

Report to Communities Select Committee

Date of meeting: 5 September 2017

Portfolio: Housing – Councillor Syd Stavrou

Subject: Review of the Housing Allocations Scheme

Officer contact for further information: Roger Wilson extension 4419

Committee Secretary: Adrian Hendry extension 4246



Recommendations/Decisions Required:

- (1) That, as part of its Work Programme, the Communities Select Committee carries out a Review of the Housing Allocations Scheme and considers the suggested amendments to the Scheme set out at Appendix 1, 2 & 3 of the report;**
- (2) That, following the agreed amendments being incorporated into the draft Housing Allocations Scheme, the Scheme be considered by an external Legal Advisor;**
- (3) That any advice given by the external Legal Advisor be incorporated into the draft Scheme and a consultation exercise be undertaken, in accordance with Statutory Guidance, with all interested parties via the Council's Website, the Tenants and Leaseholders Panel, Registered Providers of Housing operating in the District, Local Councils and partner agencies with an interest in the Scheme;**
- (4) That the Communities Select Committee submits a report on the proposed revised Scheme to the February 2018 meeting of the Cabinet for consideration, with the revised scheme coming into force on 1 July 2018; and**
- (5) That the next review of the Scheme be considered by the Committee following 3 years of operation, with the reviewed Scheme coming into force on 1 April 2022.**

Report:

Background

1. The Council is legally required to have a Housing Allocations Scheme (the 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 addition, the Council's Housing Allocations Scheme states who will and will not be a qualifying person who can be admitted onto the Council's Housing Register.

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

Review of the Housing Allocations Scheme

3. When adopting the current Scheme, the Cabinet asked that an Item be included in the

Select Committee's Work Programme for 2017/2018, to undertake a review of the Scheme, hence the need for this report. The Committee is therefore asked to review the Scheme, in order to consider whether any further changes are required, and to submit a report to the Cabinet on the outcome of its review and any recommended changes.

The Cabinet's Initial Views

4. Officers have held informal discussions with Cabinet Members in order to seek their initial views on the major aspects to be considered under the review. This was considered essential, as it gives the Committee and officers direction on the general approach to be taken in reviewing the Council's Scheme in an effort to prevent any unnecessary work and any recommendations being put forward to the Cabinet by the Committee that would not be supported.

5. The initial views of Cabinet Members are attached at Appendix One.

Officers' further suggested changes to the Scheme

6. Some further changes to the Housing Allocations Scheme suggested by officers are set out at Appendix Two.

Other qualification criteria

7. Under the Government's Statutory Code of Guidance, Housing Authorities are able to "consider whether there is a need to adopt other qualification criteria alongside a residency requirement to enable and ensure that applicants who are not currently resident in the district who can still demonstrate a strong association to the local area are able to qualify." Although a number of exceptions to the residency requirement are made under the current Scheme (Paragraphs 14.3 to 14.5 refer), other criteria referred to in the Guidance and officers' recommendations are attached at Appendix Three.

8. The Committee is asked to consider both the Cabinet Members' initial views, further changes suggested by officers and other qualification criteria set out in the Guidance and advise the Cabinet of any issues with which they disagree.

Consultation and Cabinet Approval

9. Following the Committee agreeing the amendments to be recommended to the Cabinet for incorporation into the new Housing Allocations Scheme, it is suggested that the new draft Scheme be considered by an external Legal Advisor, prior to the Statutory consultation being undertaken (see below) and the Cabinet considering the final Scheme.

10. Any advice given by the external Legal Advisor will then be incorporated and a consultation exercise undertaken, in accordance with Statutory Guidance, with the Tenants and Leaseholders Panel, Registered Providers operating in the District, Local Councils and partner agencies with an interest in the Scheme. The draft Scheme will also be posted onto the Council's Website seeking comments.

11. In accordance with legal advice previously received, the consultation period is required to be 12 weeks.

12. Due to the implementation work needed, including all homeseekers having to update their information on-line, the target date for the revised Scheme coming into force is 1 July 2018. It is suggested that, in accordance with the Cabinet Members' initial views, the next review of the Scheme be considered by the Committee after 3 years of operation with the reviewed Scheme coming into force on 1 April 2022.

