

Scrutiny Standing Panel Agenda



Housing Scrutiny Standing Panel Monday, 17th December, 2012

You are invited to attend the next meeting of **Housing Scrutiny Standing Panel**, which will be held at:

**Council Chamber, Civic Offices, High Street, Epping
on Monday, 17th December, 2012
at 5.30 pm .**

**Glen Chipp
Chief Executive**

**Democratic Services
Officer**

Mark Jenkins (The Office of the Chief Executive)
Tel: 01992 564607 Email:
democraticservices@eppingforestdc.gov.uk

Members:

Councillors S Murray (Chairman), A Mitchell MBE (Vice-Chairman), K Avey, K Chana, Ms J Hart, Mrs S Jones, Ms H Kane, L Leonard, Ms G Shiell, Mrs J H Whitehouse and N Wright

SUBSTITUTE NOMINATION DEADLINE:

16:30

1. APOLOGIES FOR ABSENCE

2. SUBSITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

(Assistant to the Chief Executive) To report the appointment of any substitute members for the meeting.

3. NOTES OF THE LAST MEETING (Pages 3 - 8)

To agree the notes of the last Panel meeting, held on 23 October 2012 (attached).

4. DECLARATION OF INTERESTS

(Assistant to the Chief Executive). To declare interests in any items on the agenda.

In considering whether to declare a personal or a prejudicial interest under the Code of Conduct, Overview & Scrutiny members are asked pay particular attention to

paragraph 11 of the Code in addition to the more familiar requirements.

This requires the declaration of a personal and prejudicial interest in any matter before an OS Committee which relates to a decision of or action by another Committee or Sub Committee of the Council, a Joint Committee or Joint Sub Committee in which the Council is involved and of which the Councillor is also a member.

Paragraph 11 does not refer to Cabinet decisions or attendance at an OS meeting purely for the purpose of answering questions or providing information on such a matter.

5. TERMS OF REFERENCE / WORK PROGRAMME (Pages 9 - 16)

(Chairman/Lead Officer) The Overview and Scrutiny Committee has agreed the Terms of Reference of this Panel and associated Work Programme. This is attached. The Panel are asked at each meeting to review both documents.

6. TENANCY POLICY (Pages 17 - 34)

(Director of Housing) To consider the attached report.

7. REVIEW OF THE HOUSING ALLOCATIONS SCHEME (Pages 35 - 70)

(Director of Housing) To consider the attached report.

8. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

To consider which reports are ready to be submitted to the Overview and Scrutiny Committee at its next meeting.

9. FUTURE MEETINGS

The next meeting of the Panel had been scheduled for Tuesday 22 January 2013 at 5.30p.m., however it has been found that this meeting clashes with a Pre-Cabinet meeting the same evening. Members will need to consider a suitable date for January.

There will be a further Panel meeting on Tuesday 19 March 2013 at 5.30p.m. in Committee Room 1.

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF HOUSING SCRUTINY STANDING PANEL
HELD ON TUESDAY, 23 OCTOBER 2012
IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING
AT 5.30 - 7.22 PM**

Members Present: S Murray (Chairman), A Mitchell MBE (Vice-Chairman), K Chana, Ms J Hart, Mrs S Jones, Ms H Kane, L Leonard, Ms G Shiell, Mrs J H Whitehouse and Marshall

Other members present: D Stallan (Housing Portfolio Holder)

Apologies for Absence:

Officers Present G Chipp (Chief Executive), A Hall (Director of Housing), L Swan (Assistant Director (Private Sector & Resources)), D Clifton (Principal Housing Officer [IT]), S Devine (Private Sector Housing Manager) and M Jenkins (Democratic Services Assistant)

30. NOTES OF THE LAST TWO MEETINGS OF THE PANEL

RESOLVED:

That the notes of the last two meetings of the Panel held on 24 July and 7 August 2012 be agreed.

31. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

There were no declarations of interest made.

32. DECLARATION OF INTERESTS

There were no declarations of interest made pursuant to the Member's Code of Conduct.

33. TERMS OF REFERENCE / WORK PROGRAMME

(a) Terms of Reference

The Panel's Terms of Reference were noted.

(b) Work Programme

It was noted that:

Item 9 (Annual Review of the Housing Allocations Scheme) and Item 23 (Adoption of EFDC's Tenancy Policy) would be discussed at an extra-ordinary Panel meeting on 17 December 2012 at 5.30p.m. The Chairman requested the reports for this meeting to be circulated to members, as far as possible, before the normal agenda deadline.

Item 34 (Progress Reports on the Welfare Reform Mitigation Action Plan). It was advised that the Cabinet had referred this item to the Panel. It was proposed that the

first progress report be scheduled for the meeting in January 2013. The Housing Portfolio Holder requested that the meeting should be held in the Council Chamber. In response to a suggestion from the Panel the Director of Housing advised that priority for this item would be changed from “low” to “medium.”

34. HRA BUSINESS PLAN KEY ACTION PLAN 2012/13 - PROGRESS REPORT

The Panel received a report from the Director of Housing regarding the Housing Revenue Account Business Plan Key Action Plan (2011/12) – 6 Month Progress Report.

In March 2012, the Council’s latest Housing Revenue Account (HRA) Business Plan 2012/13 was produced, incorporating the Repairs and Maintenance Business Plan. This document set out the Council’s objectives, strategies and plans as landlord, in relation to the management and maintenance of its own housing stock.

An important section of the HRA Business Plan was the Key Action Plan, which set out the proposed actions the Council would be taking over the next year. It was good practice that the progress made with the stated actions was monitored.

Members raised the following issues around the action points:

- (1) Action 9 – Introduce a facility for tenants to apply for housing on-line.

It was noted that this action referred to applicants rather than tenants which would be corrected. Officers advised members that between 90 – 95% of housing applicants “bid” for vacant properties on-line. Members were concerned about applicants not being IT literate and being discriminated against.

- (2) Action 13 – Select the Council-owned (mainly difficult to let garage) sites suitable for development and formulate the Council Housebuilding Programme accordingly.

Officers advised that on average, between 40-50% of these garages were difficult to let. There would be a detailed feasibility study on the development potential for each site before any garages were required to be vacated, many garage sites would, in all likelihood, not be developed, and in cases where development was undertaken, other garages would be offered to vacating tenants.

- (3) Action 24 – Introduce a programme of providing scooter stores at sheltered housing schemes.

Officers said that the Housing Directorate was trying to identify suitable places for scooter stores, although this had been difficult.

- (4) Action 25 – (Subject to Cabinet approval) Introduce a free Handyperson Scheme operated by:

- (a) the Council’s Housing Repairs Service for all older tenants in sheltered housing schemes; and

- (b) Voluntary Action Epping Forest (VAEF) for all older tenants in non-sheltered housing, funded by a grant from the Council.

The Director of Housing advised that a letter was being dispatched to all sheltered housing tenants informing them of this, combined with an official launch.

RECOMMENDED:

That the Six Month Progress Report on the Key Action Plan contained within the HRA Business Plan 2012/13 be noted.

35. HOUSING REVENUE ACCOUNT FINANCIAL PLAN - 6 MONTH PROGRESS REPORT

The Panel received a report from the Director of Housing regarding the HRA Financial Plan – Half Yearly Update.

At the Panel meeting in March 2012, members considered the draft HRA Business Plan for 2012/13 and recommended its adoption to the Housing Portfolio Holder, which was subsequently approved. An important part of the HRA Business Plan was the HRA Financial Plan, which set out the anticipated HRA income and expenditure over the next 30 years.

The Financial Plan had a much higher profile than previously, following the introduction of HRA self financing from March 2012, whereby the Council made a £185 million payment to the CLG, funded with loans from the Public Works Loan Board (PWLB), as a replacement regime to the former (discredited) Housing Subsidy System.

The HRA Financial Plan within the HRA Business Plan was approved by the Cabinet at its meeting on 12 March 2012. The Cabinet asked this Panel to review updates to the HRA Financial Plan twice each year, at its scheduled meetings in October and March.

CIH Consulting had acted as the Council's HRA Business Planning Consultants for the last few years, and the Cabinet had agreed that the Council should contract with CIH Consulting to act as the Council's HRA Business Planning Consultants for a further three years until 2015.

CIH Consulting had met with officers from the Housing and Finance/ICT Directorates and had updated the Council's HRA Financial Plan to take account of the Council's current financial position and national and local policies.

RECOMMENDED:

That the updated HRA Financial Plan and report from CIH Consulting, the Council's HRA Business Planning Consultants, be noted.

36. PROGRESS REPORT ON THE WORK OF THE TECHNICAL OFFICER DEALING WITH EMPTY PROPERTIES AND PARK HOME SITES

The Panel received a report from the Private Housing Manager – Technical, regarding progress on the work by the Technical Officer dealing with Empty Properties and Park Home Sites within the Private Sector Housing (Technical) Team.

In November 2009, the Cabinet agreed to the addition of a part time, temporary post in the Private Sector Housing (Technical) Team assisting with bringing empty properties back in to use and helping with the licensing of the District's park home

sites. In September 2011, the Cabinet agreed to the existing post being made full time and permanent. The former post holder had resigned in August 2011 and the new full time permanent post was filled during February 2012.

Empty Properties

A systematic procedure had been established for dealing with empty properties in the private sector, beginning with tracing and communicating with property owners or other interested parties establishing why a property was empty. Following this the Technical Officer's role was to determine how best the owner could be assisted in bringing the property back into use. The Council could offer financial incentives for bringing properties up to the Decent Homes Standard and providing affordable accommodation for tenants or owner occupiers. The PLACE (Private Lease Agreements Converting Empties) Scheme was one form of financial assistance; the scheme ran at no cost to the Council other than the administration process by the Technical Officer. It currently offered high level grants of up to £50,000 to an owner in return for leasing the property for 3 years to the Consortium's preferred partner, Genesis, during which time the owner received no rental income.

In June 2011 the previous Portfolio Holder for Housing agreed to the PLACE Scheme being extended to offer smaller grants and loans to owners of empty properties. The grant allowed an owner to take out a smaller grant for renovating their home and lease for an agreed period, dependent on the grant size, but to also receive some rent themselves. The PLACE Small Grant was available to owners; the first three applications were being considered. In the near future, interest free loans would be available; once approved they would be up to a maximum of £25,000 per unit on either a "loan-to-sell" or "loan-to-let" agreement. The loans would be repayable and recycled back in to the PLACE scheme funds.

The Council attached conditions requiring all grants to be repaid when the recipient sold the property. The Empty Homes Repayable Assistance was effectively an interest free loan up to £10,000, repayable on the sale of the property and available to owners wanting to live in the property themselves. The loan had been available from July 2012 and officers were currently processing one application with several other owners showing interest.

In some cases, where a problematic empty property existed and the owner was either absent or un-cooperative in bringing their property back to use, it was necessary to consider enforcement action. This could be through Enforced Sale, Compulsory Purchase (CPO) or making an Empty Dwelling Management Order (EDMO). Officers followed the Private Sector Housing Enforcement Policy in such cases, seeking Member approval where appropriate.

The new Technical Officer spent approximately 18 hours a week dealing with empty properties, for which there was a target in the Private Sector Business Plan 2011-13 of bringing 30 empty dwellings per annum back into use. In 2011/12, 60 empty properties were brought back into use.

The New Homes Bonus (NHB), introduced by the Government in April 2011, created an effective financial incentive to encourage local authorities in facilitating housing growth. As well as applying to new homes built, the NHB also applied to long term empty properties brought back into use. The Bonus was calculated by comparing the number of dwellings for which Council Tax was collected in a local authority area from October to October and rewarding any net increase. The number of long term empty properties was deducted from the total number of dwellings on the Council

Tax list. This “netting off” of long term empty properties meant that any reductions in the number had the same effect as building new homes and, any increases in the number of long term empty properties had the same effect as a reduction in new homes.

While the bringing back into use of a total of 28 properties could be directly attributed to the work of the Technical Officer in the first two quarters of 2012/13, a further 178 properties had been taken off the Empty Property List following an initial standard letter, or follow up letter, which also counted towards the NHB.

Licensing of Park Home Sites

Local authorities had a statutory requirement to issue licences on all their park homes sites and decide what conditions to attach. In 2008, the Government produced new standards for permanent residential park homes sites, providing a framework upon which councils could base the conditions they attach when re-licensing sites.

The existing site licence conditions for park home sites in the Epping Forest District had not been reviewed for many years. New proposed standard park home site licence conditions for permanent residential sites were produced to ensure conditions were relevant, consistent and would adequately protect the health and safety of people residing at, or visiting, sites within the District. These were agreed by the Cabinet in April 2011 following a second consultation exercise with residents and site owners.

However, during the course of officer inspections, certain anomalies came to light which, not being specifically covered in the conditions, officers felt that a determination from Members on the interpretation to be adopted was required. It was agreed that site owners and park home residents should be consulted on these further matters and that their views should be considered further by the Housing Scrutiny Standing Panel. A meeting also took place in January 2012 between the former Leader, the former Housing Portfolio Holder, and representatives of Essex County Fire and Rescue Service (ECF & RS) at which they expressed their views. The Cabinet agreed on 23 July 2012 that revised Standard Park Home Site Licence Conditions for Permanent Residential Sites be adopted which included clarifications and variations relating to smoke detection in porches; decking and porches being structures; fence height and definition of a hedge.

Following the Cabinet decision, the Technical Officer had written to all site owners and Residents Associations informing them of the outcome. The site owners had been provided with a summary sheet of existing contraventions that would be tolerated by virtue of the fact that they would have existed prior to the issuing of the new site licence. The Technical Officer would use this as a basis for determining compliance with the site licence conditions.

It was anticipated that new site licences, with standard site licence conditions, would be issued to all site owners by November 2012. It would then be necessary to monitor them to ensure compliance with the site licence conditions and deal with any matters from residents or site owners relating to the licence or management of the site. This would continue to require two days a week of an officer’s time on an ongoing basis.

RESOLVED:

That the report regarding the work carried out by the Technical Officer post in the Private Sector Housing (Technical) Team, dealing with empty properties and park home sites, be noted.

37. HOUSING DIRECTORATE'S SERVICE STRATEGIES ON HOME OWNERSHIP AND RENT COLLECTION AND ADMINISTRATION

The Panel received a report from the Housing Resources Manager regarding the Housing Directorate's Service Strategies on "Home Ownership" and "Rent Collection and Administration" Key Action Plan.

The Housing Directorate's Service Strategies were originally produced 15 years ago in accordance with an agreed standard framework and had since been updated on an ongoing basis. The strategies gave more detail than the Council's main Housing Strategy on the various housing services provided. In total, 17 Housing Service Strategies had been produced to date.

