

**Report to Housing Scrutiny Panel**  
**Date of meeting: 15<sup>th</sup> September 2005**



**Portfolio: Housing – Councillor M Heavens**  
**Subject: Housing Allocations Scheme and Mutual Exchanges Scheme**  
**Officer contact for further information: Marion Pearce**  
**Committee Secretary:**

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**Recommendations/Decisions Required:**

1. That the Panel considers the proposed changes to the Housing Allocations Scheme and Mutual Exchanges Scheme set out in the report and provides any suggested amendments to the proposals to the Housing Portfolio Holder for him to consider prior to submission of his report to the Cabinet; and
2. to note that registered social landlords with whom the Council has nomination agreements and local councils within the District are being consulted on the proposed changes, and that the Housing Portfolio Holder will report on the outcome of this consultation direct to the cabinet.

**Report:**

**Background**

1. The bandings which currently form the basis for the prioritisation of housing applications under the Council's Housing Allocations Scheme were introduced from 1<sup>st</sup> September 2004. Officers consider that these are generally working well, striking a balance between those in the most urgent housing need and other applicants on the Housing Register. No major problems have arisen and offers have been made to applicants from Band 1 to Band 5 (local applicants in housing need) of all sizes of accommodation, except 4 bedroom properties, which are in very short supply.
2. The following is an analysis of lettings on secure tenancies between 1<sup>st</sup> September 2004 and 1<sup>st</sup> June 2005 (9 months).

<b>Size</b>	<b>Studios</b>	<b>1B</b>	<b>2B</b>	<b>3B</b>	<b>4B</b>	<b>Total</b>	<b>%</b>
<b>Band 1</b>	9	66	33	30	1	139	<b>50</b>
<b>2</b>	2	18	0	0	0	20	<b>7</b>
<b>3</b>	0	6	13	0	0	19	<b>7</b>
<b>4</b>	1	13	29	8	0	51	<b>18</b>
<b>5</b>	5	17	2	2	0	26	<b>9</b>
<b>6</b>	5	12	2	0	0	19	<b>7</b>
<b>7</b>	3	2	0	0	0	5	<b>2</b>
<b>Total</b>	<b>25</b>	<b>134</b>	<b>79</b>	<b>40</b>	<b>1</b>	<b>279</b>	<b>100</b>

3. Notwithstanding the above, applicants in Band 4 can expect to be on the Housing Register for around 6 years. The use of general needs vacancies as temporary accommodation for homeless people has had an adverse impact on Housing Register allocations but, on a positive note, the risk of returning to the use of B&B for homeless families has been minimalised. A cushion of vacant rooms at Norway House has been achieved by using it primarily as interim accommodation, pending investigation of applications, with Hemnall House, Brook Haven, the Fresh START Scheme and general needs housing stock providing temporary accommodation. Some rooms at Norway House are now being used for single homeless people, further reducing the need for B&B accommodation.

4. This is an analysis of lettings to homeless households on temporary (non-secure) tenancies in the general housing stock between 1<sup>st</sup> September 2004 and 1<sup>st</sup> June 2005.

<b>Size</b>	<b>Studios</b>	<b>1B</b>	<b>2B</b>	<b>3B</b>	<b>4B</b>	<b>Total</b>
<b>No. of lets</b>	13	54	51	9	0	127

#### **Proposed Changes to the Scheme – Bandings**

5. Officers are of the view that no major alterations are needed to the current banding system, but recommend that some minor changes are made, mainly for clarification purposes or to reflect provisions in the new Housing Act 2004.

6. The Housing Allocation Scheme is attached at Appendix 1 but, for ease of reference,

details of the current bandings system are set out below, with suggested new wording in **bold**, deleted wording and explanatory text in *italics*.