13. The Communities Select Committee is asked to submit a report on the proposed revised Scheme to the February 2018 meeting of the Cabinet for consideration.

14. The current Scheme, Government's Statutory Codes of Guidance (June 2012 & December 2013) and a copy of the House of Commons Briefing Paper "Allocating Social Housing (England)" have been circulated to Committee Members separately. Members are asked to have regard to these important documents when considering proposed changes to the Scheme.

15. Members are asked to note that an Equality Impact Assessment will be attached as an Appendix to the Cabinet report. It should be noted that under its Work Programme the Committee undertakes an annual Review of the Protected Characteristics of home seekers on the Housing Register. As a result of such reviews, which have been carried out for many years, no recommendations have been made concerning amendments to the Council's Housing Allocations Scheme, as figures have not shown any significant disparity between the Protected Characteristics of home seekers on the Housing Register, and those allocated accommodation through the Housing Register.

Reason for decision:

For the Committee to consider the Review of the Housing Allocations Scheme as part of its Work Programme, and to make recommendations to the Cabinet accordingly.

Options considered and rejected:

That the Committee does not consider the Review of the Housing Allocations Scheme, or makes recommendations to the Cabinet.

Consultation undertaken:

As set out in Paragraphs 9,10 & 11 of the report.

APPENDIX ONE – CABINET MEMBERS’ INITIAL VIEWS

The following paragraphs set out under each issue the background, Cabinet Members’ initial views, statistical information where relevant and officers’ suggested recommendations.

Residency Criteria

Background

1. Under one aspect of the current Local Eligibility Criteria of the Scheme (Paragraph 14.3 refers), in order to join the Council’s Housing Register an applicant must have been resident in the District for **five** continuous years.

The initial views of Cabinet Members

2. That the Residency Criteria be increased, with any new applicant who has lived in the District for less than **seven** continuous years immediately prior to their date of registration, not qualifying for inclusion on the Council’s Housing Register.

Statistical information

3. The residency criteria of some other councils in Essex are set out in the table below:

Council	Residency Criteria
Brentwood Borough Council	6 out of the last 12 months or 3 out of the last 5 years; or Close family connection with a person in the area for more than 5 years
Broxbourne Borough Council	5 Years
Chelmsford City Council	6 out of the last 12 months or 3 out of the last 5 years; or Close family connection with a person in the area for more than 5 years
East Herts District Council	No residency criteria, however, points based system in operation with any person having no residency scoring low

Council	Residency Criteria
Harlow District Council	5 years; or Have immediate family who have lived in the District for 5 years
Uttlesford District Council	3 years; or Receiving support from family members in District Been employed in the District for last 3 years

4. In addition, Cabinet Members' initial views are that all applicants already on the Council's Housing Register as at the date of the new Scheme coming into operation (proposed as 1 July 2018) should be protected from the changes to the Residency Criteria and remain on the Housing Register.

5. There are currently 1,376 applicants on the Council's Housing Register who under the current Scheme already have 5 years residency. Of these 967 applicants (at the time of writing) declared over 10 years, 332 between 5 and 10 years with the remaining 77 confirming over 5 years residency. However, when the revised Scheme comes into force on 1 July 2018, additional applicants who have joined the Register in the meantime with less than 7 years residency would also benefit from the protection.

Officer recommendation

6. That the Committee recommends the initial views of Cabinet Members to the Cabinet.

Financial Criteria aspect of the Local Eligibility Criteria

Background

7. Under the current Scheme (Paragraphs 14.7 to 14.10 refers), any applicant/s 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 the annual gross household taxable income added to any; residential property, equity, savings, shares or any other assets, exceeds £76,000 Applicants are required to provide evidence of income and savings.

8. The figure was calculated when the Scheme was reviewed in 2015 based upon Government Guidance on Rents for Social Tenants with High Incomes (commonly referred to as the "Pay to Stay" Scheme) where such tenants were defined as those households with a taxable income of at least £60,000 per year. Added to this was the £16,000 savings limit for a person to be eligible for housing benefit making a total of £76,000. A household's annual taxable income is based upon an average over the three years immediately prior to the date of application.

9. 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 Regular Forces, or serving or former members of the Reserve Forces, is disregarded from this criterion in accordance with Government Regulations.