The strategies were produced to a common format that set out how individual housing services would be delivered. They had assisted the Directorate in achieving the Customer Service Excellence award and ISO 9001:2008 Quality Accreditation, and had been important in meeting the minimum requirement for Supporting People funding under the conditions of the contract.

RECOMMENDED:

That the Housing Directorate's Service Strategies on Home Ownership and Rent Collection and Administration be recommended to the Housing Portfolio Holder for adoption.

38. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

The Chairman advised that he would update the Overview and Scrutiny Committee verbally at its next meeting.

39. FUTURE MEETINGS

The next meeting of the Panel would be an extra-ordinary meeting on Monday 17 December 2012 at 5.30p.m. in Committee Room 1, and then on;

- (a) Tuesday 29 January 2013 at 5.30p.m. in Committee Room 1; and
- (b) Tuesday 19 March at 5.30p.m. in Committee Room 1.

TERMS OF REFERENCE - STANDING PANEL

Title: Housing

Status: Standing Panel

Terms of Reference:

(1) To undertake reviews of public and private sector housing policies on behalf of the Overview and Scrutiny Committee, Housing Portfolio Holder or Head of Housing Services and to make any recommendations arising from such reviews to the Housing Portfolio Holder or Cabinet as appropriate.

(2) To undertake specific projects related to public and private sector housing issues, as directed by the Overview and Scrutiny Committee, and to make any recommendations arising from such reviews to the Housing Portfolio Holder or Cabinet as appropriate.

(3) To consider and provide comments to the Housing Portfolio Holder on the following matters, prior to consideration by the Cabinet:

- (i) Draft Housing Strategy (to be adopted by full Council in accordance with the Council's Constitution)
- (ii) Draft Private Sector Housing Strategy
- (iii) Draft Private Sector Housing Grants Policy
- (iv) Annual Review of the Housing Allocations Scheme

(4) To consider and provide comments to the Housing Portfolio Holder on draft versions of the following documents:

- (i) Housing Revenue Account (HRA) Business Plan
- (ii) Local Supporting People Strategy
- (iii) Housing Service Strategies

(5) To undertake the Annual Ethnic Monitoring Review of Housing Applicants and Housing Allocations, in accordance with the Code of Practice in Rented Housing.

(6) To monitor progress with the actions plans contained in the following documents, on a six-monthly basis:

- (i) Housing Strategy
- (ii) Local Supporting People Strategy
- (iii) Private Sector Housing Strategy
- (iv) Housing Services Development Plan

(7) To consider the Housing Portfolio Holder's draft response to any consultation papers relating to public or private sector housing that the Housing Portfolio Holder considers warrants a response from the Council.

(8) In relation to Traveller issues to consider and monitor:

- (a) the position regarding tolerated sites and;
- (b) the management of travellers who enter onto land within the district with a view to unauthorised encampments, with particular reference to the legal remedies available, interactions with other agencies such as Essex Police and Essex County

Council and the provision of emergency and/or transit sites within the district;

(c) Government's guidance on the needs of travellers in the context of the Council's review of its District Local Plan and the Essex Housing Needs Assessment;

(d) the results of the Commission for Racial Equality's study on traveller issues in which this Council participated, once published;

(9) To report to the Overview and Scrutiny Committee, the Council and the Cabinet with recommendations on matters allocated to the Panel as appropriate.

Chairman: Cllr Stephen Murray

Housing Scrutiny Standing Panel – 2012/2013

Item	Report Deadline / Priority	Scheduled Date	Progress / Comments	Programme of Future Meetings
Standard (Periodic) Items				28th June 2012 (Special) 24th July 2012 7th August 2012 23rd October 2012 17 th December 2012 January 2013 - TBA 19 th March 2013
(1) Annual Ethnic Monitoring Review of Housing Applicants <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	July 2012	Completed – July 2012 meeting	
(2) Annual Report on the HomeOption Choice Based Lettings Scheme	Low	July 2012	Completed – July 2012 meeting	
(3) Housing Performance Indicators - 2011/12 Out-turn (Tenant-Selected & KPIs)	Low	July 2012	Completed – July 2012 meeting	
(4) Housing Strategy Action Plan 2012/13 <i>(Recommendations to Cabinet)</i>	High	August 2012	Completed – August 2012 meeting	
(5) Performance against Housing Service Standards and Review <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	August 2012	Completed – August 2012 meeting	
(6) 12-Month Progress Report on Housing Strategy Action Plan 2011/12	Low	August 2012	Completed – August 2012 meeting	
(7) Six-Month Review of the HRA Financial Plan	Medium	October 2012	Completed – October 2012 meeting	

(8) Six-monthly Progress Report on Housing Business Plan Action Plan	Low	October 2012	Completed – October 2012 meeting
(9) Annual Review of the Housing Allocations Scheme (<i>Recommendations to Cabinet</i>)	High	January 2013 December 2012	Scheduled for this Special meeting – December 2012
(10) Briefing on the proposed Council rent increase for 2013/14	Low	January 2013	
(11) Six-monthly Progress report on Housing Strategy Action Plan 2012/13	Low	January 2013	
(12) HRA Business Plan 2013/14 (<i>Recommendations to Housing Portfolio Holder</i>)	High	March 2013	
(13) Six-Month Review of the HRA Financial Plan	Medium	March 2013	
(14) 12-monthly Progress report on Housing Business Plan Action Plan	Low	March 2013	
Special (Planned) Items – Including Updated Housing Service Strategies			
(15) Issues relating to the implementation of new licences for park home sites (<i>Recommendations to Cabinet</i>)	High	June 2012	Completed – June 2012

(16) Homelessness Strategy – Revision and update (<i>Recommendations to Housing Portfolio Holder</i>)	High	July 2012	Completed – July 2012 meeting
(17) West Essex Tenancy Strategy – Consultation Draft	High	July 2012	Completed – July 2012 meeting
(18) Response to CLG “Pay to Stay Consultation Paper”	Medium	July 2102	Completed – July 2012 meeting
(19) Presentation by Mears – Repairs Management Contract – One year on	Medium	August 2012	Completed – August 2012 meeting
(20) Results of the Tenant Satisfaction Survey 2012	Medium	August 2012	Completed – August 2012 meeting
(21) Housing Service Strategy on Home Ownership (Review and update) (<i>Recommendations to Housing Portfolio Holder</i>)	Medium	October 2012	Completed – October 2012 meeting
(22) Housing Service Strategy on Rent Administration (Review and update) (<i>Recommendations to Housing Portfolio Holder</i>)	Medium	October 2012	Completed – October 2012 meeting
(23) Adoption of EFDC’s Tenancy Policy (<i>Recommendations to Cabinet</i>)	High	October 2012 December 2012	Scheduled for this Special meeting – December 2012

(24) Housing Service Strategy on Repairs and Maintenance (New) <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	October 2012 January 2012	Deferred to a later meeting – Due to workload and other commitments
(25) Housing Service Strategy on Energy Efficiency (Review and update) <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	October 2012 January 2012	Deferred to a later meeting – Due to workload and other commitments
(26) Housing Service Strategy on Under-Occupation (Review and update) <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	October 2012 January 2012	Deferred to a later meeting – Due to workload and other commitments
(27) Housing Service Strategy on Equality and Diversity (Review and update) <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	October 2012 January 2012	Deferred to a later meeting – Due to workload and other commitments
(28) Proposed housing service improvements and service enhancements, as a result of the additional resources available from HRA self financing <i>(Recommendations to Cabinet)</i>	High	January 2013	
(29) Housing Service Strategy on Housing Advice (Review and update) <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	January 2013	

(30) Housing Service Strategy on Allocations (Review and update) <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	January 2013	
(31) Housing Service Strategy on Tenant Participation (Review and update) <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	March 2013	
(32) Housing Service Strategy on Harassment (Review and update) <i>(Recommendations to Housing Portfolio Holder)</i>	Medium	March 2013	
Items added after the original Work Programme was agreed			
(33) Bi-annual Tenant Satisfaction Survey – Benchmarking with other Landlords	Low	March 2013	
(34) Progress Reports on the Welfare Reform Mitigation Action Plan	Medium	Jan 2013 & March 2013	
Items for Future Years			
Progress Report on Private Sector Housing Strategy	Low	July 2013	
Social Housing Fraud Scheme – Progress Report	Low	July 2013	

<p>Review of new posts under Housing Improvements and Enhancements Budget:</p> <ul style="list-style-type: none"> (a) Senior Housing Officer (Social Housing Fraud) (b) Housing Underoccupation Officer (c) Handyperson – Sheltered Housing Schemes 	Low	July 2013		
<p>Progress Reports on the Welfare Reform Mitigation Action Plan</p>	Medium	<p>July 2013 Oct 2013 Jan 2014 Mar 2014</p>		



SCRUTINY



Report to Housing Scrutiny Standing Panel

Date of meeting: 17 December 2012

Subject: Tenancy Policy

**Officer contact for further information: Roger Wilson
(01992 56 4419)**

Committee Secretary: Mark Jenkins (01992 56 4607)

Recommendations/Decisions Required:

That the Housing Scrutiny Panel considers the attached draft Tenancy Policy prior to consultation with the Tenants and Leaseholders Federation, Registered Social Landlords operating in the District, Local Councils and partner agencies with an interest in the policy and submits a report to the Cabinet recommending the adoption of the Tenancy Policy, subject to the views expressed through the Consultation Exercise.

Report:

1. Under the Localism Act 2011, housing providers have been granted additional powers which will enable decisions to be taken locally about the management of social housing. The Government is enabling providers of social housing with the option to use flexible tenancies (also known as fixed term tenancies), which in most cases must be for a minimum period of 5 years or between 2 & 5 years in exceptional circumstances. Flexible tenants will generally enjoy the same rights as secure tenants, including the Right to Buy subject to the current qualifying criteria, although they will lose a couple of statutory rights.

2. On expiry of the fixed-term, the tenant will be assessed against an agreed Assessment Criteria to determine whether a further tenancy (Flexible or Secure) will be granted, either of the same or another Council property. If another tenancy is not offered, there is a requirement to provide the tenant with advice and assistance. It should be noted that sheltered housing tenants must continue to be granted secure tenancies in accordance with the Act.

3. The Localism Act 2011 requires local authorities to publish a Tenancy Strategy which, within 12 months of commencement of the Act (being January 2013), must set out the matters to which Registered Providers (including the Council) are to have regard in formulating their policies relating to:

- The kinds of tenancies they grant;
- The circumstances in which they will grant a tenancy of a particular kind;
- Where they grant tenancies for a term certain, the lengths of those terms; and
- The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

4. The West Essex Housing Forum, which comprises three local authorities in West Essex being Epping Forest, Harlow and Uttlesford District Councils, have developed and adopted one Tenancy Strategy that covers the three local authority's areas in West Essex. The Strategy was adopted by the Cabinet on 22 October 2012.

5. In addition, all Registered Providers are required to publish and be responsible for their own individual Tenancy Policy which sets out:

- The kinds of tenancies granted
- Circumstances where a tenancy of a particular type will be granted and the length of the term
- Circumstances where a term of less than 5 years will be granted
- Circumstances where another tenancy will be granted on expiry on the same or another property
- How applicants/tenants can appeal against the length of the Flexible Tenancy or the decision not to grant a further tenancy
- Taking account of the needs of vulnerable people
- Provision of Advice and Assistant if another tenancy is not granted at the end of the term
- Discretionary succession rights

6. A draft Tenancy Policy for the Council is attached to the agenda. The Housing Scrutiny Panel is asked to give detailed consideration of the draft Tenancy Policy.

7. Under the Localism Act 2011, (as with the two other authorities, both of whom have retained their housing stock) the Council as a Registered Provider is expected to have regard to the West Essex Tenancy Strategy in formulating and implementing its Tenancy Policy. The Council's draft Tenancy Policy fully complies with the requirements of the West Essex Tenancy Strategy.

8. In an effort to prevent any unnecessary work, and to give officers direction for the purposes of drafting the attached Tenancy Policy, the Housing Portfolio Holder had informal discussions with Cabinet Members about the way forward on Tenure Reform. The Housing Portfolio Holder's initial views on the general approach to be taken is as follows:

- That the Council introduces a Pilot Scheme for Flexible Tenancies as soon as possible, with Flexible Tenancies being granted to all new tenants who sign-up to a tenancy of a property of three bedrooms or more for a fixed term of 9 years
- As the Council's current Introductory Tenancy Scheme for all new secure tenants has proved successful, Flexible Tenancies will include in their term an introductory period of 12 months (or 18 months where the term is extended due to minor breaches of Tenancy conditions)
- As the Localism Act removes the "Right to Improve" for Flexible Tenants, but gives councils powers to continue to grant this right if it wishes, it is considered that this right should be granted, through the Tenancy Agreement, but that the other right removed - the "Right to Compensation for Improvements" not be granted under the Pilot Scheme, but that this be considered again after the 12 month review referred to later
- That the financial incentives under the Housing Allocations Scheme for Council tenants to transfer to smaller accommodation applies to Flexible Tenants during the term, but only within the first 5 years (including the Introductory Tenancy period)
- That, at this stage of consideration, the draft Assessment Criteria used at the end of the Flexible Tenancy term to assess eligibility for a further flexible or secure tenancy of the same or another property, includes that a further tenancy will not be granted if the tenant has committed serious acts of Anti-Social Behaviour, or other serious breaches of tenancy conditions including significant rent arrears. Furthermore, if the tenant is under-occupying or statutorily overcrowded at the accommodation, then a further Flexible or Secure Tenancy as appropriate will be offered on alternative suitable accommodation, provided all of the other requirements of the agreed Assessment Criteria are met

- If the property has been extensively adapted and there is no one in occupation who is in need of these adaptations, and there is an applicant on the Housing Register who is in need of the adapted accommodation, then a further Flexible or Secure Tenancy (as appropriate) of an alternative suitable property be offered provided all of the other requirements of the agreed Assessment Criteria are met
- That at the end of the Flexible Tenancy term, where there are special circumstances including, active Foster Carers or where a tenant or member of their household has a terminal illness or a disability, a further Flexible Tenancy term of between 2 years and (in certain circumstances) 10-years be granted, in order for the special circumstances to be monitored and re-assessed

9. The Housing Portfolio Holder has already agreed that the Housing Scrutiny Panel be asked to review the success of the Pilot Scheme after 12 months of commencement and to submit a report to the Cabinet on its review to consider, in particular:

(a) Whether to discontinue, continue or extend the scheme to include 2 bedroom properties;

(b) Whether to allow existing and future Flexible Tenants the “Right to Compensation for Improvements” in the future; and

(c) Whether in future to means test tenants as part of the Assessment Criteria at the end of the Flexible Tenancy period.

