



**South Staffordshire Council**

# **Housing Allocations Policy**

**1st July 2025**



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## Section 1: Introduction to the Housing Allocations Policy

This document is the revised '*Social Housing Allocation Policy*' for South Staffordshire Council. Properties let through the scheme will be those made available from Registered Providers through existing nomination agreements with individual social landlords and this policy will apply to the nominations owed.

This policy:

- Explains how priority between applicants will be determined and the arrangements for nominating applicants to private registered providers of social housing, commonly referred to as Housing Associations who own and/or manage social rented housing in the Local Authority area. South Staffordshire Council does not own social housing properties after transferring its Council housing in March 1997
- Sets out who is, and who isn't, eligible for social housing in South Staffordshire and how the Council will make this assessment.
- Details how applications to join the Housing Register can be made, the priority given, and how offers of social housing will be made.

This is the revised 'Housing Allocation Policy' for South Staffordshire Council and will take effect on 1<sup>st</sup> July 2025. The assessment of need and qualifying criteria set out in the policy will be applied to all new and existing applicants from this date.

### 1.1: Legal context

This is the South Staffordshire Council's Housing Allocation Policy as required by Part 6 of the Housing Act 1996.

In developing the policy, the Council has had regard to the law and regulatory requirements, including:

1. HousingAct1985
2. HousingAct1996
3. HomelessnessAct2002
4. HousingandRegenerationAct2008
5. LocalismAct2011
6. ArmedForcesAct2006
7. AsylumandImmigrationAct1996
8. ImmigrationandAsylumAct1999
9. ChildrenAct2004
10. Equality Act 2010
11. Domestic Abuse Act 2021
12. Data Protection Act 2018
13. European Union (Withdrawal Agreement) Act 2020
14. Statutory guidance including:
  - a. Allocation of accommodation: guidance for local authorities, June 2012, updated, September 2021
  - b. Providing social housing for local people, December 2013
  - c. Right to Move and social housing allocations, March 2015

- d. Improving access to social housing for victims of domestic abuse, November 2018
- e. Improving access to social housing for members of the Armed Forces, June 2020

In framing the allocations scheme regard has also been had to the Council's Housing and Homelessness Strategy 2023-2027 the Tenancy Strategy 2013, the Equality Act 2010, and relevant caselaw.

All references to statutory materials are by way of summary are not used as substitutes for the details within the original.

The Council will provide an electronic copy to anyone who asks for one. Copies in alternative formats will be considered on an individual basis. The whole of this policy will be kept available for inspection by any person at the Codsall Community Hub Offices if they are unable to access the policy on-line.

It can be viewed or downloaded from the Council's website:

[https://www.sstaffs.gov.uk/sites/default/files/2025-05/housing\\_allocations\\_policy\\_july\\_2025\\_final.docx.pdf](https://www.sstaffs.gov.uk/sites/default/files/2025-05/housing_allocations_policy_july_2025_final.docx.pdf)

Any provision in this policy may be waived in exceptional circumstances at the discretion of the lead officer responsible for the housing service in South Staffordshire Council. The reasons why a provision has been waived will be documented.

## **1.2: The key objectives set for the Policy**

The key objectives for the policy are:

1. To meet the legal requirements placed on South Staffordshire Council to give appropriate priority to applicants who fall within the Housing Act "*reasonable preference*" to ensure that social rented housing is let to those in greatest need.
2. To enhance the means by which local people with a long-standing connection to South Staffordshire gain access to social housing.
3. To allocate homes in a fair, transparent and effective way, that prioritises applicants who are most in need, is lawful and makes best use of the homes available.

## **1.3: Making changes to the Policy**

The policy will be reviewed and revised as required in response to:

- Any national policy or legislative changes
- Policy changes instigated by South Staffordshire Council
- To reflect the requirements of any leading and relevant case law.

Any major change to the Policy can only be made after a copy of the proposed amendments have been consulted on by sending to every Registered Provider

Housing Association in South Staffordshire. This is a requirement under Section s166A (13) Housing Act 1996.

All major changes must first, be approved by Individual Member Decision

For minor changes to the policy, or changes to the procedures that administer the policy, decisions will be delegated to the lead officer responsible for housing.

