexual orientation of main applicant on the Council's Housing Register, by priority queue

Sexual orientation	% of Brighton & Hove Population
Heterosexual	80.62
Lesbian, Gay, Bisexual, or Other (LGB+)	10.73
Not answered	8.66

Table: Office for National Statistics 2021 Census Data on sexual orientation of the Brighton & Hove resident completing the census

9.1.1 Policy proposal: Permitting direct offers

9.1.1.1 What does the policy proposal mean for this group³⁰?

Impacts identified from data (actual and potential)

The current Allocations Policy does not permit the Council to use its discretion to make direct offers of socially rented accommodation, except in very limited circumstances for mobility classified properties. The policy proposal seeks to give the Council the broad discretionary power to make a direct offer of a property at any time to an applicant in exceptional circumstances, or where it considers this would meet the Council's strategic aims. Properties that are to be made as a direct offer will not normally be available for applicants to bid on via the Council's choice-based lettings approach. Similar to the current policy, applicants who refuse a suitable offer of accommodation will have their application closed.

The broad power to make direct offers of socially rented accommodation will allow the Council to meet the needs of applicants where choice-based lettings have not occurred or would not meet need efficiently.

Direct offers can be used to sensitively meet the needs of households including, but not limited to, former rough sleepers, households with health or social care needs, council tenants transferring or households who need a specialist type of housing such as disability adapted housing.

A potential example of where a household with the protected characteristic of sexual orientation may be impacted by this policy could be where a direct offer of accommodation is made to an applicant who is a lesbian so that they do not bid successfully on a property in a block where Tenancy Services have identified that homophobic abuse has previously been committed by a resident in the block and is likely to recur.

The negative impacts of a direct offer include an applicant not being able to exercise choice over where the offer of accommodation is made. Reduced choice by applicants could lead to a higher rate of refusals. It is envisaged that direct offers are most likely to be made to applicants who would previously have been in the Homeless queue, Council's Interest queue or the Transfer queue, although this will not always be the case.

9.1.1.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts³¹?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

A direct offer policy will allow the Council to achieve multiple legitimate aims. The aims that will be achieved by this policy include, but are not limited to:

- Helping to manage numbers of households owed a homelessness or social care duty in expensive temporary accommodation.
- Ensuring that households with specific accommodation needs are efficiently matched to a property where there is likely to be a very limited amount stock that would be likely to become available to meet that need.
- Promoting community cohesion.
- Promoting tenancy stability.
- Safeguarding and promoting the welfare of children.

I have considered whether a less intrusive measure could be adopted to meet these legitimate aims. I cannot identify a less intrusive measure that will reliably succeed in achieving the above objectives. The closest measure that exists in the current Allocations Policy is direct bidding – where the Council bids on behalf of applicants who have not placed a bid, or where the applicant has failed to bid successfully within a time limit. However, the direct bidding policy has the effect of restricting choice to a comparable degree as direct offers, but the direct bidding policy fails to achieve the above legitimate aims from time to time, because direct bidding does not guarantee that an applicant will be made an offer of a particular unit of accommodation at a particular time, because other applicants on the Housing Register may come higher on a shortlist. Or an applicant who has become subject to direct bidding, may then begin bidding of their own volition, and may themselves bid successfully on a property which undermines the legitimate aim above – for example,

where an applicant who is a lesbian bids on a property in a block where Tenancy Services have identified that homophobic abuse has previously been committed by a resident in the block and is likely to recur.

As the policy proposal is no more than is necessary for achieving the legitimate objective(s), I am satisfied that the direct offers would be the proportionate means of meeting a legitimate aim.

Lastly, the impact of direct offers on restricting the choice by applicants can be mitigated by the positive benefits of fostering good relations between those groups who share a protected characteristic and those who do not, such as the community cohesion and tenancy sustainment benefits outlined above.

9.1.2 Policy proposal: Amendments to how management transfers are to be dealt with and prioritised

9.1.2.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires all tenants of socially rented homes in the city who request to be transferred to alternative social housing to complete an application to be put on the Housing Register, at page 18 of the policy. The proposed change to the policy is to only require social housing tenants in the city who wish to transfer homes to do so via the Council's allocations scheme where the move is required by the tenant and where the tenant, or a member of their household, has a reasonable preference as defined by section 166A (3) of the Housing Act 1996. This will bring the Council's Allocations Policy in line with the statutory requirements of Part 6 of the Housing Act 1996. All other transfers of social housing tenants in the city will be able to occur via the landlord's internal processes. Accordingly, it is proposed that the only reasons a social housing transfer applicant will be entitled to priority under the scheme will be where the applicant's circumstances meet one or more of the criteria in section 166A (3) of the Housing Act 1996.