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Draft Tenancy Policy

1. Introduction

1.1 The effective date of this Tenancy Policy is 1 July 2013.

1.2 Under the Localism Act 2011 and the Homes and Communities Agency's Regulatory Framework for Social Housing in England, Registered Providers (predominantly, but not exclusively, housing associations and local authorities) must publish clear and accessible policies which outline their approach to tenancy management, including interventions to sustain tenancies, preventing unnecessary evictions and tackling tenancy fraud and set out:

- The types of tenancies granted
- Circumstances where a tenancy of a particular type will be granted and the length of the term
- Circumstances where a Flexible Tenancy term of less than 5 years will be granted
- Circumstances where another tenancy will be granted on expiry on the same or another property
- How applicants/tenants can appeal against the length or type of tenancy or the decision not to grant a further tenancy
- Taking account of the needs of vulnerable people
- Provision of Advice and Assistance if another tenancy is not granted at the end of the term
- Discretionary succession rights

1.3 This Tenancy Policy, in conjunction with the Tenant's Handbook and the Council's Housing Allocations Scheme, meets with the requirements of the Localism Act 2011 and the Regulatory Framework.

1.4 Comprehensive systems are in place to ensure the efficient delivery of the services referred to in this Tenancy Policy. The efficiency of these systems are confirmed by the Housing Directorate being accredited with both the international quality standard of ISO 9001:2008 and the Customer Service Excellence Award for all of its services, including tenancy management.

2. Tenancy Strategy

2.1 The Localism Act 2011 requires local authorities to publish a Tenancy Strategy, which must set out the matters to which Registered Providers are to have regard in formulating their tenancy policies relating to:

- The types of tenancies they grant;
- The circumstances in which they will grant a tenancy of a particular type;
- Where they grant tenancies for a term certain, the lengths of those terms; and
- The circumstances in which they will grant a further tenancy on the coming to an end of an existing tenancy.

2.2 The West Essex Housing Forum, comprising the three local authorities in West Essex, being Epping Forest, Harlow and Uttlesford District Councils has adopted one joint West Essex Tenancy Strategy. Epping Forest District Council adopted the West Essex Tenancy Strategy at its Cabinet meeting on 22 October 2012.

2.3 All Registered Providers with housing stock in West Essex are required by the Localism Act 2011 to have regard to the West Essex Tenancy Strategy when formulating and implementing their own Tenancy Policies. The Tenancy Strategy was produced to give guidance to Registered Providers on the three councils' expectations of how their Tenancy Policies should be framed. The Council has had regard to the West Essex Tenancy Strategy when formulating this Tenancy Policy.

3. The Types of Tenancies Granted

Introductory Tenancy Scheme

3.1 The Council will operate an Introductory Tenancy Scheme whereby all new potentially Secure Tenants (sometimes referred to as "lifetime tenants") and Flexible Tenants ("fixed term tenants") are "on trial" for a period of 12 months in order that the Council can satisfy itself that the introductory tenant can sustain a tenancy and meet with the conditions of the Council's Standard Tenancy Agreement. Should any conditions be breached, the Council will be able to seek possession of the property through the County Court with the judge having to grant possession, provided all of the procedures have been followed correctly. In circumstances where the Council has concerns about an introductory tenant, but not serious enough to apply to the County Court for possession, the introductory period can be extended by a further 6 months. If the "trial" period is successfully completed, Introductory Tenancies automatically become either Secure periodic tenancies or Flexible Tenancies.

Introductory, Potentially Secure, Periodic ("Lifetime") Tenants

3.2 Introductory, potentially Secure Tenancies will be granted to appropriate homeseekers in accordance with this Tenancy Policy. The legislation governing Secure Tenancies is found in Part 1V of the Housing Act 1985. The rights of a Secure Tenant are set out in the Act, and are commonly referred to as the "Tenants Charter". A Secure Tenancy can only be ended by way of a Possession Order granted by the County Court.

Secure Tenants who Transfer or Mutual Exchange

3.3 Under the Localism Act 2011, all tenants who signed up to their tenancy prior to 1 April 2012 will be given "a tenancy with no less security where they choose to move to another social rented home". This means that their security of tenure is protected if they transfer to another social rented home. When a secure tenant transfers, they are granted a new tenancy of their new property. Although they will retain their secure tenancy status, there will be a reduction in tenancy rights. This is due to their new tenancy being a tenancy granted after the commencement of the provisions of the Localism Act 2011 on 1 April 2012 which, although secure, will have reduced succession rights for family members.

3.4 Where any tenant enters into a mutual exchange, in law, this is done by way of an Assignment of the tenancy. However, it is important to note that if one of the exchange partners is a Flexible Tenant then, in law, the tenancy of each party will be ended and a new tenancy will be granted on the new property. As with transfers, depending upon the circumstances, there could be a reduction in tenancy rights. The Council offers "HomeSwapper", an internet-based mutual exchange service, free of charge to assist qualifying tenants who want to enter into a mutual exchange. Any tenant who does not have access to the Internet will be provided with support on request.

3.5 The law on transfers and mutual exchanges is complicated. Any tenants who are considering either a transfer or a mutual exchange should seek advice from their Housing Management Officer.

Introductory, Potentially Secure, Flexible Tenancies

3.6 The Localism Act 2011 provides for a new type of fixed-term tenancy to Council tenants – the "Flexible Tenancy". Flexible Tenancies (or Fixed Term Tenancies) are tenancies that are offered for a specified period of time, as opposed to traditional "lifetime tenancies". A Flexible Tenancy is a form of secure tenancy, and generally, tenants with a Flexible Tenancy have the same rights as other secure tenants (as set out in the "Tenants Charter" under the Housing Act 1985).

3.7 The Localism Act 2011 amends the Housing Act 1996 to allow Introductory Tenancies to become Flexible Tenancies at the end of the introductory period, if local authorities wish to provide Flexible Tenancies. All Flexible Tenancies granted in accordance with this Tenancy Policy will have an introductory period of 12 months added to the beginning of the fixed-term, which may be extended by a further 6 months where there are minor breaches of tenancy conditions. A written notice will be served before the Introductory Tenancy is granted making clear the arrangements for the transition from Introductory to Flexible status providing no possession proceedings have been commenced, setting out the length of the fixed term and other expressed terms of the tenancy.

Assessment Criteria – Decision on re-granting a Flexible Tenancy

3.8 At the commencement of each Flexible Tenancy, the tenant will be informed of the Assessment Criteria that will be applied to determine, at the end of the flexible term, if a further tenancy will be granted. At least 6 months prior to the ending of the fixed-term the Council will provide Notice in writing to the tenant stating that it either proposes to grant a further tenancy (Flexible or Secure – of the same or another property) on the expiry of the existing fixed term or that it intends to end the tenancy. Prior to serving the Notice, the Tenant will be assessed against the Assessment Criteria. The general presumption will be that a further tenancy is granted. However, a further tenancy (Flexible or Secure) will generally not be granted in the following circumstances:

- Where the tenant (or a member of their household) who, during the Flexible Tenancy term has been guilty of serious unacceptable behaviour. Such behaviour is behaviour that would give sufficient grounds to issue possession proceedings if they were a Secure or Flexible Tenant and includes rent arrears (including housing benefit and Court cost arrears), and other breaches of tenancy conditions.

- Where the tenant has been subject to an Anti-Social Behaviour Order or an Anti-Social Behaviour Contract, or any similar penalty introduced under future legislation
- Where the tenant is under-occupying the accommodation (when taking into account people required to live with the tenant i.e. family members and not lodgers etc), then a further Flexible or Secure Tenancy (as appropriate) will be offered on a suitable smaller property, provided all of the other requirements of the Assessment Criteria are met
- Where the tenant is statutorily overcrowded in the accommodation a further tenancy (Flexible or Secure as appropriate) will be granted on a larger property, subject to availability and provided all of the other requirements of the Assessment Criteria are met
- Where the property has been extensively adapted and there is no one in occupation who is in need of these adaptations, and there is an applicant on the Housing Register who is in need of the adapted accommodation, then a further Flexible or Secure Tenancy (as appropriate) of an alternative suitable property will be offered, provided all of the other requirements of the Assessment Criteria are met.
- Where, in accordance with the Council's Housing Allocations Scheme, the Flexible Tenant, in the opinion of the Council, has sufficient income and/or assets to enable them to meet their housing need themselves (e.g. by purchasing a home of their own). The current thresholds at which this criterion will apply are where;
 - (a) three times the gross household income, plus assets (including savings and property equity), exceeds £200,000 and the tenant has a housing need for a studio or 1 bedroom accommodation
 - (b) three times the gross household income, plus assets (including savings and property equity), exceeds £275,000 and the tenant has a housing need for 2-bedroom or larger accommodation.

3.9 The thresholds or criteria to be used will be those applicable on the date the 6 months Notice is served.

3.10 At the end of the Flexible Tenancy term, where the tenant meets one or more aspects of the above Assessment Criteria but there are special circumstances including, where:

- the tenant is an active Foster Carer
- the Council's Medical Advisor confirms that the tenant or member of their household has a terminal illness or a long-term disability
- the tenant is a care leaver who is still in need of support
- there are dependent vulnerable children

3.11 In such special circumstances, a further Flexible Tenancy term of between 2 years and (in certain circumstances) 10 years may be granted. This is in order for the special circumstances to be monitored and re-assessed at a later date.

3.12 The Council recognises that there may be exceptional circumstances not covered by this Tenancy Policy where Flexible Tenants who would not ordinarily be eligible for a new tenancy may be granted a new tenancy. In such instances, the Director of Housing will have delegated authority to make decisions, as he considers appropriate.

Flexible Tenancies (Review Procedures)

3.13 All Flexible Tenancy Reviews will be undertaken in accordance with The Flexible Tenancies (Review Procedures) Regulations 2012 as follows:

Start of the fixed term

3.14 There is no right to a review of the type of tenancy offered. There is only one ground for a review at the commencement of the Flexible Tenancy, being that the length of the tenancy offered is inconsistent with the Council's published Tenancy Policy. In these circumstances, the Flexible Tenant (the applicant) must make an application for a review in writing including:

- The applicant's name and address
- A statement of the reasons why, in the applicant's opinion, the length of the tenancy does not accord with the Tenancy Policy as to the length of the term of the Flexible Tenancy it grants.
- A statement to the effect that the applicant does, or does not, require the review to be conducted by way of an oral hearing
- A statement to the effect that the applicant does, or does not, agree to receive communications relating to a review by e-mail and, if so, the e-mail address to which such communications should be sent

End of the fixed term – decision not to grant a further tenancy

3.15 If a further Flexible Tenancy is not granted, a written Notice informing the tenant will be served at least 6 months before the expiry of the tenancy term. The Notice will set out the reasons for the decision and, at the same time, notify the tenant of their right to request a review and the time within which a request may be made. An application for a review must be made in writing and include:

- The applicant's name and address
- A description of the original decision in respect of which the review is sought, including the date on which the decision was made
- A statement of the grounds on which the review is sought
- A statement to the effect that the applicant does, or does not, require the review to be conducted by way of an oral hearing

- A statement to the effect that the applicant does, or does not, agree to receive communications relating to a review by e-mail and, if so, the e-mail address to which such communications should be sent

3.16 Following receipt of the application, if the review is to be undertaken without an oral hearing, the Council will:

- Send a written Notice to the applicant stating that the applicant may make written representations in support of the application (which will be taken into account by the person undertaking the review) not less than five days after the day on which the Notice is received by the applicant

3.17 Following receipt of the application, if the review is to be undertaken by way of an oral hearing, the Council will, in addition to sending the Notice referred to in paragraph 3.16 above:

- Notify the applicant of the day on which, and the time and place at which, it is proposed that the oral hearing is to take place, which will not be earlier than five days after the day on which Notice is received by the applicant

Procedure at the hearing

3.18 The hearing will be conducted by an officer senior to the officer who made the original decision and who was not involved in the original decision. The tenant will be given every opportunity to make written or oral representations and be able to call persons to give evidence on any matter relevant to the decision to be made on review and put questions to any person who gives evidence at the hearing. The applicant will be able to be accompanied or represented by another person (appointed by the applicant) who will have the same rights and obligations as the applicant for the purposes of the conduct of the hearing.

3.19 If the applicant fails to attend the hearing, the person conducting it will either proceed with the hearing or re-arrange the hearing if it is considered appropriate. If the hearing is adjourned for more than one day, the person conducting the hearing will specify the date on which it will be resumed by sending a Notice in writing to the applicant.

3.20 The decision on review will be made by the person conducting the review who will notify the applicant in writing of the decision.

3.21 If, generally, there is no engagement from the tenant in the Review process then the Council (if considered appropriate) will commence possession proceedings.

Ending the Flexible Tenancy

3.22 The Council, when it considers appropriate, during or at the end of the tenancy will apply for a Court Order to end any Flexible Tenancy during the fixed term if any of the grounds for possession (being the same grounds available for a Secure Tenancy) can be proven following any breaches of tenancy conditions.

3.23 If, in accordance with this Tenancy Policy, a further Flexible Tenancy is not granted, and the tenant has either requested a review and it is dismissed, or decided not to seek a review, the Council will seek possession of the property. The tenant will then be given no less than 2 months Notice in writing stating that the Council requires possession of the property, prior to starting an ordinary claim for possession in the County Court.

3.24 If the tenant refuses to vacate when the Notice period expires, possession proceedings will be taken. A Court can only refuse possession if the correct procedures have not been followed or if the decision was “wrong” in law.

3.25 A Flexible Tenant may give 4 weeks Notice in writing to end the Flexible Tenancy at any time during the fixed term; this may only be accepted by the Council provided there are no arrears outstanding and any other breaches of tenancies are remedied.

Advice and Assistance if a further tenancy is not granted

3.26 Where a further tenancy is not granted, the Council will provide advice and assistance to the tenant at least 6 months prior to the ending of the fixed term to help the tenant find alternative housing.

This advice and assistance will be provided by the Council’s Homelessness Prevention Team within the Housing Options Section and will include:

- Assistance with securing privately rented accommodation
- Assessing eligibility for a rental loan, damage deposit guarantee, a discretionary housing payment to assist with securing accommodation in the private rented sector; and/or any other forms of assistance available at that time
- Advice on securing owner occupied accommodation
- Advice on joining the Council’s Housing Register

3.27 Tenants should contact the Council to arrange a housing advice interview. The Council has a Service Agreement with the three Citizens Advice Bureaux in the District, who tenants can contact and be provided with a range of independent advice and support.