The Council will take steps as it considers reasonable (for example, by making contact via email, telephone, or letter, or by placing a notification on the Local Authority website, or via another suitable form of communication), within a reasonable period of time, to bring to the attention of those likely to be affected by it:

- a. any alterations made to this policy
- b. any subsequent alteration to this policy that would affect the relative priority of a large number of applicants; and
- c. any significant alteration to any associated procedures for administering this policy.

Where a full review of the policy is undertaken, the Council will adopt Government good practice guidelines and undertake a broad consultation that includes relevant stakeholders, service users as well as the Registered Housing Associations operating in the district.

#### **1.4: Data Protection**

The Council will ensure personal information of all applicants (new, existing, and deleted) is:

- a) stored lawfully
- b) processed in a fair and transparent manner
- c) collected for a specific, explicit and legitimate purpose
- d) kept up to date and held until it is no longer required; and
- e) shared only with other organisations for legitimate processing.

The Council's Privacy Notice and compliance with the Data Protection Regulations 2018 can be accessed here

<https://www.sstaffs.gov.uk/our-council/data-protection>

#### **1.5: Right to information**

The 'Freedom of Information Act 2000' makes it a requirement for every public authority to produce a 'Publication Scheme' setting out the information it will make available to the public. The Council's data protection and freedom of information policies can be accessed here

<https://www.sstaffs.gov.uk/council-democracy/data-protection.cfm>

<https://www.sstaffs.gov.uk/council-democracy/freedom-of-information.cfm>



## **1.6: Equality, accessibility and monitoring**

The Council is committed to ensuring that the policy and the implementation of all associated guidance and procedures are non-discriminatory taking into account the needs of groups protected by the Equality Act 2010; the Human Rights Act 1998, and for Children, Section 11 of the Children Act.

To help the Council to identify the needs of applicants the application form contains specific questions relating to vulnerability, ethnic origin, sexual orientation, disability and other relevant criteria. The information obtained will be used to monitor the impact of the policy to enable a better understanding of people's housing needs and to ensure that no one is discriminated against as a result of the way this policy has been framed, or during the administration of it.

Under the Equality Act 2010, and in particular section 149 of the Public Sector Equality Duty, a Council is required to give due regard to eliminate discrimination, advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not, when exercising a public function such as implementing their legal 'Housing Allocation Policy'.

The Council will ensure that the policy complies with current equality legislation and will be subject to a full 'Equality Impact Audit' before it is adopted. The EIA will be regularly reviewed as information regarding the impact of the policy is obtained and a copy can be requested directly from the Council.

A copy of the Council's Equality and Diversity Policy (April 2022) can be downloaded through the link below:

<https://www.sstaffs.gov.uk/communities/equality-diversity.cfm>

## **1.7: Complaints**

Complaints are separate to the circumstances where an applicant is entitled to seek a review of a decision made on their application. A request for a review of a decision made on their application should be made under the review procedure set out in section 4 and not through the Council's complaints procedure.

Where an applicant wishes to make a complaint about poor service, or the way they have been treated, this should be made using the Council's complaints procedure. A copy of the current procedure for making a complaint is available on the South Staffordshire Council website and can be accessed here:

<https://www.sstaffs.gov.uk/contact-us/compliments-complaints-and-comments.cfm>

Where a complaint relates to how an applicant has been dealt with under this policy an applicant has the right to continue with their complaint to the Local Government Ombudsman Service if they are unhappy with the response to their complaint.



The Local Government Ombudsman is an independent service run by Central Government to make sure that Councils provide the required standard of service to their customers.

The Ombudsman can investigate complaints about how the Council has done something, but they cannot question what has been done simply because someone did not agree with it.

Website: [www.lgo.org.uk](http://www.lgo.org.uk)

## **1.8: The Council's statement on Choice**

### **Introduction**

A key aim of the policy is to, as far as possible, give choice to applicants who wish to obtain social housing. This is why South Staffordshire Council has taken the decision to let the majority of properties through a 'Choice Based Lettings' (CBL) scheme.

For all applicants who are eligible to join the housing register, they will be able to express a preference for an area, or areas, they would like to live in and the type of property they would prefer. However, the ability to satisfy their preferences might be limited by the lack of available social housing in the area/s chosen.

The considerable housing pressures faced in South Staffordshire limits the degree of choice that can be offered, along with the responsibility the Council has to offer housing to applicants in urgent housing need. This includes the need to reduce the financial impact on the Council for households placed into temporary accommodation under a homelessness duty.