No disproportionate actual or potential adverse impacts are predicted to occur as a result of this policy on a group which shares the protected characteristic of sexual orientation.

9.1.2.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

Under this policy, the applicants who are still required to undertake the bureaucratic process of applying via the allocations scheme will be those households where the operation of section 166A (3) of the Housing Act 1996 requires that the allocation of housing to these groups occurs in line with the Council's published allocations scheme. Compliance with the law is necessary in a democratic society.

For those households who must apply to transfer their social housing tenancies via the allocations scheme, but have difficulty completing the application form, they can get help from the Homemove team in completing an online application form by ringing 01273 294400

Option 1. If an applicant is housebound, they may request that a member of staff assists them to make a telephone application and in exceptional circumstances a member of the Tenancy Services, Housing Options or Homemove team will undertake a home visit to help the applicant to apply.

9.1.3 Policy proposal: Awarding priority where households in certain circumstances work with us to prevent their homelessness

9.1.3.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy proposal will give additional preference to households who were owed, or would be likely to be owed, the main housing duty under Part 7 of the Housing Act 1996 and worked with us to prevent or resolve their homelessness.

Applicants on the Housing Register of all sexual orientations in the same band or a lower band are likely to be adversely affected by this policy, because the policy will likely increase waiting times for rehousing for these groups.

9.1.3.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The impacts of this policy proposal are justified.

The aim of this policy proposal is to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation, rather than the local authority owing the applicants a duty to provide the applicants with accommodation. Households who will benefit from this proposal will overwhelmingly occupy accommodation which will be of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996.

It costs the Council an average of £9,200 per household per year for each household owed an accommodation duty by the local authority. In 2022/23 the Council expenditure on this accommodation to meet homelessness duties was £15.9m. The duty to provide accommodation to households who are homeless is contributing towards significant financial pressures on the Council and the department (Housing Needs & Supply) is forecasting an overspend of £1.6m for this financial year. The high cost to the Council of providing accommodation to homeless households is predicted to continue, in line with long-term and national trends. It is therefore a legitimate aim to incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation.

The policy proposal is the proportionate means of meeting this aim. Many households who are homeless or faced with homelessness seek the stability associated with social housing tenure. Accordingly, giving additional preference – Band B - for social housing to households who resolve their homelessness problem is likely to be a powerful incentive to meet this aim. Giving a lower priority – Band C – would not achieve the aim, because it would result in these households getting the same priority banding as if they would achieve if they were homeless and in the Council's temporary accommodation under section 193 (2) of the Housing Act 1996 – also Band C. This

would therefore fail to produce an incentive for these households to accept accommodation of a less secure tenure than accommodation provided by the Council pursuant to section 193 (2) of the Housing Act 1996. There is therefore no other effective measure which can be adopted which will produce fewer adverse impacts on other groups.

9.1.4 Policy proposal: Removing the queue divisions set out in page 36 of the current policy

9.1.4.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

See section 2.0, 'Background', for information on how the queue system works under the current policy. Removing the queue divisions will mean that all applicants will be able to bid on any property which matches their bedroom size need and mobility.

The positive impact of this policy change will be that applicants from all groups will have a greater pool of properties to bid on (except mobility-coded applicants, who can already bid on all properties which match their bedroom and mobility need.) Households from the Homeseeker and Council's Interest queues are very likely to benefit from these changes, as they currently are only able to bid on 10% of properties which become available.

No disproportionate actual or potential adverse impacts are predicted on any group which shares the protected characteristic of sexual orientation as a result of this policy proposal.

9.1.4.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

The adverse impacts that may arise because of this policy change are justified.

The current policy requires applicants to be placed in four separate queues, and applicants can only bid for properties which have been assigned to their queue. This reduces the number of properties that are available to each queue. There have been times when a property most needed by a household in one queue has been given to a different queue for bidding. The current system has resulted in unintended indirect discrimination against disabled applicants in the Transfer queue.

It has not been possible to devise a scheme with multiple queues which will ensure that the properties available for bidding will always be matched to the queue with the household who is most in need of that property. We have taken advice from a barrister who specialises in council housing allocations, who has, accordingly advised us to remove the queue divisions entirely. Removing the queue divisions will improve the transparency of the operation of our allocations scheme.

