

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

***PART 1 – PUBLIC DOCUMENT**

DIRECTORATE: REGULATORY

1. DECISION TAKEN

1.1 Approval of minor amendments to the Common Housing Allocation Scheme.

2. DECISION TAKER

2.1 Cllr Bernard Lovewell, Executive Member for Housing and Environmental Health.

3. DATE DECISION TAKEN:

3.1 26th March 2019

4. REASON FOR DECISION

4.1 Minor amendments to the Common Housing Allocation Scheme (CHAS) are required to clarify and tighten up policy in several areas, to ensure that affordable housing in the district continues to be allocated to those in greatest need.

4.2 Most of the amendments serve to clarify policy around existing practices. Others are in response to changes in legislation - including General Data Protection Regulations - and the operational environment.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 The CHAS could remain as it is, however this would leave elements of policy open to some degree of interpretation. The amendments set out in Appendix A are intended to improve the efficiency with which affordable properties are allocated to households in greatest housing need, via the CHAS.

6. CONSULTATION (INCLUDING THE EFFECT ON STAKEHOLDERS, PARTNERS AND THE PUBLIC)

6.1 These amendments have been agreed with settle which works together with the Council as the North Hertfordshire Housing Partnership (NHHP) to jointly manage and operate the CHAS and the Common Housing Register.

6.2 As the amendments to the CHAS are only minor in nature and do not reflect any major changes of policy, the Council is not required to consult more widely.

7. RELEVANT CONSIDERATIONS

7.1 The Council is required by law to have an allocation scheme for determining how the allocation of affordable housing is prioritised and the procedures to be followed. The current version of the CHAS was approved by Cabinet at its meeting on 26th July 2016 and minor amendments were made under delegated authority on 21st December 2017 following the departure of Howard Cottage Housing Association from the NHHP and on 15th March 2018 in preparation for the enactment of the Homelessness Reduction Act 2017.

- 7.2 Further minor amendments are now required, detailed at Appendix A, which sets out current and proposed amended text. Most of these amendments are proposed in order to provide further clarification of policy around existing practices. For example, amendments are proposed to paragraph 5, which defines the composition of households for the purposes of making an application to the Common Housing Register (CHR). It is also proposed to amend the nomenclature of medical prioritisation (paragraph 17.2) to better reflect applicants' situations.
- 7.3 Amendments to the CHAS are also required in order to comply with General Data Protection Regulations (paragraph 5.19) and in order to refine the interaction of the CHAS with homelessness legislation (paragraphs 5.9 and 19.3). The proposed amendments to paragraphs 5.9 and 19.3 remove the exemption that allows households owed a prevention or relief duty to register for affordable housing in the district, despite not meeting qualification criteria for the Housing Register. This will bring treatment of these households into line with that of households in other reasonable preference categories, to which qualification criteria do apply.
- 7.4 This amendment would mean that approximately half a dozen households would be removed from the Register as they do not meet qualification criteria. These households are currently registered with a low, Band C, preference. Removal from the Housing Register will not affect the duties owed to them under homelessness legislation and the Council will continue to provide advice and support to find accommodation under our prevention and relief duties. Note that there is no proposed change with regards households owed a main housing duty, who will continue to be allowed to register and will be placed in Band C if they do not meet qualification criteria. This was introduced as part of measures to ensure that move-on from temporary accommodation is facilitated as far as possible.
- 7.5 We will be conducting a review of all applications on the Common Housing Register over the forthcoming months, an exercise that we carry out periodically in order to cleanse and verify applicants' data. This may identify further issues for consideration, requiring further minor amendments to the CHAS.

8. LEGAL IMPLICATIONS

- 8.1 The Cabinet approved the current version of the CHAS at its meeting on 26th July 2016. The Cabinet also resolved at that meeting that authority be delegated to the Executive Member for Housing and Environmental Health, in conjunction with the Head of Housing and Public Protection, to make minor amendments to the CHAS.
- 8.2 Section 4 of the Homelessness Act 2002 confirms that the District Council is the Local Housing Authority (LHA) under the Housing Act 1985 Section 1 (1).
- 8.3 Section 14 (1) of the Homelessness Act 2002 provides that the LHA is no longer required to maintain a housing register. However, Section 166A (1) of the Housing Act 1996 states that every LHA shall have a scheme for determining local priorities and the procedure to be followed in allocating housing.
- 8.4 Section 160ZA(7) of the Housing Act 1996 gives LHAs the power to determine who qualifies, or does not qualify, to be allocated social housing, subject to any regulations made by the Secretary of State under section 160ZA(8).