The initial views of Cabinet Members

10. The initial views of Cabinet Members are that the Financial Criteria should remain the same.

Statistical information

11. The financial criteria of some other councils in Essex are set out in the table below:

Council	Financial Criteria
Brentwood Borough Council	Income must be less than £60,000 with less than £16,000 in savings, investments or assets
Broxbourne Borough Council	Income must be less than £60,000 with less than £16,000 in savings, investments or assets
Chelmsford City Council	Must not be able to fund owner occupied or private rented sector accommodation
East Herts District Council	£48,000
Harlow District Council	£50,000 in income, savings or equity. Policy does not apply to existing Council tenants
Uttlesford District Council	Must not be able to fund owner occupied or private rented sector accommodation

Officer recommendation

12. That the initial views of Cabinet Members be recommended by the Committee to the Cabinet. It is further suggested that the Committee recommends that any applicant who, in the view of the Director of Communities, has deliberately disposed of assets by means of willful deprivation within the last 6 years be ineligible.

Serious unacceptable behavior

13. Under the current Scheme (Paragraph 14.11 refers), any person (or a member of their household) who, within the previous 3 years, has been guilty of serious unacceptable behaviour sufficient in the opinion of the relevant Area Housing Manager 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 (fixed-term) Tenant and includes:

- Serious rent arrears (including housing benefit and Court cost arrears);
- Other breaches of tenancy conditions including damage and neighbour nuisance amongst others;
- Previous proven social housing fraud; or
- Proven offences under the Anti-Social Behaviour; Crime and Policing Act 2014 or any other relevant legislation in force at any time

The initial views of Cabinet Members

14. That any person who has been guilty of serious unacceptable behavior be ineligible for an increased period of 7 years being the same period as the suggested revised Residency Criteria.

Officer recommendation

15. In line with Cabinet Members' initial views, it is suggested that the Committee recommends to the Cabinet that the period of ineligibility for any person found to be guilty of serious unacceptable behavior be amended as follows:

- (a) Any person (or a member of their household) who in the opinion of the relevant Area Housing Manager has in the previous **3 years** had serious rent arrears (including housing benefit and Court cost arrears) or had breached other tenancy conditions including damage, neighbour nuisance amongst others will be ineligible.
- (b) . Any person (or a member of their household) who has committed acts of proven social housing fraud or proven offences under the Anti-Social Behaviour; Crime and Policing Act 2014 or any other relevant legislation within the previous **7 years** will be ineligible.

16. It is considered that if a person is ineligible due to serious rent arrears or breaches of other tenancy conditions (as set out in (a) above) the period of ineligibility should be lesser i.e. 3 years than for breaches set out in (b). This would also reduce the risk of legal challenge. During 2016/2017 23 applicants were removed from the Housing Register for this reason mostly due to rent arrears.

Penalties for refusals of offers of accommodation

Background

17. Under the current Scheme (Paragraph 18.9 to 18.10 refers), any home seeker who refuses **two** offers of suitable accommodation for which they have expressed an interest within any period will have their application deferred for a period of twelve months.

18. Any tenant of the Council who is under-occupying and is wishing to move to smaller Council accommodation, who refuses **three** offers of suitable accommodation for which they have expressed an interest within any period, will also have their application deferred for a period of twelve months.

The initial views of Cabinet Members

19. That any applicant who refuses **two** suitable offers of accommodation in any period will have their application deferred for 2 years

Statistical Information

20. Under the current Scheme, in 2016/2017, 130 applicants refused one offer of accommodation with 15 being penalised for refusing two offers of accommodation.

Officer recommendation

21. It is recommended that subject to the circumstances in Paragraph 22 below, any home seeker who refuses **two** offers of suitable accommodation for which they have expressed an interest within any period have their application deferred for a period of 2 years.

22. However, it is further recommended that any tenant of the Council who is under-occupying and is wishing to move to smaller Council accommodation, who refuses **three** offers of suitable accommodation for which they have expressed an interest within any period, should have their application deferred for a period of **twelve months** with no change being made. This is in order to continue to encourage tenants to downsize. Furthermore, it would enable a Secure Fixed-Term Tenant who is under-occupying and nearing the end of their tenancy term to downsize more easily and remove the need to take enforcement action at the end of their tenancy.