The policy change will achieve the legitimate aims of eliminating indirect discrimination and improving the transparency of the operation of the scheme. As it has not been possible to devise a scheme with multiple queues which will avoid indirect discrimination from

occurring, the proposed policy change is no more than is necessary to achieve the legitimate aim. Accordingly, the proposed policy change is the proportionate means of meeting a legitimate aim.

9.1.5 Policy proposal: Updating the policy to reflect the definition of domestic abuse in the Domestic Abuse Act 2021

9.1.5.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The policy will be updated to change references to 'domestic violence' to the broader definition of 'domestic abuse' adopted by Part 1 of the Domestic Abuse Act 2021.

This policy will increase the potential for applicants to qualify to join the Housing Register, where they have been a victim of domestic abuse that falls short of violence. In the UK, there are no official figures on the prevalence of domestic abuse in those identifying themselves as LGB+. Applicants on the Housing Register of all sexual orientations who do not benefit from this policy change are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

9.1.5.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This policy change will achieve the legitimate aim of aligning the Council's Allocations Policy with the definition of domestic abuse set by Parliament in the Domestic Abuse Act 2021. This policy change is no more than is necessary to achieve this aim. This proposal will advance equality of opportunity by making sure that decision makers will not apply a narrow definition of domestic violence when assessing whether applicants qualify to join the Housing Register.

9.1.6 Policy proposal: Broadening when a transfer request from a joint social housing tenant will be considered

9.1.6.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy only allows applications from transferring social housing tenants who are joint tenants where both tenants are moving. The current policy requires a joint tenancy to be determined before a transfer applicant who is a joint social housing tenant can bid successfully.

The proposed policy change will consider applications from joint social housing tenants without requiring all joint tenancies to be determined before permitting an applicant to qualify to join the Housing Register.

This change will benefit those households where one member of the joint tenancy cannot or will not move from the home subject to the joint tenancy following the relationship breakdown.

Applicants on the Housing Register of all sexual orientations are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a very small number of extra applicants qualifying to join the Housing Register.

9.1.6.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will achieve the legitimate aim of improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status. This policy change is no more than is necessary to achieve this aim. Accordingly, any adverse impacts that may arise because of this policy change are justified.

Improving outcomes for social housing tenants in the city where there has been a relationship breakdown and where one joint tenant needs to move homes, such as by enabling a victim of domestic abuse to move to a place of safety without having to give up their secure tenancy status, will advance equality opportunity and foster community cohesion.

9.1.7 Policy proposal: Changing the residency criteria so that applicants must have lived in Brighton & Hove for 5 out of the last 7 years to qualify to join the Housing Register

9.1.7.1 What does the policy proposal mean for this group?

Impacts identified from data (actual and potential)

The current Allocations Policy requires that, to be a qualifying person, applicants must currently reside in Brighton & Hove, and must have done so continuously for the last 5 years. There are some extremely limited exceptions to this rule.

The proposed policy change will allow applicants to qualify to join the Housing Register on the basis that they have resided in Brighton & Hove for 5 out of the last 7 years.

The knowledge we have from our staff is that this policy proposal is most likely to benefit applicants who currently form the Homeseeker group. Applicants in the Homeseeker group may spend years as a qualifying person on the Council's Housing Register, but may lose their qualifying status before they are able to bid successfully when changes in their personal circumstances cause them to leave Brighton & Hove for a short amount of time – such as being evicted from a private rented sector tenancy and being unable to find affordable alternative accommodation in the city, or moving out of the city to take up an offer of work or to rent a home with a garden. The data shows that applicants who identify as LGB+ appear in the Homeseeker queue more than any other queue, so LGB+ applicants are more likely to benefit from this policy change.

Applicants on the Housing Register of all sexual orientations who do not benefit from this change are likely to be minimally adversely affected by this policy, because the policy change will likely increase waiting times for rehousing by resulting in a relatively small number of extra applicants qualifying to join or remain on the Housing Register.

Applicants which currently form part of the Transfer queue under the current policy are the least likely to benefit from this policy proposal as, by their nature of being secure tenants in the city, applicants in this group will reside in the city long-term nearly without exception.