Flexible Tenancies and the Right to Buy

3.28 The “Right to Buy” extends to Flexible Tenancies, subject to the same qualifying criteria for Secure Tenancies.

4. Demoted Tenancies

Secure Tenancies

4.1 If the Council has concerns about the way in which a Secure Tenant has been conducting their tenancy but the concerns are such that seeking possession is not felt appropriate it may proceed to Court and seek a Tenancy Demotion Order. If the tenancy is demoted, the tenant will hold a lesser form of tenancy with reduced security of tenure for a period of 12 months. During this period, Demoted Tenants do not have the same rights as secure tenants, for example they do not have:

- The right to exchange
- The right of succession
- The right to take in lodgers
- The right to buy which is suspended until the tenancy is no longer demoted

4.2 If the tenant continues to breach their tenancy conditions, then the Council can proceed to Court for possession when the Judge will have no alternative, providing the correct procedures have been followed, other than to grant the Council possession.

Flexible Tenancies

4.3 In the case of Flexible Tenants, If the 12 month demotion period is successfully completed, then the Council will serve the Demoted Tenant with a Notice stating that the tenancy is to be restored from a Demoted Tenancy to a fixed term Flexible Tenancy and specifying the length of the fixed term and other express terms of the tenancy.

5. Joint Introductory Potentially Secure & Flexible Tenancies

5.1 A Secure or Flexible Tenancy can be held by one person or by up to four joint tenants all of whom must be qualifying persons. However many tenants there are, there is still only one tenancy and the rights and duties relating to the tenancy apply jointly and severally to all joint tenants.

5.2 When a joint tenant dies, the remaining tenant/s will continue to hold the tenancy by "survivorship". The names of any joint tenants cannot be removed from the tenancy and if one joint tenant surrenders the tenancy then the tenancy comes to an end. Further information is available in the Council's leaflet on joint tenancies.

5.3 Introductory potentially secure joint tenancies will be offered to;

- (a) married couples or civil partners, provided that both homeseekers are named on the application form, unless both parties request the tenancy to be granted in a sole name;
- (b) unmarried couples, or those living as civil partners who can demonstrate a relationship similar to marriage or a civil partnership, providing that both request it and the partner of the lead homeseeker is registered on the application form; and
- (c) homeseekers and their live-in carers, where the live-in carer has occupied the property as their only or principal home for over 12 months and the Council considers it to be justified.

In all other circumstances, single tenancies will be offered to the lead applicant.

6. Non-secure Tenancies

6.1 Non secure tenants have less security of tenure than Secure, Introductory and Flexible Tenants and normally apply where short-term temporary accommodation is provided.

7. Circumstances where a tenancy of a particular type will be granted and the length of the term

Introductory, Potentially Secure Periodic (“Lifetime”) Tenancies

7.1 The Council will grant Introductory potentially Secure Tenancies to homeseekers allocated permanent accommodation in sheltered housing, or generally any property within the Council’s housing stock comprising two bedrooms or less.

Flexible Tenancies

7.2 Flexible Tenancies (“fixed term tenancies”) will be granted to all homeseekers who sign-up to a tenancy of a property comprising three or more bedrooms. This will assist the Council in tackling the problem of under-occupation in the future and remove the potential for tenants of working age on Housing Benefit to pay a proportion of their rent due to under-occupation. The fixed term for the Flexible Tenancy will be 9 years. An introductory tenancy term of 12 months (or 18 months where the term is extended due to minor breaches of tenancy conditions) will be included, in addition to the 9-year Flexible Tenancy making a total fixed term of, generally, 10 years. At the commencement of the Introductory Period, the Council will serve a Notice on the tenant stating that a Flexible Tenancy will be granted at the end of the introductory period and what the length of the fixed term will be, provided the terms of the Introductory Tenancy are not breached.

7.3 Flexible Tenants will be granted, through their Tenancy Agreement, the “Right to Improve” but not the “Right to Compensation for Improvements”. The financial incentives under the Council’s Housing Allocations Scheme for Council tenants to transfer to smaller accommodation will apply to Flexible Tenants during the fixed term, but only within the first 5 years of the fixed term (inclusive of the Introductory Tenancy period).

Flexible tenancies of less than 9 years

7.4 There are some exceptional circumstances where the Council will consider granting a Flexible Tenancy for a fixed term of less than 9 years, and possibly less than 5 years (generally the minimum period allowed under the Localism Act 2011, unless there are special circumstances) in order for the exceptional circumstances to be monitored and re-assessed. However, the absolute minimum period offered in such circumstances will be 2 years. Such exceptional circumstances include:

- Where the Council plans to re-develop, demolish or dispose of any Council accommodation within five years from the date of the commencement of the tenancy;
- Where the new tenant is an active Foster Carer; and
- Where the Council’s Medical Advisor confirms that an existing Flexible Tenant or member of their household has a terminal illness or a long term disability, or is a care leaver who is still in need of support, or where there are dependent children, in order for the circumstances to be monitored and re-assessed at a later date

8. Non-secure Tenancies

8.1 Non-secure tenancies may be granted when a tenant is moved to alternative accommodation whilst major works are undertaken, or in extremely rare circumstances in order for the Council to provide temporary housing under its homelessness duties.

9. Contractual Succession Rights – Family Members

Pre- April 2012 Tenancies

9.1 All of the Council's secure tenants who signed up to their tenancy prior to 1 April 2012 enjoy many rights under the Housing Act 1985 Part IV ("Tenants Charter"). One of these is the right of succession to a tenancy which takes place upon the death of the tenant. Any successor tenant who is either a spouse or a Civil Partner is able to remain at the accommodation regardless of any under-occupation. Under the current legislation, in the case of succession by a family member who meets all of the rules, if the accommodation afforded by the dwelling-house is more extensive than is reasonably required by the tenant then the Council can serve a notice of seeking possession more than six months but less than twelve months after becoming aware of the tenant's death requiring them to vacate and move to smaller accommodation unless the Council's under-occupation policy applies.

Post April 2012 Tenancies

9.2 Under the Localism Act 2011, for all tenancies (including Flexible Tenancies) commencing after 1 April 2012, the right to succeed was repealed for family members. However, from 1 April 2012, all of the Council's secure tenants have been granted additional contractual succession rights within their Tenancy Agreement, in addition to those set out in the Localism Act. If at the time of the tenant's death, the dwelling-house is occupied by a family member (as defined by Section 113 of the Housing Act 1985) and not occupied by a spouse or a civil partner of the tenant as his only or principal home, the following additional rights will apply through the terms of the Tenancy agreement;

- Provided there is no under-occupation, a family member will be allowed to succeed to the tenancy provided they meet all of the succession rules set out under the Housing Act 1985 Part IV and has been residing at the property as their only or principal home for over three years
- Where the property is under-occupied by a family member, if the family member meets all of the succession rules set out under the Housing Act 1985 Part IV and has been residing at the property as their only or principal home for over three years, they will be made one offer of suitable alternative accommodation. If the successor tenant refuses to move, then the Council will take Court action to seek possession under Ground 16 of the Housing Act 1985
- Where the property is under-occupied by a family member who has resided at the property for less than three years then they be required to vacate. If the occupier refuses to vacate, then the Council will take Court action to seek possession

10. Tenancy Management

10.1 The Council offers a range of support to tenants in order to assist them in sustaining their tenancy and preventing evictions, including:

- Undertaking in-depth sign up interviews with all new tenants to ensure the tenant understands the terms and conditions of their tenancy
- Housing Management Officers undertaking new tenant visits within 12 weeks of the commencement of the tenancy to offer advice and support and to clarify the conditions of tenancy
- Recognising that early identification and intervention in response to unpaid rent can prevent long term difficulties for the tenant, including the use of standard letters, regular rent statements, home visits, office interviews, pre-court visits etc.
- Housing Management Officers undertaking visits to all tenants who have been identified as being affected by the social sector size limits of the Welfare Reforms to discuss their options and to offer advice and support
- Working in partnership with the floating support provider Family Mosaic, who provide support to vulnerable tenants
- Housing Management working closely with the Council's Homelessness Prevention Team
- Safeguarding polices including staff training and reporting procedures
- Undertaking in-depth Special Needs Assessments whereby an officer visits a prospective tenant of sheltered accommodation to ensure the property will meet their needs
- All tenants receiving the Council's quarterly tenants magazine "Housing News" which includes articles on tenancy sustainment issues
- Offering mediation services to assist in resolving neighbour disputes
- Liaising regularly with the Council's Safer Communities Team, Noise Team, Animal Warden etc in order to design out anti-social behaviour, working in partnership to seek methods to avoid neighbour conflict and attend network meetings with partner agencies to resolve cases
- Meeting with representatives from the three Citizens Advice Bureaux in the District on a quarterly basis to give them an opportunity to raise any concerns and to update them on major issues and any policy changes
- Meeting with senior staff in the Council's Benefits Division on a quarterly basis to raise any concerns and to update on any policy changes

11. Tackling Social Housing Fraud

11.1 In July 2010, the Council appointed a new a part-time Social Housing Fraud Officer as part of the Government's national initiative to tackle social housing fraud, with the main focus on the unlawful sub-letting of Council properties. As social housing is a very valuable asset, the Council considers it is important to ensure that properties are let fairly and are occupied by legitimate tenants. Within 12 months of the appointment there was a great deal of progress in this area of work including:

- Identifying 37 cases of potential social housing fraud which had either been, or continued to be, investigated.
- Assisting the Council's Housing Benefit's Division in the recovery of overpaid housing benefit.
- Introducing a system to provide photographic ID of tenants and housing applicants.
- Introducing the "Tell Us Once" initiative whereby people registering deaths at the Registrar's Office can opt to have the Council automatically notified.
- Undertaking "Tenancy Audits" on certain housing estates to ensure that properties are being occupied by the lawful tenants,
- Undertaking joint visits with the Council's Valuer when Right to Buy valuations are undertaken.

11.2 Due to the success of the scheme, in March 2012, the Council agreed to make the part-time Social Housing Fraud Officer post full-time, and to appoint a full-time Senior Social Housing Fraud Officer. These additional resources allow the Council to introduce a public awareness campaign encouraging members of the public to provide information on potential social housing fraud.

12. Taking account of the needs of vulnerable people

12.1 When a Flexible Tenancy comes to an end, in accordance with the Assessment Criteria, if the Council's Medical Advisor confirms that the tenant or a member of their household:

- has a terminal illness or a long term disability
- is a care leaver who is still in need of support
- there are dependent vulnerable children

12.2 A further Flexible Tenancy for a fixed term of between 2 years and (in certain circumstances) 10 years will be granted. This is in order for the exceptional circumstances to be monitored and re-assessed.

12.3 The Council has granted all new tenants whose tenancy commences after 1 April 2012, additional contractual succession rights to family members above those set out in the Localism Act 2011. This will ensure that family members in the District will continue to be housed by the Council provided that they meet the requirements of the policy.

12.4 The Council's Introductory Tenancy Scheme has been successful in reducing anti-social behaviour and neighbour nuisance and continues to allow the Council to ensure that "unsuitable" tenants do not cause difficulties for vulnerable tenants.

12.5 The Council has a comprehensive Flexible Tenancy Review process which will take into account the needs of any vulnerable tenant prior to any decision not to grant a further tenancy. In addition, the needs of vulnerable tenants are taken into account with any Introductory Tenancy Review decisions.

12.6 A range of support is offered to tenants which are set out under the Tenancy Management section of this Tenancy Policy.

13. Equal Opportunities

13.1 The Council has undertaken an Equality Impact Assessment on both the Housing Allocations Scheme & this Tenancy Policy to determine how they will impact upon those classes of persons with protected characteristics and complies with the Equalities Act 2010. A copy of the Equality Impact Assessment is available upon request free of charge.

13.2 The Council is committed to equal opportunities in the provision of its housing services. The Council will have regard to, and implement, the provisions of the Race Relations Code of Practice in Rented Housing, which it has adopted. The Council will also abide by the Equality Act 2010.

13.3 As an aid to ensuring that homeseekers are not discriminated against on the grounds of race, through the Council's Housing Scrutiny Panel the Council will monitor the racial origin of:

- a) homeseekers on the Housing Register
- b) homeseekers allocated housing
- c) homeseekers on the Housing Register seeking sheltered accommodation
- d) homeseekers offered sheltered accommodation

13.4 The practices and procedures of the Housing Directorate will be monitored by the appropriate Assistant Director of Housing to ensure that they do not discriminate directly or indirectly. Changes will be made if it is established that practices or procedures may be contravening the Equality Act 2010.

14. Consultation on the Tenancy Policy

14.1 The Council sent a copy of a draft version of this Tenancy Policy to all of the following interested parties giving them a reasonable opportunity to comment:

- Every private Registered Provider of social housing
- Local Councils
- The Tenants and Leaseholder's Federation
- Partner Agencies with an interest in the management of the Council's housing stock

15. Publishing the Tenancy Policy

15.1 A copy of the final version of this Tenancy Policy was sent to all of those consulted above. In addition, copies can be downloaded on the Internet from the Council's web-site: www.eppingforestdc.gov.uk/housing

16. Reviewing the Tenancy Policy

16.1 The Tenancy Policy will be reviewed on at least a three-yearly basis by the Council's Housing Scrutiny Panel in consultation with the Tenants and Leaseholders Federation, which shall recommend any changes to the Council's Cabinet.



SCRUTINY



Report to Housing Scrutiny Standing Panel

Date of meeting: 17 December 2012

Subject: Review of the Housing Allocations Scheme

**Officer contact for further information: Roger Wilson
(01992 564419)**

Committee Secretary: Mark Jenkins extension (01992 564607)

Recommendations/Decisions Required:

(1) That the Housing Scrutiny Panel considers the attached Draft Housing Allocations Scheme, prior to consultation with the Tenants and Leaseholders Federation, Registered Social Landlords operating in the District, Local Councils and partner agencies with an interest in the Scheme, and submits a report to the Cabinet on the proposed scheme for adoption;

(2) That, in considering the Draft Scheme, the Housing Scrutiny Panel has regard to the Housing Portfolio Holder's decision on the key principles for the Scheme (reproduced at Appendix 1) and the other main proposed changes (Appendix 2);

(3) That the Panel recommends to the Cabinet that (at the conclusion of the Cabinet call-in period), the right of Appeal to the Housing Appeals and Reviews Panel in cases where housing applicants have been excluded from the Housing Register be revoked, with all such statutory reviews being dealt with by officers;

(4) That the Cabinet are asked to request that the Constitution and Members Services Standing Scrutiny Panel review the Terms of Reference of the Housing Appeals and Reviews Panel to ensure that they comply with Recommendation (3) above; and

(5) That the new Housing Allocations Scheme be reviewed by the Housing Scrutiny Panel after 12 month's operation and any required changes be reported to the Cabinet.