### **Band 1**

- Applicants accepted by Epping Forest District Council as homeless, eligible for housing assistance, in priority need and not intentionally homeless, in supervised accommodation secured by the Council but excluding those referred to another local housing authority under S.198 of the Housing Act 1996, **provided that, generally, no allocation be made to an applicant within 6 months of their being afforded supervised temporary accommodation.**

*The reason for the proposed change is that, generally, earlier rehousing is inappropriate, given the nature of the temporary supported accommodation, which is self-contained and offers intensive housing management to reduce the risk of repeat homelessness. That said, a flow of vacancies needs to be maintained for new cases.*

- **Applicants whom the multi-agency referral panel for S.A.F.E. (Single Accommodation for Epping Forest) has notified the Council as having been on the project for at least 9 months and are ready to move on.**

*The reason for the substituted definition is that, in a very few cases, there has been some doubt about the readiness of notified applicants to move on. Confirmation from the multi-agency referral panel should resolve this.*

- Applicants living in the Epping Forest District for more than a year immediately prior to application **residing** in insanitary, overcrowded or unsatisfactory conditions. \*

*This change is for clarification purposes only.*

- Applicants living in the District for more than a year immediately prior to application needing to move on strong medical or welfare grounds **or for reasons of disability.** \*\*

*The additional category of disability reflects the requirements of the Housing Act 2004.*

- Applicants with Council or RSL tenancies in the District wanting to move to accommodation with fewer bedrooms.

### **Band 2**

- Applicants accepted by Epping Forest District Council as homeless and eligible for housing assistance but not in priority need, living in the District for more than a year immediately prior to becoming homeless.
- Applicants of no fixed address living in the District for more than a year immediately prior to being of no fixed address.
- Applicants having to live apart from other members of their household because of lack of accommodation but not for personal reasons (ie family disputes), **where the**

**applicant or their partner have lived in the Epping Forest District for more than a year immediately prior to application.**

*No problems have arisen from the original definition but it could be construed as applying to any case, whereas it is felt that this high degree of priority should be reserved for local applicants.*

### **Band 3**

- Applicants, 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, not in supervised accommodation secured by the Council. (Applicants in this category to move to Band 1 after one year).
- Applicants living in the District for more than a year immediately prior to application with valid Notices to Quits on Assured Shorthold Tenancies or tied accommodation

*This will no longer be necessary if it is agreed the general 4 month deferment be cancelled (see Proposed Changes to the Scheme – Other Provisions).*

### **Band 4**

- Applicants meeting more than one of the criteria in Band 5.

### **Band 5**

- Applicants living in the District for more than a year immediately prior to application and sharing accommodation with another household.
- Applicants living in the District for more than a year immediately prior to application needing one or more additional bedrooms.
- Applicants living in the District for more than a year immediately prior to application needing to move on moderate medical or welfare grounds **or for reasons of disability** or needing to move to a particular locality in the District where failure to do so will result in them or others suffering hardship.\*\*

*The additional category of disability reflects the requirements of the Housing Act 2004.*

- Households including a child under the age of 15 living in the District for more than a year immediately prior to application who have no access to a garden.
- Households including a child under the age of 5 living in the district for more than a year immediately prior to application living in a flat or maisonette above ground floor.

### **Band 6**

- Applicants accepted by Epping Forest District Council as homeless, eligible for assistance, in priority need but found to have become homeless intentionally.

- Applicants accepted by another local housing authority as homeless and eligible for assistance, including those in temporary accommodation secured by another authority.
- Applicants living in the District for less than a year or outside the District in overcrowded, insanitary or unsatisfactory conditions.
- Applicants living in the District for less than a year or outside the District needing to move on medical, welfare or hardship grounds **or for reasons of disability**.\*\*\*

*The additional category of disability reflects the requirements of the Housing Act 2004.*

- Households including a child under the age of 15 living in the District for less than a year or living outside the District with no access to a garden.
- Households including a child under 5 living in the District for less than a year or living outside the District living in a flat or maisonette above ground floor.
- Applicants living in the District for less than a year or outside the District sharing accommodation with another household or needing one or more additional bedrooms.

#### **Band 7**

- All other applicants

\*Where the permitted number, in accordance with the provisions of S.326 of the Housing Act 1985 is exceeded, or the property is unfit, 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.