23. It is also recommended that any refusals prior to when the revised Scheme comes into force on 1 July 2018 be disregarded.

Homeless Applicants

The initial views of Cabinet Members

24. That homeless applicants continue to be made one offer of suitable accommodation after receiving their S.184 decision letter, generally in flatted accommodation (including maisonettes). However, in order to discharge its main homelessness duty, the Council will offer homeless applicants a 2 year Secure Fixed-Term Tenancy to give some temporary stability in order to prepare them to make their own arrangements thereafter. The Council will retain its duty to help [provide advice to] the applicant if under the Assessment Criteria applied at the end of the fixed-term it is established that they have become unintentionally homeless.

25. The Council has sought Legal Advice from Stephen Knafler QC on this suggested change who advised the Council on the lawfulness of its Schemes under the last two Reviews. He advises that the Council can discharge its duty by offering an applicant a fixed-term tenancy as this would be an offer of accommodation under the Housing Act 1996 as amended by the homelessness Act 2002, provided the offer is suitable. He further points out the issues around any applicant who is housed in this way that may become unintentionally homeless, hence the statement that the Council will retain its duty to help [provide advice to] the applicant if they become unintentionally homeless at the end of the period.

Officer recommendation

26. That the initial views of Cabinet Members be recommended by the Committee to the Cabinet.

Applicants living in supported housing

Background

27. Under the current Scheme (Paragraphs 1.4 to 1.5 at Appendix 4 refer), vulnerable homeless applicants to whom the Council does not owe the full homelessness duty, who have been placed under the Council's Homelessness Prevention regime 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

have a lesser Residency Criteria than other Housing Register applicants of three years. Such homeless applicants are made one offer of suitable accommodation at the end of their stay in supported housing, generally in flatted accommodation. If the offer is refused, the Council makes no further offers of accommodation.

The initial views of Cabinet Members

28. That the current Residency Criteria for vulnerable people who are placed in supported housing schemes within the District be reduced from three years to two years in order to recognise the needs of vulnerable groups.

Officer recommendation

29. That the initial views of Cabinet Members be recommended by the Committee to the Cabinet which will assist the Council in meeting its homelessness duties.

Future Review of the Housing Allocations Scheme

The initial views of Cabinet Members

30. That the Housing Allocations Scheme be reviewed again following 3 years of operation with the revised Scheme coming into force on 1 April 2022.

Officer recommendation

31. That the initial views of Cabinet Members be recommended by the Committee to the Cabinet.

APPENDIX TWO – Changes to the Scheme incorporating the initial views of Cabinet Members including further changes suggested by officers

Paragraph No. and Heading	Change to the Scheme	Reason
1.2 Introduction	Additional bullet point: Homelessness Reduction Act 2017	New legislation that, from an expected implementation date of April 2018, requires the Council to meet a number of additional duties. Although this mainly affects the Council's Homelessness Strategy, both documents are linked.
1.2 Introduction	Additional bullet point: Housing and Planning Act 2016	Under the Act, there will be major changes to the rules around Flexible (fixed-term) Tenancies. Statutory Guidance is expected towards the end of 2017. When the Guidance is received, a further report will be submitted on changes to both the Council's Tenancy Policy and the West Essex Tenancy Strategy which are linked to the Scheme.
1.3 Introduction	Amend to: "For the purposes of this Housing Allocations Scheme the definition and interpretation of "tenant" shall have the meaning of either: <ul style="list-style-type: none"> • Secure Pre-Localism Act Lifetime Tenant (tenancy granted prior to 1 April 2012) • Secure Post Act Lifetime Tenant (tenancy granted after 1 April 2012) • Secure (fixed-term) Tenant • Any other tenancy arrangements set out in the Council's Tenancy Policy" And any reference to....."	Under the Housing and Planning Act Flexible (fixed-term) Tenancies will be known as Secure (fixed-term) Tenancies. It is suggested that all references to Flexible (fixed-term) Tenancies are amended throughout to Secure (fixed-term) Tenancies Also, as existing Secure Tenants are either Pre-Localism Act Tenancies or Post-Localism Act Tenancies and therefore have different rights (particularly around Succession for family members) it is important to clarify both types of tenancy.