Report:

1. The Council is legally required to have a Housing Allocations Scheme for determining priorities and the procedure to be followed in selecting a person for accommodation, or nominating a person to be a tenant for accommodation held by another Registered Provider of social housing (e.g. housing association). In the past, the Cabinet has considered the Council's Housing Allocations Scheme annually and reviewed any changes. However, the current scheme has not been reviewed since its introduction in December 2010. The reason for this delay is due to the Council awaiting the new Government guidance "The Allocation of accommodation: guidance for local housing authorities in England" (DCLG June 2012) which was not received until July 2012.

2. Under the Guidance, authorities are given powers to decide locally how accommodation should be allocated based upon local priorities. Authorities are therefore empowered to allocate their accommodation in any way they see fit, provided schemes are both legal and rational.

3. Due to these additional powers resulting in potentially the most comprehensive review ever undertaken of the Scheme, the Housing Portfolio Holder held informal discussions with

Cabinet colleagues to seek their initial views. This was considered essential as it gave guidance on how Cabinet Members felt the Scheme should be drafted, potentially saving a great deal of officer time. As a result of these informal discussions, the Housing Portfolio Holder made a formal decision that, for the next review of the Housing Allocations Scheme, officers draft a Scheme on the basis of the proposed principles set out at Appendix One, and that the Housing Scrutiny Panel be asked to give detailed consideration to the revised Draft and submit a report to the Cabinet for consideration.

4. In addition to the above, the table at Appendix Two sets out further changes suggested by officers to the current Scheme, giving the new draft Scheme's reference and the reasons.

Property Sizes

5. There is one aspect that warrants further explanation in this report, since the Draft Scheme is at variance with the Housing Portfolio Holder's decision on draft key principles, which relates to property sizes.

6. The current property sizes allocated to households under the Council's current Housing Allocations Scheme are as follows:

Studio – Single persons

1 Bedroom – Single persons or 2 people without children

2 Bedrooms – Homeseekers with 1 child or homeseekers with 2 children of the same sex

3 Bedrooms – Homeseekers with 2 children of opposite sex or homeseekers with 3 or 4 children

4 Bedrooms – Homeseekers with 4 or more children

5 Bedrooms – Homeseekers with 5 or more children

7. The changes to housing benefit under the Welfare Reforms Act 2012 for persons under-occupying accommodation in the social rented sector, is explained in the leaflet produced by the National Housing Federation (copy attached - which accords with the Local Housing Allowance criteria for under-occupation in the private rented sector). Under the changes, if a person has more bedrooms than the Government says is needed, housing benefit will be reduced. The Welfare Reforms Act 2012 specifies the criteria, which is that a separate bedroom should be occupied by:

Each adult couple

Any other person aged 16 or over

2 children of the same sex under the age of 16

2 children under the age of 10 regardless of their sex

Any other child

A carer (who does not normally live with the person) if the person or their partner needs overnight care

8. Under the Government's Code of Guidance on Housing Allocations it states that, " when framing the rules which determine the size of property to allocate to different households and in different circumstances, housing authorities are free to set their own criteria, provided they do not result in a household being statutory overcrowded. However, in setting these criteria, authorities will take account of the provision in the Welfare Reforms Act 2012 which will reduce housing benefit to under occupiers". The Guidance further states that "the Secretary of State takes the view that the Bedroom Standard is an appropriate measure of overcrowding for allocation purposes, and recommends that all housing authorities should adopt this as a minimum".

9. The Bedroom Standard referred to in the Guidance relates to the overcrowding provisions of the Housing Act 1985, Section 325. Under this Standard, it states under Section 325 (2) (a) that "children under the age of 10 [years] shall be left out of account".

10. As can be seen, under both standards, two children aged under 10 years regardless of sex would be expected to share a bedroom, whereas the Council's current Housing Allocations Scheme allows an applicant to be allocated a separate bedroom for a child from birth who is of a different sex from its sibling. Furthermore, the Council's current Housing Allocations Scheme does not allow an applicant to be allocated a separate bedroom for an adult over a certain age, who is sharing with a sibling of the same sex.

11. The initial view of the Housing Portfolio Holder, was that neither standard should be adopted for the Council's new Housing Allocations Scheme. However, it was accepted that the Council's current criteria does need to change. It was therefore proposed that the criteria used for property sizes, in relation to:

- (i) the assessment of a need for an additional bedroom; and
- (ii) the size of property that housing applicants will be offered by the Council or a housing association;

be amended as follows:

- (iii) Children of different sex, where one is 5 years of age or over, should not be expected to share a bedroom; and
- (iv) Generally, two children of the same sex (regardless of age) will be expected to share a bedroom;

12. The Housing Scrutiny Panel's attention is drawn to the fact that should neither of the bedroom standards be adopted within the Council's Housing Allocations Scheme, as recommended under Government Guidance, all homeseekers who have two family members of opposite sex under the age 10 years will, in accordance with the changes to housing benefit for persons under-occupying accommodation in the social rented sector, have their housing benefit reduced due to under-occupation at the commencement of their new tenancy. As a result, the sizes of properties included in the new draft Housing Allocations Scheme are not in accordance with the Housing Portfolio Holder's initial view. The Panel is asked to give consideration to the sizes of properties to be allocated to homeseekers in the future, taking into account the changes to housing benefit rules in respect of under-occupation.

Proposed Housing Allocations Scheme

13. A copy of the draft Housing Allocations Scheme, which is attached as an Appendix has been considered by an external Legal Advisor, being a QC specialising in housing law. This was considered essential because, as already mentioned, this is the most comprehensive review ever undertaken of the Scheme and the Council needs to meet the requirement that it is both legal and rational. When giving his advice on a number of queries raised by officers the Legal Advisor stated generally that "the draft Housing Allocations Scheme seems legal to me". In answer to a specific question on the duration of the consultation period, the Council is advised to allow a 12 week consultation period.

14. The current scheme, which came into force on 1 December 2010, has been circulated separately to all Members of the Panel. It should be noted that, in accordance with the Housing Portfolio Holder's decision, the current Scheme was amended from September 2012, in order to meet with the Government's Statutory Instrument setting out new regulations in relation to accommodating Armed Forces Personnel.

Applicant's Right to a Review

15. In Law, every applicant has the statutory right to request a review of a decision on allocations and to be informed of the decision on review and the grounds for it. Currently, the

Housing Appeals and Reviews Panel considers cases where applicants have been excluded from the Housing Register. If the Local Eligibility Criteria is agreed by the Cabinet, it is expected that a high number of applicants are likely to request their statutory right to a review. It is therefore suggested that the Housing Scrutiny Panel be asked to consider recommending to the Cabinet that the right of appeal to the Housing Appeals and Reviews Panel to applicants who have been excluded from the Housing Register be revoked, with all statutory reviews being dealt with by officers with immediate effect at the conclusion of the Cabinet call-in period. The Constitution and Member Services Standing Scrutiny Panel will then be requested to review the Terms of Reference of the Housing Appeals and Reviews Panel to ensure they comply with the new policy.

16. The Housing Scrutiny Panel is asked to give detailed consideration to the new draft Housing Allocations Scheme, to agree to a consultation exercise being undertaken on the draft scheme, and to submit a report to the Cabinet on 15 April 2013 on its findings.

17. Furthermore, the Panel is asked to include an item in its Work Programme for 2014/2015, for a review of the Scheme after 12 months of operation, in order to consider whether or not any further changes are required, and to submit a report to the Cabinet on the outcome of its review and any recommended changes.

18. Following the Housing Scrutiny Panel's meeting, the Tenants and Leaseholders Federation, all RSLs operating within the District, all Local Councils and partner agencies with an interest in the Scheme will be consulted on the proposed changes, prior to the Panel submitting a report to the Cabinet.

Appendix 1

Draft Principles previously agreed by the Housing Portfolio Holder through the Portfolio Holder decision dated 7 September 2012

(Draft Housing Allocations Scheme Paragraph or Section in brackets for ease of reference)

Local Eligibility Criteria:

- (a) That a Local Eligibility Criteria be introduced, on the basis that all *new* applicants for the Housing Register (Section 14) :
- (i) Must have lived within the Epping Forest District for at least three years immediately prior to their date of registration (14.3);
 - (ii) Must have a housing need, as determined by at least one criterion of a priority band within the new Housing Allocations Scheme (14.5); and
 - (iii) Must not have sufficient income and/or savings/assets to enable them to purchase their own accommodation, as assessed in accordance with the current criteria defined within Section 8.5 of the current Housing Allocations Scheme (14.6 & 14.7);
- (b) That all *existing* housing applicants who meet the following criteria be removed from the Housing Register when the new Housing Allocations Scheme is introduced:
- (i) Existing applicants who have lived within the District for less than 2½ years immediately prior to the date the new Housing Allocations Scheme is introduced;
 - (ii) Existing applicants who, on the date the new Housing Allocations Scheme is introduced, are within Band 6 of the current Housing Allocations Scheme (i.e. have no housing need); and
 - (iii) Existing applicants placed within Band 5 of the current Housing Allocations Scheme by virtue of them having sufficient income and/or savings/assets to enable them to purchase their own accommodation (as assessed in accordance with the current criteria defined within Section 8.5 of the current Housing Allocations Scheme);
- (c) That housing applicants removed from the Housing Register due to them not meeting the Local Eligibility Criteria be allowed to re-register if/when they meet the new Local Eligibility Criteria, but that their Registration Date be the date of re-registration;
- (d) That if the Local Eligibility Criteria is agreed by the Cabinet, the Housing Scrutiny Panel be asked to consider recommending to the Overview and Scrutiny Panel that the Constitution and Member Services Standing Panel considers the scope of the Housing Appeals and Reviews Panel, with a view to revoking the right of appeal to the Panel to housing applicants who have been excluded from the Housing Register, with all statutory reviews being dealt with by officers;
- (e) That a separate Supplementary Waiting List be introduced, for which applicants over 60 years of age who do not meet the new Local Eligibility Criteria can register, and that such applicants be offered tenancies (in registration date order on the Supplementary Waiting List) of any Council and housing association properties for which no successful expressions of interest from eligible Housing Register applicants have been received through the HomeOptions Scheme for at least two bidding cycles (14.10);
- (f) That the criteria for applicants being ineligible to register on the Housing Register due

to them being assessed as having sufficient income and/or savings/assets to enable them to purchase their own accommodation be reviewed, once it is known;

- (i) Whether or not the Government's proposals for tenants with high incomes to be charged higher rents (the proposed "Pay and Stay Scheme") are to be introduced; and
- (ii) if the proposals are to be introduced, what the Government's income thresholds for the Pay and Stay Scheme will be;

Former Armed Forces Personnel

(g) That, in addition to the new statutory requirement for local authorities to disregard any Local Eligibility Criteria for current and former Armed Forces Personnel (and their bereaved spouses or civil partners), spouses and children (including step-children) of existing and former Armed Forces Personnel be allowed to register on the Housing Register, provided that one of their family members (as defined by Section 113 of the Housing Act 1985) has lived within the District for at least 3 years immediately prior to the date of application (Band 3 (c));

Applicants in Employment

(h) That no additional preference within the priority bands of the new Housing Allocations Scheme be given to housing applicants in employment;

Priority Bands

- (i) That the number of priority bands within the Housing Allocations Scheme be reduced, and that the Housing Scrutiny Panel considers and recommends:
 - (i) How many bands there should be; and
 - (ii) The criteria that should apply for inclusion within each band;

Transfer List

(j) That no separate Transfer List for existing Council and housing association tenants be introduced for the time being, but that the introduction of a separate Transfer List be considered as part of a future review of the Housing Allocations Scheme;

Property Sizes

- (k) That the criteria used for property sizes, in relation to:
 - (i) the assessment of a need for an additional bedroom; and
 - (ii) the size of property that housing applicants will be offered by the Council or a housing association;

be amended as follows:

- (iii) Children of different sex, where one is 5 years of age or over, should not be expected to share a bedroom; and
- (iv) Generally, two children of the same sex (regardless of age) will be expected to share a bedroom;

That the Housing Scrutiny Panel be asked to review the Housing Allocations Scheme again after 12 months operation, in order to consider whether or not any further changes are

required, and to submit a report to the Cabinet on the outcome of its review and any recommended changes.