*The additional wording reflects provisions in the Housing Act 2004. Although criteria remain essentially the same, old unfitness standards are scheduled to be replaced by 'Category 1 Housing Hazards' in October 2005.*

\*\*Medical priority to be determined by one of the Council's Medical Advisers **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. Welfare and hardship grounds to be assessed on written evidence by the Housing Needs Manager, in consultation with one of the Council's Medical Advisers and one other member of the Housing Needs Section as appropriate. Welfare issues will encompass care and support needs 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 or where a person needs to move to make a fresh start to recover from the effects of violence. Hardship may also include a need to move to give or receive care as well as for access to specialist medical treatment or to take up a particular offer of employment or training opportunity.

*To allow the Council to use a private company for medical assessments if considered appropriate.*

\*\*\*Written medical evidence to be accepted by staff in the Housing Needs Section without referral to one of the Council's Medical Advisers. Welfare and hardship grounds to be assessed on written evidence by the Housing Needs Manager.

### **Proposed Changes to the Scheme – Other Provisions**

7. As with bandings, the general provisions of the current Housing Allocations Scheme are working well, with no serious issues arising. However, some adjustments to the scheme are suggested for simplification purposes, to reflect legislation more closely and to make processes more transparent and efficient. More significantly, when the Housing Allocations Scheme was reviewed last year, Members asked that consideration be given for this year's review on the treatment of applicants with relatively high incomes and/or equity/assets. Officers have considered this and have put forward a proposal within the suggested changes below.

8. The full text of the scheme is attached at Appendix 1 and not reproduced here but the proposed amendments are set out in paragraph order as they appear in the scheme. Again, new wording is in **bold**, deleted wording and explanatory notes in *italics*.

- Paragraph 3, delete and replace at;

3.3

**The Housing Register will be open to all categories of person except those who are ineligible as defined at Paragraph 5.**

*The revised wording is for the purpose of simplification and makes no material change.*

- Paragraph 6, renumber as appropriate and insert at;

**6.3 Housing applicants will be required to provide an original photograph to accompany their application. This photograph to be in 'passport style'.**

*This is to aid housing management officers in cases where subletting or other fraud is suspected, and it would be helpful to have a photograph of the original applicant.*

**6.10 Applications not properly completed or not accompanied by supporting documents will be returned to the applicant with a request for the missing information.**

*This is for clarification purposes, and already happens in practice .*

- Paragraph 7, renumber as appropriate and insert at;

**7.1 d) have a copy of their full file, subject to payment of a £10 fee**

*This is for clarification purposes.*

- Paragraph 8, amend and renumber at;

8.3 Applicants will be allocated to bands according to their circumstances and as their as their circumstances change as appropriate. **Where an applicant could arguably be placed in different bands, the most favourable band to the applicant will be used, except as in 8.5 below.**

*The additional wording is for clarification purposes. An example of a conflicting assessment would be where an applicant had been found to be intentionally homeless (resulting in no housing duty owed by the Council under that legislation) and, because of this, they had been found adequate accommodation in the private sector by Social Care. Adequate accommodation would normally qualify the applicant for Band 7 but the intentionality decision would put them in Band 6, giving them 'reasonable preference' as required by legislation.*

**New 8.5 Applicants who, in the opinion of the Council, have sufficient income and/or assets to enable them to purchase accommodation will, generally, be placed in Band 6. The thresholds at which this criterion will apply are where;**

- **three times the gross household annual income, plus assets (including savings and property equity), exceeds £180,000 and the applicant qualifies for studio or 1 bedroom accommodation**
- **three times the gross household annual income, plus assets (including savings and property equity), exceeds £250,000 and the applicant qualifies for 2 bedroom or larger accommodation**

*Previously, officers have been asked to investigate the possibility of having earnings and capital criteria for demoting applications where applicants could have the resources to secure housing for themselves. Legislation does not allow for such applicants to be excluded from the Housing Register but their applications can be moved to a lower band than their circumstances would otherwise warrant, if the Housing Allocations Scheme provides for this. However, certain categories of applicant must still be granted 'reasonable preference'.*