9.1.7.2 Are the impacts of this policy proposal justified? What can we do to mitigate impacts?

All potential actions to advance equality of opportunity, eliminate discrimination, and foster good relations

This change will strike a balance between promoting localism, in retaining a 5-year residency criterion, while recognising that very high rents and the urban, densely populated nature of Brighton & Hove will mean that some applicants on the Housing Register will leave the city for a short period of time. Promoting localism and providing flexibility in the operation of the Council's allocations scheme are both legitimate aims which this policy proposal will achieve. This policy proposal strikes a balance in achieving these two competing aims. Accordingly, any adverse impacts caused by this policy proposal are justified.

10.1 Group to assess: Married/In a civil partnership

What do you know?

Summary of data about our service-users

Our computerised record system does not record whether applicants on the Housing Register are married or in a civil partnership.

Marital or civil partnership status	% of Brighton & Hove Population
Married or in a registered civil partnership	32.8
Other marital or civil partnership status	67.2

Table: Office for National Statistics 2021 Census Data on Marital or Civil Partnership Status of Brighton & Hove Population

10.2: Policy proposals, likely impacts, justification and mitigation options.

No disproportionate and unjustified actual or potential adverse impacts on any group who shares a marital or civil partnership status is anticipated as a result of these policy proposals.

11. List detailed data and/or community feedback that informed your EIA

Title (of data, research or engagement)	Date	Gaps in data	Actions to fill these gaps: who else do you need to engage with? (add these to the Action Plan below, with a timeframe)
Characteristics of households on the Brighton & Hove City Council Housing Register, by priority queue.	October 2023	No data on pregnancy or marital or civil partnership status. Partial data on disability and sex.	A process is underway to procure a new computerised record system. The ability to capture data on the disability, sex, pregnancy and marital or civil partnership status of applicants will be included in the procurement requirements. The new computerised record system should be procured by December 2025.
Office for National Statistics Census 2021	2021	None known	N/A

12. Prioritised Action Plan³²

Impact identified and group(s) affected	Action planned	Expected outcome	Measure of success	Timeframe
NB: These actions must now be transferred to service or business plans and monitored to ensure they achieve the outcomes identified.				
Direct offers will lead to a higher rate of refusals for all groups.	Monitor refusal rates for all groups.	No disproportionate change for any group.	No disproportionate change for any group.	October 2029
Applicants of all groups in Band B or lower on the Housing Register will likely experience increased waiting times for rehousing as a result of awarding additional priority where households in certain circumstances work with us to prevent their homelessness.	<p>Monitor whether waiting times increase for applicants in Band B or lower.</p> <p>Monitor whether the policy of awarding additional priority where households in certain circumstances work with us to prevent their homelessness achieves the aim of incentivise applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation.</p>	The aim of incentivising applicants to whom the Council is likely to owe an accommodation duty to secure their own accommodation will be achieved by the policy of awarding additional priority where households in certain circumstances work with us to prevent their homelessness. If so, the policy will likely be the proportionate means of meeting the legitimate aim.	An increase in applicants to whom the Council is likely to owe an accommodation duty to securing their own accommodation using the additional priority as a result of the policy change.	October 2029
Removing the queue divisions is aimed to increase transparency in the operation of the scheme and ensure that the properties available for bidding will always be matched to a queue with a household who is in	Monitor whether removing the queue divisions increases transparency in the operation of the scheme and ensures that properties available for bidding are always matched to a household	Increases transparency in the operation of the scheme and ensures that properties available for bidding are always matched to a household who is in great need of that property. If so, the policy will likely be the	Increases transparency in the operation of the scheme and ensures that properties available for bidding are always matched to a household who is in great need of that property.	October 2029

<p>great need of that property but is likely to increase waiting times for applicants who would have been in the Homeless queue.</p>	<p>who is in great need of that property.</p> <p>Monitor whether waiting times increase for applicants who would have been in the Homeless queue.</p>	<p>proportionate means of meeting the legitimate aim.</p>		
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EIA sign-off:

Staff member completing Equality Impact Assessment: Luke Harris

Date: 08/01/2024

Guidance endnotes

¹ The following principles, drawn from case law, explain what we must do to fulfil our duties under the Equality Act:

- **Knowledge:** everyone working for the council must be aware of our equality duties and apply them appropriately in their work.
- **Timeliness:** the duty applies at the time of considering policy options and/or before a final decision is taken – not afterwards.
- **Real Consideration:** the duty must be an integral and rigorous part of your decision-making and influence the process.
- **Sufficient Information:** you must assess what information you have and what is needed to give proper consideration.
- **No delegation:** the council is responsible for ensuring that any contracted services which provide services on our behalf can comply with the duty, are required in contracts to comply with it, and do comply in practice. It is a duty that cannot be delegated.
- **Review:** the equality duty is a continuing duty. It applies when a policy is developed/agreed, and when it is implemented/reviewed.
- **Proper Record Keeping:** to show that we have fulfilled our duties we must keep records of the process and the impacts identified.