9. FINANCIAL IMPLICATIONS

- 9.1 There are no specific revenue, capital or other financial implications.

10. RISK IMPLICATIONS

10.1 There is a risk of legal challenge, and also to the Council's reputation, if it does not comply with current legislative and regulatory requirements. The amendments to paragraphs 5.9, 5.19 and 19.3 of the CHAS specifically seek to mitigate this.

11. EQUALITIES IMPLICATIONS

11.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

11.2 No adverse equality implications are expected to occur as a result of the amendments set out in Appendix A. Outcomes from the operation of the CHAS are periodically monitored to ensure that no groups are unfairly disadvantaged by the operation of the Scheme.

12. SOCIAL VALUE IMPLICATIONS

12.1 The Social Value Act and "go local" policy do not apply to this decision.

13. HUMAN RESOURCE IMPLICATIONS

13.1 There are no human resource implications.

14. BACKGROUND PAPERS


14.1 The current Common Housing Allocation Scheme can be viewed at: <https://www.north-herts.gov.uk/home/housing/common-housing-register>

15. NOTIFICATION DATE

Date sent to all Members, put on website and appears in MIS - Committee and Member Services will insert

Signature of Service Director - Regulatory 

Date 26/3/19

Signature of Decision Taker 

Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.

Call-in does not apply to NON-EXECUTIVE DECISIONS

Appendix A: Minor amendments to the Common Housing Allocation Scheme March 2019

Para	Amendment	Current text	Amended text
5	Minor change of wording to reflect existing practice and prevent those in a relationship making separate applications	Married applicants, those in civil or common law partnerships and couples who wish to live together but are not already doing so are encouraged to make a joint application.	Married applicants, those in civil or common law partnerships and couples who wish to live together are expected to make a joint application.
5	Addition of wording to reflect existing practice.	Members of the households may include: <ul style="list-style-type: none"> • anyone who normally resides with the applicant as a member of their family. 	Members of the households may include: <ul style="list-style-type: none"> • anyone who normally resides with the applicant as a member of their family and would be reasonably expected to do so.
5.5	Addition of wording for clarification	An applicant will not qualify for inclusion on the Common Housing Register, unless there are exceptional circumstances (see paragraph 18.2), in the following circumstances: <ul style="list-style-type: none"> • the applicant does not have a housing need; 	An applicant will not qualify for inclusion on the Common Housing Register, unless there are exceptional circumstances (see paragraph 18.2), in the following circumstances: <ul style="list-style-type: none"> • the applicant does not have a housing need (see section 17):
5.5.6	Addition of wording to tighten up practice around fraudulent activity.	If, following an investigation by the NHHP, it is deemed that an applicant has knowingly submitted a fraudulent application the application will be cancelled.	If, following an investigation by the NHHP, it is deemed that an applicant has knowingly submitted false information or withheld information that would impact on their application , the application will be cancelled.
5.9	Remove exemption that allows households owed a prevention or relief duty to register for affordable housing, despite not meeting qualification criteria for the Common Housing Register. Note there is no change with regards those owed a main housing duty,	Applicants who are homeless or threatened with homelessness within the meaning of Part VII of the Housing Act 1996 (as amended) will be given reasonable preference on the Common Housing Register appropriate to their homelessness status (see paragraph 19). Those who do not meet the qualification criteria due to anti-social behaviour/crime, housing debt	Applicants who are homeless or threatened with homelessness within the meaning of Part VII of the Housing Act 1996 (as amended) will be given reasonable preference on the Common Housing Register appropriate to their homelessness status (see paragraph 19). Applicants who are owed a main housing duty and who do not meet the qualification criteria due