*The issue of capital was considered last year and a decision deferred, pending consideration of the earnings issue. The current proposal differs, in that it combines income and assets. Research shows that one bedroom properties can be purchased in the area for around £180,000, whilst modest family sized accommodation costs in the region of £250,000. The proposal uses these figures, together with the standard building society criteria for a mortgage of around three times household income.*

*It should be noted that staffing resources are not sufficient to allow checks to be made on income and assets in every case, but each applicant will be asked to complete a declaration and agree that appropriate checks may be made, for instance, through the production of bank statements or wage slips, or through third parties, such as solicitors or employers. Monetary limits would be reviewed annually, as part of the annual review of the Housing Allocations Scheme.*

**New 8.6 (previously 8.5) The Council reserves the right to move to the **lowest** band, any applicant (or member of their household) guilty of any behaviour affecting their suitability as a tenant of the Council. Such behaviour could include serious rent arrears, minor but persistent rent arrears, other breaches of tenancy conditions, damage, neighbour**

nuisance, harassment or illegal activities. Applicants most likely to be moved to **the lowest** band are those under a Notice to Quit or who are subject to an Anti-Social Behaviour Order or Anti-Social Behaviour Contract **or who have a demoted tenancy**.

*The replacement wording replicates the Code of Guidance on Allocations issued by the Office of the Deputy Prime Minister, is unequivocal and makes it less likely that such an applicant will qualify for an offer. The additional wording reflects new legislation.*

New 8.7 (previously 8.6) Applicants within each band will be prioritised in date order of application to the Housing Register *The 4 month general deferment of consideration is now thought to be superfluous. This is because operation of the scheme has shown that in cases where urgent rehousing is needed, for instance for strong medical or social reasons, the Council's Medical Adviser frequently recommends removal of the deferment and in other cases applicants generally wait at least 4 months for an offer in any event.*

- Paragraph 9, renumber and insert at;

#### **9.1 The Council may offer new tenants Introductory Tenancies.**

*This is in the event of the Council adopting Introductory Tenancies that allow for fast track repossessions in the first 12 to 18 months of a tenancy, currently under consideration by the Cabinet.*

- Paragraph 11, update as follows;

Room	Allowance
Bedroom 1	£60
Bedroom 2	£60
Bedroom 3	£60
Bedroom 4	£60
Lounge	£60
Diner	£30
Kitchen	£20
Bathroom	<b>£20</b>
W.C.	£10
Hall/Stairs/Landing	£60



Lobby	£10
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*This shows allowances previously agreed.*

- Paragraph 19, amend wording at;

19.1 The Housing Allocations Scheme will be reviewed annually by the Council's , **Housing Scrutiny Panel** which shall recommend any changes to the Council's Cabinet.

*Amended wording to reflect current practice.*

### **Proposed Changes to the Scheme - Appendices**

9. Again, no major issues have arisen but amendments to Appendices 2 and 4 are suggested in the interests of fairness and clarity.

10. For ease of reference, Appendices 2 and 4 are reproduced here in full, with new wording in **bold**, deleted wording and explanation in *italics*.

#### Appendix 2

##### Sizes of Properties to be Allocated

The sizes of properties allocated to applicants on the Housing Register will be based on the composition of their household, generally in accordance with the following table.

Property size	Household Composition
Studio	Single persons
1 bedroom	Single persons or 2 people without children
2 bedroom	Applicants with 1 child Applicants with 2 children of same sex
3 bedroom	Applicants with 2 children of opposite sex Applicants with 3 or 4 children
4 bedroom	Applicants with 4 or more children
5 bedroom #	Applicants with 5 or more children

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

**It should be noted, in cases where residence of children is shared, where one parent has accommodation available to them comprising at least 2 bedrooms, the other parent, generally, will be afforded 1 bedroom accommodation.**