NB: Filling out this EIA in itself does not meet the requirements of the equality duty. All the requirements above must be fulfilled or the EIA (and any decision based on it) may be open to challenge. Properly used, an EIA can be a tool to help us comply with our equality duty and as a record that to demonstrate that we have done so.

² Our duties in the Equality Act 2010

As a public sector organisation, we have a legal duty (under the Equality Act 2010) to show that we have identified and considered the impact and potential impact of our activities on all people in relation to their 'protected characteristics' (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage and civil partnership).

This applies to policies, services (including commissioned services), and our employees. The level of detail of this consideration will depend on what you are assessing, who it might affect, those groups' vulnerability, and how serious any potential impacts might be. We use this EIA template to complete this process and evidence our consideration.

The following are the duties in the Act. You must give 'due regard' (pay conscious attention) to the need to:

- **avoid, reduce or minimise negative impact** (if you identify unlawful discrimination, including victimisation and harassment, you must stop the action and take advice immediately).
- **advance equality of opportunity.** This means the need to:
 - Remove or minimise disadvantages suffered by people due to their protected characteristics
 - Taking steps to meet the needs of people from protected groups where these are different from the needs of other people
 - Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low
 - Consider if there is a need to treat disabled people differently, including more favourable treatment where necessary
- **foster good relations between people who share a protected characteristic and those who do not.** This means:
 - Tackle prejudice
 - Promote understanding

³ EIAs are always proportionate to:

- The size of the service or scope of the policy/strategy
- The resources involved
- The numbers of people affected
- The size of the likely impact
- The vulnerability of the people affected within the context

The greater the impacts, the more thorough and demanding the process required by the Act will be.

⁴ **Title of EIA:** This should clearly explain what service / policy / strategy / change you are assessing

⁵ **ID no:** The unique reference for this EIA. If in doubt, contact your CCG or BHCC equality lead (see page 1)

⁶ **Team/Department:** Main team responsible for the policy, practice, service or function being assessed

⁷ **Focus of EIA:** A member of the public should have a good understanding of the policy or service and any proposals after reading this section. Please use plain English and write any acronyms in full first time - eg: 'Equality Impact Assessment (EIA)'

This section should explain what you are assessing:

- What are the main aims or purpose of the policy, practice, service or function?
- Who implements, carries out or delivers the policy, practice, service or function? Please state where this is more than one person/team/body and where other organisations deliver under procurement or partnership arrangements.
- How does it fit with other services?
- Who is affected by the policy, practice, service or function, or by how it is delivered? Who are the external and internal service-users, groups, or communities?
- What outcomes do you want to achieve, why and for whom? Eg: what do you want to provide, what changes or improvements, and what should the benefits be?
- What do existing or previous inspections of the policy, practice, service or function tell you?
- What is the reason for the proposal or change (financial, service, legal etc)? The Act requires us to make these clear.

⁸ **Data:** Make sure you have enough data to inform your EIA.

- What data relevant to the impact on specific groups of the policy/decision/service is available?⁸
- What further evidence is needed and how can you get it? (E.g.: further research or engagement with the affected groups).
- What do you already know about needs, access and outcomes? Focus on each of the groups identified above in turn. E.g.: who uses the service? Who doesn't and why? Are there differences in outcomes? Why?
- Have there been any important demographic changes or trends locally? What might they mean for the service or function?

- Does data/monitoring show that any policies or practices create particular problems or difficulties for any groups?
- Do any equality objectives already exist? What is current performance like against them?
- Is the service having a positive or negative effect on particular people in the community, or particular groups or communities?
- Use local sources of data (e.g.: JSNA: <http://www.bhconnected.org.uk/content/needs-assessments> and Community Insight: <http://brighton-hove.communityinsight.org/#>) and national ones where they are relevant.

⁹ Your EIA must get to grips fully and properly with actual and potential impacts.