Paragraph No. and Heading	Change to the Scheme	Reason
<p>4.1</p> <p>Council's policy on offering choice</p>	<p>Amend references to a two-weekly bidding cycle to a weekly bidding cycle</p> <p>Delete:</p> <p>"The most popular method of doing this is by the Internet"</p>	<p>The Council has already moved from a two-weekly to a weekly bidding cycle</p> <p>Considered no longer to be relevant as this is now the main method of "bidding"</p>
<p>4.3</p> <p>Council's policy on offering choice</p>	<p>Delete reference to the Choice Based Lettings Scheme User Guide and replace with:</p> <p>"Details on how the Scheme operates are set out in the applicant's confirmation of registration letter"</p>	<p>To clarify the change in the way home seekers are advised of how to participate in the Choice Based Lettings scheme.</p>
<p>7.4</p> <p>Housing Allocations Scheme</p>	<p>"The provisions of this Scheme will apply to home seekers on the Council's Housing Register at the effective date of the Housing Allocations Scheme (subject to 14.3 (g))....."</p>	<p>This is to clarify that, if agreed, under Paragraph 14.3 (g) (referred to later) all those already registered will be protected from the change to the increased Residency Criteria</p>
<p>9.1</p> <p>Flexible (fixed-term) Tenancies</p>	<p>Amend to:</p> <p>"The Council will generally grant Secure (fixed-term) Tenancies to all new tenants who sign up to a tenancy of any Council property. Any other tenancy types will be granted in accordance with either the Council's Tenancy Policy or any subsequent legislation"</p>	<p>References to Tenancies needs to be a general statement as there is likely to be major changes when the Statutory Guidance referred to under 1.2 above is in force. The amended Paragraph will result in the Council's Tenancy Policy setting out the policy on granting tenancies avoiding the need to amend the Scheme further should there be any further changes in tenancy law in the future</p>

Paragraph No. and Heading	Change to the Scheme	Reason
14.3 Residency Criteria	Amend to: “Any new applicant/s that has lived in the Epping Forest District for less than seven continuous years.....”	This change is in accordance with the initial views of Cabinet Members. The Communities Select Committee is asked to consider whether a seven year residency period is reasonable and make their recommendations to the Cabinet.
14.3 (g) Residency Criteria	Amend to: “Were registered on the Housing Register on 30 June 2018”	This change is in accordance with the initial views of Cabinet Members that any applicant already on the Housing Register will be protected from the change to the increased Residency Criteria. The Communities Select Committee is asked to consider if it wishes to recommend such protection to the Cabinet
14.4 Residency Criteria	Amend to: “A lesser Residency Criteria of 2 years will apply to applicants leaving Supported Housing Schemes.....”	This change is in accordance with the initial views of Cabinet Members who considered that vulnerable applicants should only need to meet a lesser residency criteria of 2 years. The Communities Select Committee is asked to consider if it wishes to recommend a lesser residency criteria for this client group to the Cabinet

Paragraph No. and Heading	Change to the Scheme	Reason
<p>14.5</p> <p>Residency Criteria</p>	<p>Amend to:</p> <p>“Any resident who moves out of the Epping Forest District for less than 2 years, but has lived within the District for at least 7 continuous years immediately prior to moving out of the District, will be treated as an applicant who has lived in the District for more than 7 continuous years prior to application”</p>	<p>It is suggested that the period of time for a person to live out of the District and still qualify, be reduced from 3 years to 2 years. This is in line with the homelessness legislation whereby a duty is discharged for any private sector placement (in or out of District) after 2 years. It therefore follows that if a person lives out of the area for 2 years they would sever their links with the District.</p> <p>If the increase in Residency Criteria from the current 5 years is increased to 7 years this Paragraph needs to be amended accordingly.</p> <p>If this Paragraph was removed and no protection was afforded it could result in an increase in homelessness as residents threatened with homelessness would be discouraged from seeking more affordable accommodation out of District</p>
<p>14.7</p> <p>Financial Criteria</p>	<p>Delete Paragraph 14.8</p> <p>Add new Paragraph 14.8</p> <p>“Any applicant who in the view of the Director of Communities is found to have disposed of assets by means of willful deprivation within the last six years will be ineligible”</p>	<p>The initial views of the Cabinet is that the Financial Criteria is unchanged</p> <p>It is suggested that Paragraph 14.8 is deleted. The calculation is no longer relevant particularly due to the Government abandoning its plans to introduce Guidance on Rents for Social tenants with High Incomes (“Pay to Stay”)</p> <p>It is suggested that any applicant who has deliberately disposed of assets to qualify for inclusion in the Scheme is ineligible</p> <p>The Communities Select Committee is asked to consider if it wishes to recommend that there is no change to the financial criteria.</p>