*There is an increasing trend for the day to day care of children to be shared between separated parents. A common arrangement is for children to spend 3 or 4 nights each week with one parent and the remainder of the week with the other. A recent court case has established that, in view of the high demand for social housing, it is acceptable for a local authority not to provide family sized accommodation where it is satisfied there is sufficient accommodation with one parent and additional rooms provided by the other parent will not be fully utilised.*

#### Appendix 4

##### Local Lettings Schemes/Reserved Properties

##### Local Lettings Schemes

##### Properties Designated for Older People

Some of the Council's properties have been designated as being particularly suitable for older tenants. This is usually where there is a **scheme manager** or where an emergency alarm has been fitted in a property. Where vacancies arise in such properties, applicants over 60 years of age will be given preference for them.

*The substitute wording reflects recent changes in post titles.*

##### Very Sheltered Housing

The Council has one very sheltered housing scheme for frail older people. Nominations for vacancies will be through a multi-disciplinary panel on which the Council will have a housing representative.

##### Supported Housing Schemes and Properties Purpose Built or Adapted for Physically Disabled People

Where properties have been purpose built or adapted for use by, for instance, physically disabled residents or people with learning difficulties, **preference will be given to applicants** from households in need of the particular type of accommodation and, in case of RSL properties, as agreed with the RSL.

*The substitute wording is to allow a degree of flexibility where there are no candidates fulfilling the criteria, for instance, where a property has been adapted for a physically disabled tenant but there is no physically disabled applicant on the Housing Register in need of it.*

##### Rural Housing Schemes (Section 106 Agreements)

Where vacancies arise in properties that have been built under these exceptional planning arrangements, only applicants who comply with the requirement to have a connection with the particular locality will be considered.

## Homelessness

**To reduce the risk of repeat homelessness, wherever possible, homeless households to whom the Council has accepted a full housing duty will initially be offered supported temporary accommodation, as appropriate, as follows:**

- **At Hemnall House, Epping. This is owned by the Council and tenants receive support on an outreach basis from the managers of Norway House, North Weald**
- **The Cygnet Scheme. This is made up of individual bed-sit and one bedroom properties owned by the Council and leased to a housing association. Staff from the housing association provide tenants with support**
- **The Fresh START Scheme. This is made up of privately owned properties in the Epping Forest area, leased to a housing association. Staff from the housing association provide tenants with support**
- **At a Women's Refuge. This is supported accommodation for women who have been subjected to domestic violence.**

**Note: where it is not possible to place homeless households in supported tenancies, vacancies in the Council's general needs housing stock will be used but these are likely to be smaller than properties offered to applicants on a long-term basis.**

*This updated wording better reflects current practices and improved provision. Previously, Norway House was the mainstay of temporary accommodation for homeless families. Now it is primarily used as interim accommodation, pending move on.*

## Reserved Vacancies

The Council will reserve such vacancies as it considers appropriate to fulfil commitments as set out below;

- up to 5 properties per annum for public sector key workers
- up to 5 properties at any one time for key Epping Forest District Council employees
- for applicants to whom the Council has accepted a duty under the provisions of the Rent (Agricultural) Act 1976
- to reaccommodate managers of the Council's warden-assisted properties as necessary

- up to 2 properties per annum for nominees under the Essex Womens' Refuges Mobility Scheme
- 'top up' or move on accommodation for the floating support scheme operated in conjunction with Cygnet Housing Association.
- move on accommodation for supported housing schemes elsewhere in the county where Epping Forest residents have received placements
- for applicants leaving prison who were Epping Forest District Council tenants immediately prior to being taken into custody
- for applicants who are occupants of an Epping Forest District Council property where a successor tenant has died and they would have succeeded to the tenancy had there not already been a succession. Such applicants to be treated in respect of the property to be allocated by the same criteria as for successor tenants as follows;

where there is no underoccupation – allocation of the property currently occupied

where there is underoccupation – allocation of an appropriate sized property, except that where there is only one spare bedroom and the survivor has lived in the property for more than 10 years or is over 60 years of age, they be allowed to remain if encouragement to move fails.