Appendix 2

Summary of the main changes proposed to the Scheme (in addition to those stated in Appendix 1)

Reference	Change to the Scheme	Reason
Section 2	Information on the West Essex Tenancy Strategy and the Council's Tenancy Policy.	In order to meet with the requirement that these documents are referred to.
Paragraph 7.5 (d)	Additional clause to cover transfers involving Flexible Tenants.	Under the Localism Act 2011, should any mutual exchange involve at least one Flexible Tenant, then new tenancies are granted to the parties outside of the Scheme.
Section 9	Reference is made to the Council's policy on granting Flexible Tenancies.	To explain the Council's policy on offering Flexible Tenancies in accordance with the Tenancy Policy and West Essex Tenancy Strategy.
Paragraph 9.2	Flexible Tenants wishing to transfer to smaller accommodation will be able to benefit from the incentive payment but only within the first 5 years of the fixed term.	In accordance with the Housing Portfolio Holder decision on the key principles for the Tenancy Policy, in order to tackle the problem of under-occupation, Flexible Tenants will be able to benefit from the incentive to downsize accommodation, in the same way as for other tenants
Paragraph 14.4	Homeseekers who move out of the District into settled accommodation for more than 3 years will be treated in the same way as homeseekers who have not lived in the District for more than 3 years	To deal with persons moving out of the District

Reference	Change to the Scheme	Reason
Paragraph 14.8	Any homeseeker who has been guilty of unacceptable behaviour within the previous 3 years will not qualify to join the Housing Register	Under the current scheme homeseekers in this category are moved to the lowest Band. The Council can now exclude such applicants
Paragraph 17.9	Penalties for refusals will not apply to homeseekers wishing to downsize accommodation	In order to tackle under-occupation and to encourage downsizing
Paragraphs 17.13 to 17.15	Sets out the proposed policy for discharging the Council's homelessness duty in the private rented sector	In accordance with the Localism Act 2011 and the Government's Suitability of Accommodation Order, authorities are now able to discharge their homelessness duty in the private rented sector with or without the applicant's consent
Paragraph 20.3	Where a tenant of the Council is downsizing accommodation they will be considered for a bungalow if they are over the age of 50 years rather than 60 years	This will encourage more existing Council tenants occupying larger accommodation to downsize to a more desirable bungalow

Changes to Bandings		
Reference	Banding Change	Reason
Band One (d) (Current Scheme)	Deleted from current Scheme and moved to Appendix 4 and amended. Homeless applicants will no longer be offered choice and be made one suitable offer of accommodation in generally flatted accommodation (or be made a private rented sector offer under Paragraph 17.13). It should be noted that the “Fresh start” scheme has ceased.	This will enable non-homeless homeseekers on the Housing Register to have better access to, and opportunity for, houses and more popular Council properties.
Band One (f) & (g) (Current Scheme)	Both deleted from current Scheme and moved to Appendix 4. Applicants living in Supported Housing are generally not statutory homeless they are placed in the accommodation under Homelessness Prevention. They will no longer be offered choice and be made one suitable offer of accommodation in generally flatted accommodation (or be made a private rented sector offer under Paragraph 17.13)	As above
Band One (h) (Current Scheme)	Provision for successor tenants who are under-occupying accommodation to be re-housed is deleted	Included at Appendix 4 “Other Allocations Outside of the HomeOptions Scheme” as there is no need to give priority due to this being either a legal right or a right under the Council’s discretionary policy.
Band Four (f) (Current Scheme)	Households with a child under the age of 5 with no access to a garden is deleted	Considered that priority should no longer be given for this need

Changes to Bandings		
Reference	Banding Change	Reason
Band Four (g) (Current Scheme)	Households with a child under the age of 5 living in a flat or maisonette	As above
Band 5 (e) (Current Scheme)	Single people accommodated in B&B who would benefit from a Support Scheme is deleted	This refers generally to young single people who need support who are placed in B&B by the Homelessness Prevention Team. These people would be referred to Support Schemes and be captured by the provisions under Appendix 4
Band 5 (k) (Current Scheme)	Homeseekers who have sufficient income or assets to enable them to purchase accommodation is deleted	No longer qualify under the new Scheme's Local Eligibility Criteria
Band One (g) (New Scheme)	Homeseekers in need of two or more additional bedrooms	To give high priority to households who are overcrowded who may not meet the statutory limit.
Band Two (d) (New Scheme)	Existing tenants living in flatted accommodation can bid for houses	To give priority for houses to existing tenants living in flatted accommodation in order to free up flats for homeless households

Changes to Bandings		
Reference	Banding Change	Reason
Band Two (e) (New Scheme)	Existing sheltered housing tenants wishing to move to another sheltered property	In order to give priority to this client group
Band Three (c) (New Scheme)	Additional priority for spouses and children of Armed Forces Personnel	Under the Localism Act 2011 and the Allocation of Housing (Qualification Criteria for Armed Forces) Regulations 2012, local housing authorities are “strongly encouraged” to give “sympathetic consideration” to the housing needs of family members of serving or former Service personnel who may themselves have been disadvantaged by the requirements of military service.

Housing Allocations Scheme

1 July 2013

1. Introduction

1.1 The Council is required, under Section 167 (1) [166 (A) (1)] of the Housing Act 1996 to have a Housing Allocations Scheme for determining priorities and the procedure to be followed in selecting a person for accommodation, or nominating a person to be a tenant for accommodation held by another Register Provider of Social Housing (e.g. a housing association). This includes all aspects of the allocations process including descriptions of persons by whom decisions are made. This Housing Allocations Scheme has been formulated in accordance with the provisions of the Housing Act 1996, as amended by the Homelessness Act 2002, the Localism Act 2011, the Allocation of accommodation: guidance for local housing authorities in England (DCLG June 2012) and other relevant legislation.

1.2 For the purposes of this Housing Allocations Scheme, the definition and interpretation of “tenant” shall have the meaning of both a Secure and Flexible (fixed-term) tenant, and references to “Homeseeker” means any applicant on the Council’s Housing Register.

2. Tenancy Strategy & Tenancy Policy

2.1 As with all Registered Providers, the Council is required to publish and be responsible for its Tenancy Policy. The Tenancy Policy has regard to the expectations of the West Essex Tenancy Strategy, and includes details of when the Council will provide Flexible (fixed-term) Tenancies, instead of Secure Tenancies. A copy of the Council’s Tenancy Policy will be made available on request free of charge and contains the following information:

- The types of tenancies granted;
- Circumstances where, a tenancy of a particular type will be granted and the length of the term;
- Circumstances where a Flexible Tenancy for a term of less than 5 years will be granted;
- Circumstances where on the expiry of a Flexible Tenancy, another tenancy will be granted on the same or another property;
- How applicants/tenants can appeal against the length of a Flexible Tenancy or a decision made under the Council’s assessment criteria not to grant a further tenancy;
- How and when the Council will take account of the needs of vulnerable people;
- How advice and assistance will be provided if another tenancy is not granted at the end of the Flexible Tenancy term; and
- Details of discretionary succession rights

3. Homelessness Strategy

3.1 Under Section 1(3), (4) of the Homelessness Act 2002, local authorities have a duty to review and publish their Homelessness Strategy on at least a 5 yearly basis. As this area of work regularly changes the Council’s Strategy is reviewed every three years. The Strategy links with the Council’s Housing Strategy, and has been taken into account

when framing this Housing Allocations Scheme. The Strategy sets out achievements over the previous three years and incorporates the needs and demands on the service and actions that need to be undertaken over the coming three years. A copy will be provided free of charge on request.

4. The Council's Policy on Offering Choice

4.1 The Council operates a Choice Based Lettings Scheme where all vacant properties are advertised to applicants on the Council's Housing Register on a website and a two-weekly Property List, giving details of location, type, rent, service charge, and landlord of the available accommodation. Applicants can apply for a property by "expressing an interest" (or "bidding") either on the website, by post, telephone or text. The most popular method of doing this is by the Internet at www.HomeOption.org

4.2 Applicants are restricted to "bidding" for properties for which their household has an assessed need. At the end of the two-weekly "bidding" cycle, the Council analyses the "bids" received and the Allocations Team within the Housing Options Section allocates each property following a prioritisation and selection process in accordance with this Allocations Scheme. In general terms, the property is offered to the applicant in the highest band, who has been registered on the Housing Register the longest, who had "bid" for the specific vacancy. The results of the "bidding" on each property advertised is then published on the Website and in a future Property List, setting out the number of "bids" received on each property, as well as the Band and registration date of the successful applicant.

4.3 This helps applicants to see how long the successful applicant had been waiting for housing and gives greater transparency in the allocation of accommodation, as each applicant is able to clearly understand the type and location of properties for which they would be most likely to "bid" successfully. The process is also an indication to homeseekers on whether housing accommodation appropriate to a person's needs is likely to become available and the possible waiting time. Homeseekers can access a Scheme User Guide on-line or request a hard copy which will be provided free of charge, which explains in detail how the Scheme operates.

4.4 Any homeseeker who may have difficulty in participating in the Choice Based Lettings Scheme can contact the Housing Options Team at the Civic Offices, Epping where staff are available to provide assistance, including the submission of "bids" on their behalf, where they have no-one else to help. Computer Kiosks are available at all housing office reception areas where bids can be submitted on the internet.

5. Advice and Information

5.1 The Council will provide advice and information free of charge to any person living in the District about their right to make an application for housing accommodation and will also assist anyone who may have difficulty in doing so without assistance.

6. The Housing Register

6.1 The Housing Register will be maintained by the Housing Directorate at the Civic Offices in Epping. The Housing Register will be open to all qualifying persons who meet the Council's Local Eligibility Criteria set out at Section 14.

6.2 The fact that a person is an applicant for the allocation of housing accommodation will not be divulged to any other member of the public without the applicant's consent.

6.3 The Housing Register will be open to;

- a) homeseekers of 18 years of age and over; and
- b) 16 and 17-year-olds owed a full housing duty by the Council under homelessness legislation.

7. The Housing Allocations Scheme

7.1 This Housing Allocations Scheme is framed so as to secure that the categories of applicants set out in Section 166 (A) of the Housing Act 1996 are given reasonable preference.

7.2 The Council recognises that there may be some exceptional circumstances not covered by the Scheme. In such instances, the Director of Housing will have delegated authority to make decisions, as he considers appropriate.

7.3 This Scheme will apply to vacancies in the Council's own housing stock and to vacancies in accommodation in the District belonging to other Registered Providers for which the Council is entitled to make nominations.

7.4. The provisions of this Scheme will apply to homeseekers on the Council's Housing Register at the effective date of the Allocations Scheme, as well as those who apply after the effective date.

7.5 The Allocations Scheme does not apply in the following cases;

- a) where a tenant succeeds to a tenancy on the death of a tenant
- b) where a tenancy is assigned to a person who would qualify to succeed to the tenancy if the tenant died immediately before the assignment
- c) where a tenancy is assigned by way of a mutual exchange to an existing tenant
- d) where a tenancy is either granted in response to a transfer request under Section 158 of the Localism Act 2011 or any other tenant transfers
- e) where an introductory tenancy becomes a Secure or Flexible Tenancy on ceasing to be an introductory tenancy or succession to an introductory tenant takes place following the death of the introductory tenant
- f) where an introductory tenant undertakes a mutual exchange with a Secure or Flexible Tenant. In these circumstances, each party will surrender their tenancies, and the Council will grant each party a new tenancy which reflects their previous tenancy status. Any period the affected tenant spent as an introductory tenant in their previous property will count towards the fulfilment of the 12-month "introductory period" in the new property. It should be noted that some social landlords do not allow introductory tenants to enter into a mutual exchange within any trial period.

- g) where a tenancy is disposed through a Property Adjustment Order in accordance with relevant legislation

8. Introductory Tenancies

8.1 The Council operates an Introductory Tenancy Scheme whereby all new potentially Secure and Flexible Tenants are “on trial” for a period of 12 months in order that the Council can satisfy itself that the introductory tenant can sustain a tenancy and meet all of the conditions of the Council’s Standard Tenancy Agreement. Should any conditions be breached, the Council will be able to seek possession of the property through the County Court with the judge having to grant possession, provided all of the procedures are followed correctly. In circumstances where the Council has concerns about an introductory tenant, but not serious enough to apply to the County Court for possession, the introductory period can be extended by a further 6 months.

8.2 The Council will grant introductory tenancies to all new tenants allocated accommodation under this Housing Allocations Scheme. Existing Council tenants will not be allocated introductory tenancies unless they are already an introductory tenant, in which case they will be required to fulfill their introductory tenancy period in their new property.

9. Flexible (Fixed-term) Tenancies

9.1 The Council will grant Flexible Tenancies in accordance with its Tenancy Policy to all new tenants who sign-up to a tenancy of a Council property of three bedrooms or more. The tenancy will be for a fixed term of 9 years. An introductory tenancy term of 12 months (or 18 months where the term is extended due to minor breaches of tenancy conditions) will be added to the 9-year Flexible Tenancy term, making the tenancy 10 years in duration. The Flexible Tenancy term will be for 8½ years where introductory tenancies are for 18 months.

9.2 If a Flexible Tenant wishes to transfer to smaller accommodation, the financial incentives to downsize set out under Section 20 of the Scheme will apply, but only within the first 5 years (including the Introductory Tenancy period) of the fixed-term.

10. Joint and Single Introductory Tenancies

10.1 A tenancy can be held by one person or by up to four joint tenants, all of whom must be qualifying persons. However many tenants there are, there is still only one tenancy and the rights and duties relating to the tenancy apply jointly and severally to all joint tenants. When a joint tenant dies, the remaining tenant/s will continue to hold the tenancy by “survivorship”. However, the names of any joint tenants cannot be removed from the tenancy and if one joint tenant surrenders the tenancy then the tenancy comes to an end. Further information is available in the Council’s leaflet on joint tenancies.

10.2 Joint Introductory tenancies will be offered to;

- a) married couples or civil partners provided that both homeseekers are named on the application form
- b) unmarried couples, or those living as civil partners who can demonstrate a relationship similar to marriage or a civil partnership, providing that both

request it and the partner of the lead homeseeker is registered on the application form

- c) homeseekers and their live-in carers, where the live in carer has occupied the property as their only or principal home for over 12 months and the Council considers it to be justified.

10.3 In all other circumstances, single tenancies will be offered to the lead applicant.

11. Tenancy Start Dates

11.1 Most homeseekers will be given an opportunity to view the property they are being offered and to give the Council a decision. If they are interested in the tenancy they will either be advised by telephone when the property is ready for letting or be made a formal offer of the tenancy by first class post.

11.2 When properties become available for letting, the tenancy start date will, in all cases, be the following Monday. However, where a property becomes available for letting on a Thursday or Friday, the first week of the tenancy will be rent free in order to allow the homeseeker reasonable time to move into the accommodation.

12. Mutual Exchanges

12.1 The Council offers "HomeSwapper", an internet based mutual exchange service, free of charge to assist qualifying tenants who are wanting to enter into a mutual exchange. Any tenant who does not have access to the Internet will be provided with support on request.

13. Persons from Abroad

13.1 The Council will not allocate housing accommodation to a person from abroad who is ineligible for housing accommodation, including two or more persons jointly if any of them is a person subject to immigration control within the meaning of the Asylum and Immigration Act 1996, (except those in classes prescribed by the Secretary of State as being eligible for an allocation of housing). Furthermore, it must be noted that the Secretary of State may by regulations prescribe other classes of persons from abroad who are ineligible to be allocated housing accommodation by local authorities in England.

13.2 Any part of a household who are not qualifying persons from abroad will not be counted as part of the assessment of need and size of accommodation.

14. Local Eligibility Criteria

14.1 The Council has a Local Eligibility Criteria which is in place to prevent applicants joining the Housing Register who have no realistic prospect of being housed, in order to remove any expectations. Within this Housing Allocations Scheme, those who do not meet the criteria are classed as persons not qualifying.

14.2 The following classes of persons will not qualify for inclusion on the Council's Housing Register.

Residency Criteria

14.3 Any applicant/s who has lived in the Epping Forest District for less than three continuous years immediately prior to their date of registration, with the exception of the following:

- (a) Members of the Armed Forces and former Service personnel, where the application is made within 5 years of discharge;
- (b) Bereaved spouses and civil partners of members of the Armed Forces leaving services' family accommodation following the death of their spouse or partner;
- (c) Spouses and children (including step-children) of existing or former Armed Forces Personnel, provided that one of their family members (as defined by Section 113 of the Housing Act 1985) has lived within the District for at least 3 continuous years immediately prior to the date of registration;
- (d) Serving or former members of the Reserve Forces who need to move because of serious injury, medical condition or disability sustained as a result of their service;
- (e) Applicants owed a homelessness duty by the Council under S193 of the Housing Act 1996 as amended who have already met the residency provisions in accordance with the legislation; and
- (f) Applicants who were registered on the Housing Register on 31 May 2013 and who had lived in the District for at least 2 years and 6 months continuously immediately before this date.