Paragraph No. and Heading	Change to the Scheme	Reason
<p>14.11</p> <p>Serious Unacceptable Behaviour</p>	<p>Amend to:</p> <p>“Any person (or a member of their household) who in the opinion of the relevant Area Housing Manager has in the previous 3 years had serious rent arrears (including housing benefits and Court cost arrears) or had breached other tenancy conditions including damage, neighbour nuisance amongst others will be ineligible”</p> <p>“Any person (or a member of their household) who has committed acts of proven social housing fraud or proven offences under the Anti-Social Behaviour; Crime and Policing Act 2014 or any other relevant legislation within the previous 7 years will be ineligible”</p>	<p>The initial views of Cabinet Members are that the period of ineligibility for serious unacceptable behavior be increased to 7 years in line with the proposed Residency Criteria.</p> <p>However, officers recommend that if a person is ineligible due to rent arrears or other breaches of tenancy conditions only, the period of ineligibility should be lesser i.e. remain at 3 years. This would also reduce the risk of legal challenge.</p>
<p>16.3</p> <p>Definition of a Household</p>	<p>Amend to:</p> <p>“A household is either one person or two persons or more who are intending to live together at the same property offered. Applicants should only include persons on their application who have been part of their household for at least a two year period and who will occupy the accommodation.....”</p>	<p>The first sentence of the current wording is not relevant and therefore can be deleted. The amended Paragraph makes it clear that one person is also defined as a household and clarifies that the requirements of the Scheme relates to a single applicant.</p> <p>It is also suggested that the current period for a person to be considered being part of a household is increased from twelve months to two years in order to establish permanency of living arrangements and prevent applicants “manufacturing” households in order to gain additional priority</p>
<p>18.4</p> <p>Rent Arrears</p>	<p>Amend to:</p> <p>An offer of accommodation will not be made to any home seeker who has rent arrears in excess of 4 weeks rent</p>	<p>To make the criteria clearer.</p>

Paragraph No. and Heading	Change to the Scheme	Reason
<p>18.9 & 18.10</p> <p>Penalties for Refusal of Offers</p>	<p>Amend to:</p> <p>“That subject to the circumstances in Paragraph xx below, any home seeker who refuses two offers of suitable accommodation for which they have expressed an interest within any period will have their application deferred for a period of two years.</p> <p>“Any tenant of the Council who is under-occupying and is wishing to move to smaller Council accommodation, who refuses three offers of suitable accommodation for which they have expressed an interest within any period, will have their application deferred for a period of twelve months</p>	<p>The initial views of Cabinet Members is that the length of deferral of an application for any home seeker who refuses two offers of accommodation within any period should be increased from 12 months to two years. It is suggested that Cabinet Members’ initial views are recommend to the Cabinet by the Committee.</p> <p>However, it is further recommended that the current penalties for those downsizing accommodation remains. This is in order to continue to encourage tenants to downsize. Furthermore, it would enable a Secure Fixed-Term Tenant who is under-occupying and nearing the end of their tenancy term to downsize more easily and remove the need to take enforcement action at the end of their tenancy.</p> <p>It is also recommended that any refusals prior to when the revised Scheme comes into force on 1 July 2018 be disregarded</p>
<p>19</p> <p>Redecoration Vouchers Scheme</p>	<p>Amend heading to:</p> <p>“Redecoration Vouchers Scheme for Council Properties”</p> <p>Amend second sentence to:</p> <p>“However, if a property owned by the Council is offered and is, in the view of the inspecting officer, in need of redecoration.....”</p>	<p>In order to clarify that redecoration allowance vouchers will only be paid to redecorate Council properties and not Housing Association properties</p>