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*This special arrangement is not necessary. Applicants in this category can be considered under Band 1, if the proposed amendment is adopted, as are others, for instance, applicants at Brook Haven.*

### **Proposed Changes to the Mutual Exchanges Scheme**

11. The Council's Mutual Exchanges Scheme is attached at Appendix 2. It largely reflects the requirements of legislation and the only proposed alterations are to incorporate the latest legislative changes.

12. These changes relate to the grounds on which an assignment by way of a mutual exchange can be refused. The grounds for refusing an exchange are set out, in summary, in the appendix to the scheme. They are reproduced below. Additional wording is in **bold**, commentary in *italics*.

#### Summary of Grounds for Withholding Consent to a Mutual Exchange

(Schedule 3, Housing Act 1985 as amended by the Planning and Housing Act 1986 **and the Housing Act 2004** )

The following is a summary of the grounds for withholding consent for mutual exchanges in plain English.

Ground 1 If the tenant is under a court order to give possession of their property

Ground 2 If possession proceedings have begun for certain reasons

**Ground 2A If there is an injunction against anti-social behaviour in force in respect of any member of the household or an application is pending for such an order or a demotion order**

Ground 3 If the tenant's property is substantially larger than is reasonably required by the person with whom they wish to exchange

Ground 4 If the tenant's property is not suitable to the needs of the family of the person with whom they wish to exchange

Ground 5 If the property was let to someone who was employed by the Council or other specified public bodies

Ground 6 Not relevant

Ground 7 If the property has special features for a disabled person, and the family of the person with whom the tenant wishes to exchange does not include a disabled person

Ground 8 Not relevant

Ground 9 If the property is one of a group of properties which the Council lets to people with a special need (e.g. the elderly), with facilities provided nearby to assist these people, and the family of the person with whom the tenant wishes to exchange does not exclude such a person

Ground10 Not relevant

*This wording is a summary of the additional ground for refusing an assignment by way of mutual exchange, introduced by Part 6 of the Housing Act 2004.*

### **Effective dates of Change**

13. It is suggested that the changes to the Housing Allocations Scheme be with effect from 1<sup>st</sup> April 2006, and to the Mutual Exchanges Scheme with effect from 1<sup>st</sup> January 2006.

### **Consultation and Recommendations to the Cabinet**

14. It is a requirement of the Housing Act 1996 that registered social landlords (RSLs) with whom the Council has nomination rights are consulted on any major changes to the Allocations Scheme before implementation. It is also a requirement of the Council's Local Council's Charter that the District Council will consult with all the town and parish councils on changes to the scheme.

16. RSLs and local councils are currently being consulted on the proposed changes, and any comments received in response will be reported directly to the Cabinet by the Housing Portfolio Holder (together with the Portfolio's Holder's comments on the suggestions), for the Cabinet to agree the overall changes to the Scheme.

15. The Panel's Terms of Reference empower the Panel to provide comments to the Housing Portfolio Holder, prior to his submitting a report on the proposed changes to the Cabinet.

**Options for action:**

- a) Agree all amendments to the Housing Allocations Scheme and Mutual Exchanges Scheme as tabled
- b) Agree some but not all of the amendments, with or without substitutions
- c) Agree only the amendments to the Mutual Exchanges Scheme, since these reflect current legislation.

**Statement in support of recommended action:**

Most of the proposed amendments are the result of experience of operating the current Housing Allocation Scheme, to reflect latest legislation and practices and them transparent or are suggested to pre-empt problems that could arise. The exception is the earnings/capital criteria that previous working groups have been keen to introduce in a form that does not generate an undue amount of work yet provides a disincentive for people who have the means to help themselves from relying on the Council to resolve their housing difficulties.

Consultation undertaken: Citizens Advice Bureaux

Resource implications: Nil

Budget provision: None

Personnel: None

Land: None

Community Plan/BVPP reference: Social inclusion

Relevant statutory powers: Housing Act 1996, as amended.

Background papers: None

Environmental/Human Rights Act/Crime and Disorder Act Implications: Human Rights

Key Decision reference: (if required)