Therefore, expressing a preference over where an applicant would prefer to live does not mean that preference can be met, or that an applicant won't be offered suitable accommodation outside of their preferred area. In certain circumstances the Council will or may make a direct nomination to a Housing Association and not use the 'choice based letting' scheme to let a property. Examples of these circumstances are set out in the policy.

In selecting properties to allocate the council will normally take into account the following factors:

- the number of bedrooms required
- any essential requirement concerning the type or location of re-housing
- the housing band into which the applicant's case falls; and
- the date registered within that band (except for when a property may be allocated outside of band or outside of date order within a band (see section below)

The council will not normally take into account:

- non-essential preferences concerning the location or type of rehousing requested by the applicant.

An applicant will be asked at time of registration to state any area where they believe they cannot live due to fear of violence, harassment or domestic abuse. The assessment of their application will then consider the facts and decide whether the applicant is allowed to restrict areas. The Council in assessing the risk of violence, harassment or domestic abuse may deem areas to be unsuitable despite an applicant wishing to live in an area assessed as unsuitable.

The Council will also make available information about other affordable housing options: for example, the Council intends to promote new affordable housing schemes through its website and a matching service is available through a nationwide internet site '*Homeswapper*' for social housing tenants wishing to explore the option of a mutual exchange.

### **1.9: Specific policies on choice adopted by the Council**

#### **A: When the Council may choose to make a direct offer outside of the choice based letting (CBL) system and, in exceptional circumstances, outside of the band and date order system**

Not all properties that become available will be advertised and offered through the Jigsaw CBL system. There may be circumstances where for operational or financial reasons there is a need to make a direct nomination of housing outside of CBL and, in exceptional circumstances, outside of the band and date order criteria set out in this policy.

Specifically, this would be where there are urgent operational or financial reasons. Examples include but are not limited to:

- 1) Situations where urgent re-housing is required due to an applicant's existing property being uninhabitable, or where there are serious health and safety or personal protection issues that need to be addressed, or to discharge a statutory homelessness duty.
- 2) Urgent housing need situations where, given the applicant's circumstances, it would not be reasonable to wait for a successful bid through the CBL system to deliver an offer.
- 3) Where there is an evidenced threat to life in the area in which an applicant currently lives.
- 4) Direct offers to persons who the council has a duty to rehouse under section 39 of the Land Compensation Act 1973.
- 5) Where an applicant is homeless and in temporary accommodation and owed a section 189B (2) Relief duty or 193(2) Main duty under the Housing Act 1996 and the Council wish to make a direct let to move applicants out of temporary accommodation to manage any budgetary or legal impact on the Council.

- 6) Where an applicant is not being realistic in the areas they are bidding for and, as a result, may be occupying a temporary accommodation unit that is needed for a newly presenting homeless applicant.
- 7) Where a vacant adapted property, or a property designed to disability standards, becomes available and that property could be allocated to an applicant whose disability needs best match that property, regardless of the date they were registered.
- 8) Where the decision of the Council is that it is inappropriate for the applicant to participate in 'Choice Based Lettings'. For example, some vulnerable applicants nominated by Staffordshire Council Adult Social Care, where the outcome of an assessment is that a direct let is the best letting solution for that applicant.
- 9) Other examples, including cases where an applicant is subject to Multi Agency Public Protection Arrangements (MAPPA), or presents a risk to themselves or others

Furthermore, the Council may decide to restrict the time an applicant is able to bid for accommodation for an area where they would prefer to live. In these circumstances a direct offer of accommodation may be made in any area that has been assessed as being suitable and safe for the applicant to live in.

#### **B: The Council's policy on choice: Penalty for refusing 2 suitable offers.**

Any applicant who refuses 2 reasonable offers within a 12-month period will be disqualified from the housing register and not allowed to reapply for a period of 12 months (see separate policy below for applicants owed a statutory homeless duty who refuse a suitable offer).

This adopted rule is intended to tackle the problem of some applicants making a successful bid and then reusing the property offered, which has the impact of increasing the time it takes to re-let vacant homes. The Council will determine whether an offer was reasonable for an applicant to accept using the reasonable offer criteria set out at appendix 4.