Paragraph No. and Heading	Change to the Scheme	Reason
<p>21</p> <p>Incentive Payments for Downsizing</p>	<p>Paragraphs in this Section will be re-numbered</p> <p>Add 21.2 and delete 9.2</p> <p>“If a Secure (fixed-term) Tenant wishes to transfer to smaller accommodation, the financial incentives to downsize set out under Section 21 of the Scheme will apply, but only if they have more than 5 years remaining on their fixed-term”</p> <p>Move Paragraph 14.10 into Section 21</p> <p>Move Paragraph 12.2 into section 21</p>	<p>It is suggested that:</p> <p>All references to the rules on downsizing payments are consolidated into this Section of the Scheme to make it clearer and remove the need for cross-referencing.</p> <p>Under the current Scheme, incentive payments are only made within the first 7 years of the fixed-term. When Statutory Guidance comes into force, it is likely that a 5 year Secure (fixed-term) Tenancy will be the norm. Therefore, any person who has a tenancy term of five years or less should not be eligible for a downsizing incentive payment due to them being required to move anyway at the end of their fixed-term if they are under-occupying. If agreed delete Paragraph 9.2</p> <p>To make all reference to the rules for downsizing payments in one Section of the Scheme</p> <p>To make all reference to the rules for downsizing payments in one Section of the Scheme</p>
<p>23.2</p> <p>Reviews</p>	<p>Delete “in writing” first line</p>	<p>Not able to insist that applicants seek a review only in writing</p>
<p>24.1</p> <p>Equal Opportunities</p>	<p>Amend to:</p> <p>“The Council has undertaken an Equality Analysis Report....”</p>	<p>No longer referred to as a Customer (Equality) Impact Assessment</p>

Paragraph No. and Heading	Change to the Scheme	Reason
<p>27.1</p> <p>Review of the Scheme</p>	<p>Amend to:</p> <p>“It is anticipated that the Housing Allocations Scheme will be reviewed by the Council’s Communities Select Committee following 3 years of operation in consultation with the Tenants and Leaseholders Panel, which shall recommend any changes to the Council’s Cabinet, with a target date for the reviewed Scheme coming into effect of 1 April 2022</p>	<p>To update the Paragraph in accordance with the initial views of the Cabinet and other minor wording changes</p>
<p>Band B (i)</p> <p>Priority Bands</p>	<p>Amend second line to 2 years</p>	<p>Under Paragraph 16.3 (referred to earlier) it is suggested that the current period for a person to be considered being part of a household is increased from 12 months to 2 years in order to establish permanency of living arrangements and prevent applicants “manufacturing” households in order to gain additional priority. If agreed it follows that in order to be defined as a household and sharing with another household the minimum period for an applicants to qualify for this criterion should also be increased to 2 years.</p>
<p>Appendix 4</p> <p>Paragraph 1.2</p> <p>Homeless Applicants</p>	<p>Amend first bullet point to:</p> <p>“bed and breakfast accommodation (or similar temporary accommodation) secured by the Council.....”</p>	<p>To cover the use of alternative accommodation similar to B&B, for example Zinc Arts and in the future Modular Units.</p>

Paragraph No. and Heading	Change to the Scheme	Reason
<p>Appendix 4 Paragraph 1.3</p> <p>Homeless Applicants</p>	<p>Amend to:</p> <p>“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 (including marionettes). In order to discharge its main homelessness duty the Council will offer homeless applicants a 2 year Secure Fixed-Term Tenancy to give some temporary stability in order to prepare them to make their own arrangements thereafter. The Council will retain its duty to help [provide advice to] the applicant if under the Assessment Criteria applied at the end of the fixed-term establishes that they have become unintentionally homeless.</p>	<p>The Council sought Legal Advice from Stephen Knafler QC on this suggested change who advised the Council on the lawfulness of its Schemes under the last two Reviews. He advises that the Council can discharge its duty by offering an applicant a fixed-term tenancy as this would be an offer of accommodation under the Housing Act 1996 as amended by the Homelessness Act 2002, provided the offer is suitable. He further points out the issues around any applicant who is housed in this way that may become unintentionally homeless, hence the statement that the Council will retain its duty to help [provide advice to] the applicant if they become unintentionally homeless during or at the end of the period.</p>
<p>Appendix 4 Paragraph 1.5</p> <p>Homeless Applicants</p>	<p>Amend to:</p> <p>“In respect of 1.4 above, a lesser Residency Criteria of 2 years will apply. Such applicants will be made one offer of suitable accommodation at the end of their stay in supported housing, generally in flatted accommodation (including maisonettes). The Council will offer such applicants a 2 year Secure Fixed-Term Tenancy to give some temporary stability in order to prepare them to make their own arrangements thereafter. If the offer is refused, the Council will make no further offers of accommodation.</p>	<p>It is suggested that applicants leaving supported housing are treated in the same way as applicants to whom the Council owes a full homelessness duty</p>