	<p>who will continue to be allowed on to the CHR (with restrictions).</p>	<p>or previous evictions from social housing will be given a Band C preference, but will not be awarded priority for any other housing need and will not be considered for an offer of accommodation until such time as they fulfil all the qualification criteria.</p> <p>Note that applicants who are owed a main housing duty and who are placed in temporary accommodation will not be awarded housing needs points for limited security of tenure.</p> <p>Applicants who are owed a main housing duty and who are placed in supported accommodation will not be awarded any additional housing needs points until they are ready to move into general needs housing.</p>	<p>to anti-social behaviour/crime, housing debt or previous evictions from social housing will be given a Band C preference but will not be awarded priority for any other housing need and will not be considered for an offer of accommodation until such time as they fulfil all the qualification criteria.</p> <p>Applicants who are owed a main housing duty and who are placed in temporary accommodation will not be awarded housing needs points for limited security of tenure.</p> <p>Applicants who are owed a main housing duty and who are placed in supported accommodation will not be awarded any additional housing needs points until they are ready to move into general needs housing.</p>
5.19	<p>Revised to ensure compliance with General Data Protection Regulations and NHDC Data Protection Statement.</p>	<p>On request, applicants will be provided with information on the preference awarded to them under the Common Housing Allocation Scheme.</p> <p>Under the terms of the Data Protection Act, applicants can make a written request for personal information held either on computer or manual files that does not identify any other person that has not consented to the disclosure. A minimum fee of £10.00 may be charged for this service.</p>	<p>Under the terms of the Data Protection Act (GDPR), applicants may make a request for personal information the Partnership holds on them on computer and in some paper records. This is called a Subject Access Request. Please email Subject Access Requests to the Council's Data Protection Officer at foi2@north-herts.gov.uk or to settle's customer services centre at customer.service@settle.org.uk</p>
8	<p>Clarify meaning of overnight carers to reflect existing practice.</p>	<p>For the purpose of awarding preference on the Housing Register, households will qualify for one bedroom for:</p> <ul style="list-style-type: none"> • a carer (or team of carers) who do not live 	<p>For the purpose of awarding preference on the Housing Register, households will qualify for one bedroom for:</p> <ul style="list-style-type: none"> • a carer (or team of carers) who does not live

		with the household but provide overnight care for the tenant and/or their partner.	with the household but who provides permanent full-time overnight care for a member of the household. Supporting documentation will be required from Hertfordshire County Council care services.
9	Additional text to clarify bedroom entitlement for applicants with shared custody or staying contact of their children, to reflect existing practice.	In the case of separated parents, staying access will not normally be taken to amount to residence.	In the case of separated parents, staying access will not normally be taken to amount to residence. In the case of parents with shared custody of child(ren), for the purposes of the housing application, the child(ren) will be determined to have one principle home only.
14	Remove reference to judicial review.	If an applicant is not satisfied with the review decision, they can submit a formal complaint to the relevant partner or apply for a judicial review.	If an applicant is not satisfied with the outcome of the review decision, a complaint can be submitted through the internal complaints procedure of the relevant partner.
17.1.5	Additional text to reflect existing practice and remove the un-intended preference towards private sector tenants.	Single person households who have lived in a bed-sit or studio flat for three years within the district, as tenants, and wish to move to a one bedroom flat, will be awarded preference.	Single person households who have lived in a social sector bed-sit or studio flat for three years within the district, as tenants, and wish to move to a one bedroom flat, will be awarded preference.
17.1.11	Additional text to refine policy around release of adapted properties.	[A household is deemed to have a housing need due to:] <i>Living in a social sector adapted property in North Herts with no need for the adaptations</i>	<i>Living in a social sector adapted property in North Herts with no need for the adaptations</i> Preference will be given to applicants living in a social sector adapted property in North Herts and who have no need for the adaptation(s). This preference will be awarded with regard to major adaptations only, as determined by the Partnership, or for those which are in high demand.
17.2	Revise nomenclature of medical prioritisation throughout text, to better reflect applicants' circumstances. "Low" medical	[applies throughout text]	[applies throughout text]

	priority revised to "moderate"; "medium" to "high" and "high" to "urgent".		
19.3	Additional text to align with change made at para 5.9	<p>Low preference will be awarded where:</p> <ul style="list-style-type: none"> • a household is owed a duty by NHDC under homelessness legislation but does not meet the qualifying criteria for joining the CHR. 	<p>Low preference will be awarded where:</p> <ul style="list-style-type: none"> • a household is owed a main housing duty by NHDC under homelessness legislation but does not meet the qualifying criteria for joining the CHR.