- The equality duty does not stop decisions or changes but means we must conscientiously and deliberately confront the anticipated impacts on people.
- Be realistic: don't exaggerate speculative risks and negative impacts.
- Be detailed and specific so decision-makers have a concrete sense of potential effects. Instead of "the policy is likely to disadvantage older women", say how many or what percentage are likely to be affected, how, and to what extent.
- Questions to ask when assessing impacts depend on the context. Examples:
 - Are one or more groups affected differently and/or disadvantaged? How, and to what extent?
 - Is there evidence of higher/lower uptake among different groups? Which, and to what extent?
 - If there are likely to be different impacts on different groups, is that consistent with the overall objective?
 - If there is negative differential impact, how can you minimise that while taking into account your overall aims
 - Do the effects amount to unlawful discrimination? If so, the plan must be modified.
 - Does the proposal advance equality of opportunity and/or foster good relations? If not, could it?

¹⁰ Consider all three aims of the Act: removing barriers, and also identifying positive actions we can take.

- Where you have identified impacts, you must state what actions will be taken to remove, reduce or avoid any negative impacts and maximise any positive impacts or advance equality of opportunity.
- Be specific and detailed and explain how far these actions are expected to improve the negative impacts.
- If mitigating measures are contemplated, explain clearly what the measures are, and the extent to which they can be expected to reduce / remove the adverse effects identified.
- An EIA which has attempted to airbrush the facts is an EIA that is vulnerable to challenge.

¹¹ <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusevictimcharacteristicsenglandandwales/yearendingmarch2022#age>

¹² <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusevictimcharacteristicsenglandandwales/yearendingmarch2023#age>

¹³ [https://www.ons.gov.uk/peoplepopulationandcommunity/housing/articles/peopleexperiencinghomelessnessenglandandwales/census2021#:~:text=This%20figure%20shows%20that%2044.1,who%20were%20disabled%20\(17.5%25\).](https://www.ons.gov.uk/peoplepopulationandcommunity/housing/articles/peopleexperiencinghomelessnessenglandandwales/census2021#:~:text=This%20figure%20shows%20that%2044.1,who%20were%20disabled%20(17.5%25).)

¹⁴ Consider all three aims of the Act: removing barriers, and also identifying positive actions we can take.

- Where you have identified impacts, you must state what actions will be taken to remove, reduce or avoid any negative impacts and maximise any positive impacts or advance equality of opportunity.
- Be specific and detailed and explain how far these actions are expected to improve the negative impacts.

- If mitigating measures are contemplated, explain clearly what the measures are, and the extent to which they can be expected to reduce / remove the adverse effects identified.
- An EIA which has attempted to airbrush the facts is an EIA that is vulnerable to challenge.

¹⁵ <https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/disability/bulletins/disabilityandcrimeuk/2019>

¹⁶ Ibid.

¹⁷ Your EIA must get to grips fully and properly with actual and potential impacts.

- The equality duty does not stop decisions or changes but means we must conscientiously and deliberately confront the anticipated impacts on people.
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- Questions to ask when assessing impacts depend on the context. Examples:
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 - Is there evidence of higher/lower uptake among different groups? Which, and to what extent?
 - If there are likely to be different impacts on different groups, is that consistent with the overall objective?
 - If there is negative differential impact, how can you minimise that while taking into account your overall aims
 - Do the effects amount to unlawful discrimination? If so, the plan must be modified.
 - Does the proposal advance equality of opportunity and/or foster good relations? If not, could it?

¹⁸ Consider all three aims of the Act: removing barriers, and also identifying positive actions we can take.

- Where you have identified impacts, you must state what actions will be taken to remove, reduce or avoid any negative impacts and maximise any positive impacts or advance equality of opportunity.
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- If mitigating measures are contemplated, explain clearly what the measures are, and the extent to which they can be expected to reduce / remove the adverse effects identified.
- An EIA which has attempted to airbrush the facts is an EIA that is vulnerable to challenge.

¹⁹ Scottish Transgender Alliance (2010). Out of Sight, Out of Mind? Transgender People's Experiences of Domestic Abuse. Available at:

https://www.scottishtrans.org/wp-content/uploads/2013/03/trans_domestic_abuse.pdf; Stonewall (2018). Supporting trans women in domestic and sexual violence services: Interviews with professionals in the sector. Available at https://www.stonewall.org.uk/system/files/stonewall_and_nfpsynergy_report.pdf

²⁰ Ibid.

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<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/articles/domesticabusevictimcharacteristicsenglandandwales/yearendingmarch2023#ethnicity>

²⁴

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³² **Action Planning:** The Equality Duty is an ongoing duty: policies must be kept under review, continuing to give 'due regard' to the duty. If an assessment of a broad proposal leads to more specific proposals, then further equality assessment and consultation are needed.