Paragraph No. and Heading	Change to the Scheme	Reason
Appendix 4 Paragraph 1.6 l) Public Sector Key Workers	Delete Paragraph	It is suggested that no exceptions are made under the Scheme in the future for public sector key workers. No properties have been allocated in this way to this client group for many years.
Appendix 4 Paragraph 1.6 m)	Delete Paragraph	It is suggested that no exceptions are made under the Scheme in the future for Epping Forest District Council employees. No properties have been allocated in this way for many years.
Appendix 4 Paragraphs 2.1 to 2.3 Allocation Quotas	Delete Paragraphs	No such arrangements are made for new developments.
Appendix 4 Paragraph 3.2 Local Lettings Plans	Delete Paragraph	The Council no longer operates Local Lettings Policies.

APPENDIX THREE

1. The following paragraphs set out the options and officer recommendations for adopting other qualification criteria alongside a residency requirement, which under the Government's Statutory Guidance housing authorities are asked to consider:

Option

Family association

2. For example, where an applicant has close family who live in the district and who have done so for a minimum period of time.

Officer recommendation

3. Officers suggest that adopting such an exception to the Residency Criteria would be unclear and difficult to administer and is therefore not recommended. It would involve gathering evidence to prove that any applicant who does not meet the Residency Criteria has close family in the District. The term "close family" would also be difficult to define. Furthermore, it is considered that even if it could be established that there are close family connections a lesser Residency Criteria would have to be applied in such circumstances which would be confusing to applicants.

Employment in the District

4. For example where the applicant or member of their household is currently employed in the district and has worked there for a certain number of years.

Officer recommendation

5. In accordance with the Government's Statutory Guidance, the Council's current Housing Allocations Scheme (Paragraph 14.3 f) refers) already makes an exception to the residency criteria for existing local authority or housing association tenants who are seeking to transfer from another district in England to take up an offer of work in the District - which is considered to meet with the requirement to make such a provision.

People who are needing to move to escape violence or harm

6. The Guidance emphasises the need for residency requirements to be flexible enough to allow for special circumstances. Another example is where people need to move to another area to escape violence or harm. The Guidance further states "it is for local authorities to develop their own exceptions to a residency requirement in the light of local circumstances.

Officer recommendation

7. Under the Council's current Housing Allocations Scheme (Paragraph 1.6 k) Appendix 4 refers) provision is made for people who are high risk victims of domestic abuse which appears to be sufficient. However, due to recent case law around this issue it is recommended that the Council's external Legal Advisor is specifically asked to provide advice on this aspect of the revised draft Scheme, with the outcome reported to the Cabinet.

People who are working or making a Community Contribution

8. For example, where some low income families with a family member is in work or those deemed to be making a “community contribution” through voluntary work. Or setting aside specific properties or a specific portion of properties to be allocated to people for certain types of employment where skills are in short supply.

Officer recommendation

9. Officers suggest that adopting such an exception to the residency criteria would be unclear and difficult to administer and is therefore not recommended. It would involve gathering evidence to prove that any applicant who does not meet the residency criteria has made a “community contribution”. The term “community contribution” would also be difficult to define and be open to challenge, misinterpretation and even abuse. Furthermore, it is considered that even if it could be established that a community contribution has been made a lesser residency criteria would have to be applied in such circumstances which would be confusing to applicants. It is further considered that provisions have been made for those working or seeking employment in the District referred to in Paragraph 4 above.