14.4 Homeseekers who move out of the Epping Forest District into settled accommodation for less than 3 years, but lived within the District for at least 3 years immediately before moving out of the District, will be treated as homeseekers who have lived in the District for more than 3 years prior to application.

Housing Need

14.5 Any applicant who does not have a housing need, as determined by at least one criterion of a priority band at Appendix 1 of this Housing Allocations Scheme, will be ineligible.

Financial Criteria

14.6 Any applicant who, in the opinion of the Council, has sufficient funds including; annual income, residential property equity, savings, shares or other assets to enable them to meet his or her housing costs will be ineligible. The thresholds at which this criterion will apply are where;

- three times the gross annual household income including; residential property equity, savings, shares or other assets, exceeds £200,000 and the applicant qualifies for studio or 1 bedroom accommodation

- three times the gross annual household income including; residential property equity, savings, shares or other assets, exceeds £275,000 and the applicant qualifies for 2-bedroom or larger accommodation.

14.7 Any lump sums received, as compensation for an injury or disability sustained on active service by either, members of the Armed Forces, former Service personnel, bereaved spouses and civil partners of members of the Armed Forces, or serving or former members of the Reserve Forces, will be disregarded from this criterion.

Serious Unacceptable Behaviour

14.8 Any homeseeker (or a member of their household) who, within the previous 3 years, have been guilty of serious unacceptable behaviour enough to make them unsuitable as a tenant of the Council will be ineligible. Such behaviour is behaviour that would give sufficient grounds to issue possession proceedings if they were a Secure, Assured or Flexible Tenant and includes serious rent arrears (including housing benefit and Court cost arrears), other breaches of tenancy conditions, previous proven social housing fraud, damage and neighbour nuisance, amongst others. Applicants most likely to be rejected on these grounds are those who have been evicted from a council, housing association or private rented tenancy. In addition, any person subject to an Anti-Social Behaviour Order, an Anti-Social Behaviour Contract, or any similar penalty introduced under future anti-social behaviour legislation will also not qualify.

Future Applications

14.9 If a non-qualifying applicant considers that he/she should be treated as a qualifying person in the future, they may make a fresh application at that time.

Supplementary Waiting List

14.10 The Council operates a separate inactive Supplementary Waiting List for non-qualifying applicants over 60 years of age who do not meet the Local Eligibility Criteria. Applicants will only be able to bid on Council or Housing Association properties in sheltered accommodation or grouped dwelling schemes for older people under the HomeOption Scheme. However, qualifying persons on the Council's Housing Register who have submitted bids will be given priority.

14.11 Any offers of tenancies made to applicants on the Supplementary Waiting List will prioritised in registration date order. Prior to any offer, the Council will undertake an in-depth assessment of the applicant to determine if the accommodation is suitable for the applicant. The following aspects of the Local Eligibility Criteria set out within Section 14 above will apply when determining if the applicant is eligible for inclusion on the Supplementary Waiting List:

- Financial Assessment
- Serious Unacceptable Behaviour
- False Statements and Withholding Information

15. Application to the Housing Register

15.1 The Council will ensure that advice, information and assistance is available free of charge to homeseekers in the District about the right to make an application for an

allocation of housing accommodation. Applications must be made on-line [*insert Locata website address*]. Assistance will be given to homeseekers who do not have access to a computer or who need help generally with the application process. Each application received will be given careful consideration.

15.2 Advice and information will be provided by the Council, the 3 Citizens Advice Bureaux in the District and any other source able to give appropriate advice free of charge.

Definition of Household

15.3 Homeseekers will be required to, within their on-line applications, provide answers to such questions as the Council deems appropriate to allow an assessment of their entitlement to housing accommodation to be made. Homeseekers should only include persons on their application who will be part of their household and occupying accommodation offered as their only or principal home.

Proof of Identity

15.4 Homeseekers and other persons included on the application will, at the point of application, be required to provide documentary proof from two official sources of;

- a) their identity; and
- b) their current residence.

15.5 Required documents in respect of 15.4 above are as follows:

- a) Full birth certificate and current passport, or
- b) Current driving licence (copies), a current passport style photograph of the applicant and two further documents, as follows:
 - Current tenancy agreement or current medical card
 - Utility bill or bank statement, or a document or letter from a Government Department (such as HM Revenue and Customs, Benefits Agency of the Employment Service)

Note: Current, means dated within the last three months.

Proof of Residency

15.6 Any Homeseeker will be required to provide evidence of residency to the satisfaction of the Council. In order to validate the residency of the homeseeker and other persons included on the application, the Council will undertake checks with other Council Directorates and relevant bodies as appropriate.

15.7 If required documents cannot be provided, the Housing Options Manager may authorise the acceptance of other documents.

15.8 When a homeseeker is being considered for a property, they will be contacted by telephone and required to provide up-to-date evidence of their current situation in order

to consider their eligibility again for any offer of accommodation. Such evidence will be more extensive than that requested at the point of joining the Housing Register. Under normal circumstances, any homeseeker who fails to provide this evidence will not be offered the property. Additional documentary evidence to substantiate an application may be required from time-to-time as the Council considers appropriate.

15.9 When making an application on line, should any information not be submitted, or due to the information provided the homeseeker is deemed not to qualify, it will not be possible to complete the application process. In such circumstances the homeseeker should seek advice and assistance from the Council. Where supporting documents are not received within 14 calendar days of any application being completed on line the application will be cancelled.

16. Information about the Housing Allocations Scheme

16.1 Upon written request, homeseekers will be able to;

- (a) receive a copy of their details entered on the Housing Register free of charge;
- (b) receive copies of documents provided by them;
- (c) have access to their file in accordance with the provisions of the Data Protection Act 1998;
- (d) have a copy of their full file, subject to payment of a £10 fee;
- (e) be informed in writing of any decision about the facts of their case and of their right to request a review of any such decision;
- (f) receive general information to enable them to assess;
 - (i) how their application is likely to be treated under the Scheme; and
 - (ii) whether accommodation appropriate to their needs is likely to be available and, if so, when; and
- (g) receive a summary of the Housing Allocations Scheme free of charge.

17. Allocation of Accommodation

17.1 Generally, the relative degree of priority to be awarded to homeseekers on the Housing Register will be assessed by the Housing Allocations Team within the Housing Options Section with reference to the banding system set out at Appendix 1. The banding system is framed so as to ensure that reasonable preference is given to those applicants referred to under Part 7 Section 166A (3) of the Housing Act 1996.

17.2 Band 1 represents the highest priority and Band 3 represents the lowest.

17.3 Homeseekers will be expected to be maximising and not worsening the use of their existing accommodation. Applications will be assessed on the household composition and the size of the existing accommodation, rather than its current use by the household.

17.4 An offer of accommodation will not be made to any homeseeker who has not maintained a satisfactory rent account in the last three years.

17.5 Homeseekers within each band will be prioritised in registration date order. For homeseekers within Band Two (d) the homeseeker's tenancy commencement date will be the registration date.

17.6 Any vacancy will be offered generally to the homeseeker identified by the Council who has the highest priority and has expressed an interest in that property. This is subject to sheltered accommodation and bungalows generally only being offered to homeseekers over the age of 60 years.

17.7 The size of housing accommodation to be allocated to homeseekers on the Housing Register is set out in Appendix 2.

17.8 The Council will operate some local lettings schemes concerning the allocation of particular accommodation for persons of a particular description and reserves some vacancies as set out at Appendix 4.

Penalty for Refusals of Offers of Accommodation

17.9 Any homeseeker (apart from an existing tenant of the Council who is under-occupying and wishing to move to smaller accommodation) who refuses two offers of suitable accommodation for which they have expressed an interest within any three-month period will have their application deferred for a period of six months.

Homeless Households

17.10 The Housing Allocations Scheme is framed to ensure that reasonable preference is given to people who are homeless within the meaning of Part 7 of the Homelessness Act 1996.

17.11 Homeless households will generally be initially placed in temporary accommodation. The Council reserves the right to move homeless households to alternative temporary accommodation in appropriate circumstances.

17.12 Applicants accepted by Epping Forest District Council as homeless, eligible for assistance, in priority need and not intentionally homeless under the Part 7 of the Housing Act 1996 as amended and resident in the Epping Forest District for at least 3 continuous years will be made one offer of suitable accommodation after receiving their S.184 decision letter, in generally flatted accommodation as set out at Appendix 4. Homeless applicants will be made an offer accordingly, subject to the availability of accommodation and Paragraph 17.13 below. If the offer is refused without good reason, the Council's homelessness duty under the Housing Act 1996 to provide accommodation will be considered to be discharged.

Homeless Households - discharging duty in the Private Rented Sector

17.13 Applicants accepted by Epping Forest District Council as homeless, eligible for assistance, in priority need and not intentionally homeless under the Part 7 of the Housing Act 1996, who are not qualifying persons under the Local Eligibility Criteria of this Housing Allocations Scheme will generally be secured, in accordance with the Council's policy, in the first instance and subject to availability, suitable accommodation

in the private rented sector with or without the applicant's consent, which will discharge the Council's homelessness duty.

17.14 The private rented tenancy will be for a period of not less than 12 months. If within 2 years, beginning with the date on which the applicant accepts a private rented sector offer, the applicant re-applies for accommodation, or for assistance in obtaining accommodation, and if the applicant is found to be homeless (from the date of the expiry of the termination notice) and did not become homeless intentionally from the private rented accommodation, the Council will accept a homelessness duty regardless of whether the applicant has a priority need.

17.15 If it is not possible or reasonably practicable for the Council to place the applicant in private rented accommodation within the District, then suitable accommodation may be secured in a neighbouring authority's area. If a suitable private rented sector offer cannot be made within 3 months of the Section 184 decision letter, the Council may offer the applicant one suitable offer of Council accommodation; if the offer is refused, the Council's homelessness duty under the Housing Act 1996 to provide accommodation will be considered to be discharged.

18. Redecoration Vouchers Scheme

18.1 Internal decorations to a property are the tenant's responsibility. However, if a property offered to a homeseeeker is, in the view of the inspecting officer, in need of redecoration, an allowance for decorating materials will be made and a redecoration voucher for use in a DIY store will be issued to the incoming tenant after they have signed the tenancy agreement, as a contribution towards costs. A redecoration allowance will only be made to existing tenants if their previous Council property is found to have been left in reasonable repair.

19. Removal Expenses

19.1 The Council will not meet the cost of any removal expenses, except as set out in Section 20 below.

20. Incentive Payments for Downsizing Accommodation

20.1 Where a tenant of the Council moves to any property with less bedrooms than their current property and both are owned by the Council, they will be offered £500 to cover removal costs plus £500 for each bedroom "released", subject to the tenant having a housing need for the downsized property, and a maximum payment of £2,000 being made.

20.2 Any tenant wishing to enter into this arrangement whose rent account is in arrears, must be prepared to accept that the arrears will be deducted from the amount paid.

20.3 Where a tenant of the Council is downsizing accommodation, they will be considered for a bungalow if they wish, normally allocated to persons over 60 years of age, but provided they are over 50 years of age.

20.4 Attention is drawn to the ineligibility for financial incentives of certain Flexible Tenants referred to in Paragraph 9.2.

20.5 No payments will be made to successor tenants who are required to move to smaller accommodation.

21. Decisions on the Allocations Process

21.1 The Council gives delegated authority to the Director of Housing to take decisions on the allocations process. In turn, the Director of Housing delegates such decisions to the Allocations Team within the Housing Options Section, under the supervision of the Housing Options Manager.

22. Reviews

22.1 If any applicant is found not to be a qualifying person for an allocation of accommodation, they will be notified in writing of the decision and the grounds for it. They will also be given the opportunity for the information to be explained to them verbally. If they consider they have been unfairly or unreasonably treated having regard to the provisions of the Allocations Scheme, they have the right to request a review of the decision and to be informed in writing of the decision on the review and the grounds for it within 21 days of the date of the decision letter. Upon request, the notice can be collected by the applicant within a reasonable period.

22.2 In the first instance, subject to 22.4 below, applicants must seek a review in writing to the Assistant Director of Housing (Operations) and will receive a written response within 8 weeks of the date the request is received. Should an extension of the deadline be required the homeseeker will be notified of this and the reasons.

22.3 The review will be undertaken either by the Assistant Director of Housing (Operations), the Housing Options Manager or any other senior officer designated by the Director of Housing, who will advise the homeseeker of any further rights of appeal as appropriate.

22.4 The review will be undertaken by a person senior to the person making the original decision and who has not had a significant involvement in the original decision.

22.5 If the applicant considers that he/she should be treated as a qualifying person in the future, they may make a fresh application.

23. Equal Opportunities

23.1 The Council has undertaken a Customer (Equality) Impact Assessment on the Housing Allocations Scheme to determine how the Scheme will impact upon those classes of persons with protected characteristics and to ensure that it complies with the Equalities Act 2010. A copy of the Customer (Equality) Impact Assessment is available upon request free of charge.

23.2 The Council is committed to equal opportunities in the provision of its housing services. The Council has regard to, and implements, the provisions of the Race Relations Code of Practice in Rented Housing. The Council will also comply with the Equality Act 2010.

23.3 As an aid to ensuring that homeseekers are not discriminated against on the grounds of race, through one of its Overview and Scrutiny Committees, the Council will monitor the racial origin of:

- a) homeseekers on the Housing Register;
- b) homeseekers allocated housing;
- c) homeseekers on the Housing Register seeking sheltered accommodation;
and
- d) homeseekers offered sheltered accommodation.

23.4 The practices and procedures of the Housing Directorate will be monitored by the appropriate Assistant Director of Housing to ensure that they do not discriminate directly or indirectly. Changes will be made if it is established that any practices or procedures may be contravening the Equality Act 2010.

24. False and Withheld Information

24.1 Any persons who have knowingly or recklessly made a statement which is false in material or knowingly withholds information that the Council has reasonably required them to give in connection with the exercise of the Scheme will have their housing application cancelled.

24.2 The Council may seek possession of a property under Ground 5 of Schedule 2 of the Housing Act 1985 and take criminal proceedings if a tenant has induced the Council to grant a tenancy by knowingly or recklessly making a false statement when they applied for the accommodation.

25. Information on the Allocations Scheme

25.1 The Council will:

- a) publish a summary of its Allocations Scheme in a leaflet setting out a person's right to make an application for housing accommodation and provide copies free of charge on request to any member of the public;
- b) provide copies of the Allocations Scheme free of charge at the:
 - (i) Housing Options Section, Civic Offices, Epping
 - (ii) Area Housing Office, 63 The Broadway, Loughton
 - (iii) Limes Farm Housing Office, The Limes Centre, Chigwell; and
- c) enable copies of the Allocations Scheme to be downloaded from the Internet at the Council's web-site: www.eppingforestdc.gov.uk/housing (follow the link to Residents/Your home/Housing Advice/Applying for a council or housing association home).

26. Review of Allocations Scheme

26.1 The Allocations Scheme will be reviewed on at least a three-yearly basis by the Council's Housing Scrutiny Panel in consultation with the Tenants and Leaseholders Federation, which shall recommend any changes to the Council's Cabinet.

27. Consultation on Changes to the Allocations Scheme

27.1 Before adopting a new Allocations Scheme or making an alteration reflecting a major change of policy in its existing Allocations Scheme, the Council will send a copy of the draft scheme or any proposed major change to the scheme to all of the following interested parties giving them a reasonable opportunity to comment:

- Every private Registered Provider of social housing with which it has nomination arrangements
- Town and Parish Councils
- The Tenants and Leaseholders Federation
- Partner agencies with an interest in the Scheme

Band One

- (a) Any member of the Armed Forces, or former Service personnel, or serving or former members of the Reserve Forces who joins the Council's Housing Register, are given priority above all other applicants within Band One, where they are assessed by the Council's Medical Advisor as having "Urgent Medical Need" as a result of any serious injury, medical condition or disability sustained as a result of their service, where the application is made within 5 years of discharge.
- (b) Homeseekers with Council or Housing Association tenancies in the District wanting to move to accommodation with fewer bedrooms than the property they currently occupy on a permanent basis.
- (c) Homeseekers needing to move on urgent medical grounds or urgent grounds relating to disability. **
- (d) Homeseekers needing to move on urgent welfare grounds ***.
- (e) Homeseekers occupying insanitary or overcrowded housing which poses a serious health hazard, or otherwise living in unsatisfactory conditions (in accordance with housing legislation).*
- (f) Homeseekers with mobility problems will be given priority for ground floor flats and bungalows above other homeseekers in this Band (with the exception of Band One (a)), regardless of their waiting time, on recommendation of the Council's Medical Advisor.
- (g) Homeseekers needing two or more additional bedrooms compared to their current accommodation.

Band Two

(a) Homeseekers who need to move to a particular locality within the District where failure to meet that need would cause hardship to themselves or to others. ****

(b) Homeseekers who can demonstrate they would otherwise be one household, but are having to live apart from other members of their household because of a lack of accommodation, (which would lead to statutory overcrowding if they occupied accommodation available to them individually) but not for personal reasons (i.e. family disputes).

(c) Homeseekers needing one additional bedroom compared to their current accommodation.

(d) Existing tenants of the Council:

(i) living in 3 bedroom flatted accommodation who meet the Local Eligibility Criteria and have a 3 bedroom need, can Bid for 3 bedroom houses; and

(ii) living in 2 bedroom flatted accommodation who meet the Local Eligibility Criteria and have a 2 bedroom need, can Bid for 2 bedroom houses;

with their registration date being the tenancy commencement date of their current property.

(e) Existing tenants living in sheltered accommodation who are wishing to move within their own scheme or to another sheltered scheme within the District.

(f) Homeseekers in the Council's accommodation that is non-secure by virtue of Schedule 1 of the Housing Act 1985, excluding those referred to another local housing authority under S.198 of the Housing Act 1996, accepted by Epping Forest District Council as homeless, eligible for housing assistance, in priority need and not intentionally homeless.

Band Three

(a) All Homeseekers needing to move, including existing tenants with a good tenancy record, to be nearer to their place of work, or to take up an offer of permanent employment, or a long term (full-time) training opportunity which will lead to employment.

(b) Homeseekers sharing accommodation with another household.

(c) Spouses and children (including step-children) of existing and former Armed Forces Personnel (including those who do not meet the Council's residency criteria) seeking accommodation in their own right, provided that one of their family members (as defined by Section 113 of the Housing Act 1985) has lived within the District for at least 3 years immediately prior to the date of application.

(d) Homeseekers needing to move on moderate medical grounds or grounds relating to disability. *****

(e) Homeseekers accepted by Epping Forest District Council as homeless, eligible for assistance, in priority need but found to have become homeless intentionally.

Insanitary, Overcrowded Housing or Unsatisfactory Conditions

*Where the Permitted Number, in accordance with the provisions of S. 326 of the Housing Act 1985 is exceeded, or the property is in a serious state of disrepair, of poor internal or external arrangement, or the property has been classified as having at least one Category 1 Housing Hazard under the Housing Act 2004 or is lacking one or more of the following; kitchen facilities, inside W.C., utility supplies.

Urgent Medical Priority

**Urgent Medical Priority (including grounds relating to disability and access needs and/or learning disability) to be determined by the Council's Medical Adviser or a company commissioned by the Council to provide medical advice on written evidence and taking into account all known facts relating to the application. It is important to note that urgent priority will not be given based upon the medical evidence itself, it will be based upon the impact it has upon the homeseeker's housing requirements and whether the homeseeker's current accommodation is directly contributing to the deterioration of the homeseeker's health. It will be considered based on the extent that the health of a homeseeker, or an immediate member of their family, will significantly improve by a move to alternative accommodation.

Welfare Grounds

*** Welfare grounds to be assessed on written evidence by the Housing Options Manager, in consultation with the Council's Medical Adviser. Welfare issues will encompass providing or receiving ongoing care and care and support needs for those who could not be expected to find their own accommodation such as young adults with learning disability who wish to live independently in the community and social needs, for

instance, where a secure base is required for a care-leaver or any other vulnerable person to build a stable life. Those who are active foster carers or those who are adopting who need to secure larger accommodation in order to look after a child who was previously looked after by local authority will be considered for a flexible tenancy (in accordance with the Council's Tenancy Policy) where additional priority is justified.

Hardship Grounds

****Hardship may also include a need to move to give or receive care that is substantial or ongoing as well as for access to specialist medical treatment where there are severe mental health, medical or welfare issues and there are exceptional reasons why this support cannot be made available through a reliance on public transport or on the homeseekers own transport.

Moderate Medical Priority

*****Moderate Medical Priority, being generally one or a combination of minor medical issues, to be determined by the Council's Medical Adviser or a company commissioned by the Council to provide medical advice on written evidence and taking into account all known facts relating to the application. It is important to note that moderate priority will not be granted based upon the medical evidence itself, it will be based upon the impact it has upon the homeseeker's housing requirements and whether the homeseeker's current accommodation is directly contributing to the deterioration of the homeseeker's health. It will be considered based on the extent that the health of a homeseeker, or an immediate member of their family, will significantly improve by a move to alternative accommodation. No increase in Banding will be given as a result of "Moderate Medical" priority; it will only result in a homeseeker being a qualifying person under the Scheme should no other criterion be met.

Re-Assessment of Medical Priority

Any homeseeker who is awarded Band One priority due to urgent medical priority will have their medical position re-assessed if they express an interest for a property and then refuse an offer of that accommodation. A re-assessment will also be undertaken of any homeseeker with urgent medical preference who fails to fully participate in the Choice Based Lettings Scheme for more than 6 months. In addition, should any applicant move from their existing accommodation and remain on the Housing Register, a fresh medical assessment will be undertaken.

Sizes of Properties to be Allocated

The sizes of properties allocated to homeseekers on the Housing Register will be based on the composition of their household, generally in accordance with the property sizes of the Local Housing Allowance, as shown in the following table.

Property Size	Household Composition
Studio	Single Persons
1 Bedroom	Single person or 2 persons, with no family members
2 Bedroom	Single Person or 2 persons, with 1 family member or 2 family members of the same sex, or 2 family members of opposite sex both under the age of 10 years
3 Bedroom	Single person or 2 persons, with 2 family members of opposite sex with one family member over the age of 10 years Single person or 2 persons, with 3 family members 2 of whom are of the same sex Single person or 2 persons, with 4 family members 2 each of the same sex
4 Bedroom*	Single person or 2 persons with 4 or more family members where two are of opposite sex and over the age of 10 years
5 Bedroom*	Single person or 2 persons with 5 or more family members where 2 family members are of opposite sex and one is over 10 years of age

Family members are defined in accordance with the Housing Act 1996 Part 7 Section 176 as a person who normally resides with the lead applicant/s as an (established) member of his or her family. A family member is as defined by Section 113 of the Housing Act 1985.

*It should be noted the Council has very few properties with 4 or 5 bedrooms in its housing stock

For information

In exceptional circumstances, homeseekers may be allocated a property which is one bedroom above the need of their household where the Council's Medical Advisor agrees that there are urgent medical reasons for doing so. Where applicants receive support from carers who do not reside with them but may need to stay overnight, the Council will take into account the applicant's need for a spare bedroom

It should be noted in cases where residence of children is shared, and where one parent has accommodation available to them that meets the need of that household, the other parent, generally, will only be considered for 1 bedroom accommodation.

Under the HomeOption Scheme, homeseekers will be able to express an interest in properties which are one bedroom less than their need provided it is within the Permitted Number of occupants allowed under the Housing Act 1985.

Priority Transfers

Priority Transfers will only be granted on a like-for-like accommodation basis for urgent reasons including;

- urgent circumstances (in accommodation away from the local area) where there is clear written evidence that an existing tenant's safety is at risk including, as a result of violence or threats of violence, intimidated witnesses and those escaping anti-social behaviour or domestic violence
- those who need to move urgently because of life threatening illness or sudden disability. Decisions will be based upon the advice of the Council's Medical Advisor following consideration of the impact it has upon the tenant's housing requirements and whether the tenant's current accommodation is directly contributing to the deterioration of the tenant's health. It will be considered based on the extent that the health of a tenant, or an immediate member of their family, will significantly improve by a move to alternative accommodation.
- to facilitate major repairs or refurbishment of a Council property
- where a Council property is required to be demolished for safety or redevelopment purposes
- other transfers of a similar nature as determined by the Director of Housing

1. Allocations Outside of the HomeOption Scheme

1.1 The Council will, as it considers appropriate, allocate properties outside of the HomeOptions Scheme in the following circumstances:

Homeless Applicants

1.2 To applicants accepted by Epping Forest District Council as homeless, eligible for assistance, in priority need and not intentionally homeless under the Part 7 of the Housing Act 1996 as amended who meet the Council's Local Eligibility Criteria set out at Section 14 of this Housing Allocations Scheme, who are living in:

- bed and breakfast accommodation secured by the Council, but excluding those in the process of being referred to another local housing authority under S.198 of the Housing Act 1996
- the Council's Homeless Persons Hostel (Norway House or Hemnall House), or a Women's Refuge
- homeless applicants living in Brookhaven for 6 months and have been served with a S 21 Notice (giving notice of ending the assured tenancy), where the Manager of Brook Haven has notified the Council that the tenant is ready to move on.

1.3 In respect of 1.2 above, homeless applicants will be made one offer of suitable accommodation after receiving their S.184 decision letter, generally in flatted accommodation subject to Paragraph 17.13 of this Housing Allocations Scheme. If the offer is refused, the Council's homelessness duty under the Housing Act 1996 to provide accommodation will be considered to be discharged.

Applicants Living in Supported Housing

1.4 To homeless applicants to whom the Council does not owe the full homelessness duty, who meet the Council's Local Eligibility Criteria set out at Section 14 of this Housing Allocations Scheme and have been placed by the Council under its nomination rights or by a recognised Allocations Panel for a least 9 months and are ready to move on, at either the:

- S.A.F.E. (Single Accommodation for Epping Forest "NACRO") Project;
- Young Parent Scheme at Railway Meadow, Ongar
- Supported housing scheme for vulnerable adults at Tolpuddle House, Ongar
- Supported housing scheme at Elm Court, Theydon Bois
- NACRO scheme for those with mental health issues
- Young parent and child scheme at Bartletts, Chelmsford

1.5 In respect of 1.4 above, such homeless applicants will be made one offer of suitable accommodation at the end of their stay in supported housing, generally in flatted accommodation subject to Paragraph 17.13 of this Housing Allocations Scheme. If the offer is refused, the Council will make no further offers of accommodation.

Other Allocations Outside of the HomeOption Scheme

1.6 Where a priority transfer is agreed in accordance with the criteria set out at Appendix 3.

1.7 To accommodate successor tenants under occupying Council accommodation

1.8 One property may be offered within any 12 month period for an applicant on the Witness Protection Mobility Scheme, such accommodation to be a flat or maisonette.

1.9 Up to 5 properties may be offered per annum for public sector key workers.

1.10 Up to 5 properties may be offered at any one time for key Epping Forest District Council employees.

1.11 To homeseekers to whom the Council has accepted a duty under the provisions of the Rent (Agricultural) Act 1976.

1.12 Where it is necessary to re-accommodate, potentially, the last two Council Scheme Managers remaining in tied accommodation.

2. Allocation Quotas/Local Lettings Plans/ /Reserved Properties/Homelessness Allocation Quotas or Local Lettings Plans for Housing Association Developments

2.1 For some large affordable housing schemes that a housing association develops and/or manages it may be appropriate to look at Allocations Quotas or Local Lettings Plans.

2.2 An Allocations Quota is a quota of homeseekers within specific categories agreed between the Council and the housing association that replaces the usual nominations criteria.

2.3 A Local Lettings Plan is an arrangement for the nomination of homeseekers with specific recognised needs related to the type or design of the new affordable housing.

2.4 Where vacancies arise in properties that have been built in rural localities under exceptional planning arrangements (Section 106 Agreements), only homeseekers who comply with the requirement to have a connection with the locality can be considered.

3. Local Lettings Plans for Council Housing

3.1 Local lettings policies are where the Council allocates particular accommodation to people of a particular description in order to achieve a wide variety of housing management and policy objectives.

3.2 Some of the Council's properties on housing estates have been designated as being particularly suitable for older tenants. This is usually where there is a Scheme Manager or where a hard-wired emergency alarm has been fitted in a property. Where vacancies arise in such properties, homeseekers over 60 years of age will be given preference for them.

3.3 Where properties have been purpose built or adapted for tenants with specific needs, for instance, physical disabilities, preference will be given to homeseekers from households in need of that particular type of accommodation.