#### **C: The Council's policy on choice: Offers of accommodation made to any applicant owed a statutory homelessness duty under Part 7 of the Housing Act 1996**

Specifically, for applicants owed any statutory homelessness duty under Part 7 of the Housing Act 1996, the need to offer suitable housing is considered by the Council to be more important than allowing an applicant to wait for an offer of accommodation in a location where they would prefer to live in. Therefore, there is no minimum time set that an applicant owed a statutory homeless duty will be allowed to bid for social housing before a direct offer can be considered.

An offer of accommodation for an applicant owed a statutory homeless duty could be either a private rented property, or a social rented property. Should the applicant refuse an offer which is considered both suitable for their needs and reasonable then, subject to the Council's homelessness review procedure, the

homelessness duty owed will be discharged and they will lose any priority status granted to them based on the homelessness duty owed.

In these circumstances the Council will then assess whether they have another housing need that means they should be awarded bands 1-3. If they don't, they will be removed from the Housing Register.

A statutory homeless duty is defined as:

- a) The prevention of homelessness duty under Section 195(2)
- b) The 'relief of homelessness duty under Section 189B(2)
- c) Where the relief duty has come to an end and an applicant is then owed a section 190 Intentionally homeless temporary accommodation duty to provide them with a reasonable opportunity to secure alternative accommodation for occupation (section 190(2) duty),
- d) The section 193(2) Main Homelessness duty or the section 193C(4) 'reduced' section 193 duty

## **Section 2: Who can apply to join South Staffordshire's Housing Register and the criteria for assessing who is eligible to be included and who can qualify to join the register**

The Housing Register is open to anyone over the age of 16 years who has a housing need and has lived in the district continuously for 2 years, unless they come within one of the 'ineligible' or 'non qualification' categories set out in the policy.

A person can apply to join the Housing Register if their current address is their only home, or sole residence, and they are not already registered through someone else's housing application.

If an applicant is under 18 years of age, they will not normally be offered a property by a Housing Association. If in exceptional circumstances a person who is 16 or 17 is granted a tenancy, this will normally be held in trust until they reach the age of 18. This means that another suitable person (such as a parent, legal guardian, social worker or relative) will normally be responsible for the tenancy.

### **2.1: The eligibility 'persons from abroad' qualification rules**

Everyone over the age of 16 can apply to join the register but there are some groups of people who by law cannot join the register regardless of their housing need or circumstances. These are people who:

- Come under a Government eligibility rule which means they cannot lawfully access social housing
- Do not live habitually in the 'Common Travel Area' (UK, Channel Islands, the Isle of Man or the Republic of Ireland)
- Do not have the right to live in the UK
- Plus, other categories of people who the Government may in the future, decide are not eligible for housing assistance.

Under sections 160ZA (1), (2) and (4) of the Housing Act 1996 the Council cannot allocate a tenancy, or nominate a person for housing, if they are a person who is ineligible for an allocation of housing accommodation by virtue of being a person subject to immigration control, or a person from abroad, who is prescribed as ineligible.

The key relevant regulations that apply to eligibility are:

- Regulations 3 and 4 Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006, SI 2006/1294
- All subsequent amendments including 'The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) (EU Exit) Regulations 2019 (SI 2019/861)
- The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2020 (SI 2020/667) implemented from the 24 August 2020.

The above are not a complete list for all of the eligibility regulations. For example, there is significant legislation that relate to the UK's exit from the European Union

and the implications for accessing housing assistance. These rules are complicated. Anyone who is impacted, or believe they may be impacted, can approach the Council for advice, or can seek independent legal advice.

## **2.2: The qualification and non-qualification rules that have been adopted under the policy**

Under section 160ZA(7) of the Housing Act 1996 Part 6 the Council can set criteria for classes of people who are, or are not, qualifying persons and the Council has chosen to adopt a number of rules. There are a number of defined exceptions that cover all rules, or an individual rule.

The qualification rules adopted by the Council (and any exceptions to these rules) are set out below:

### **Qualification rule 1: The requirement to have an assessed housing need as defined by the criteria set out in Bands 1-3**

Applicants who do not meet the housing need criteria for an award of a band 1-3 will not be admitted to the Housing Register. This is because the level of housing demand in the district means that any applicant who is not assessed as being in a statutory housing need will almost certainly not be able to receive an offer of accommodation.

Applicants with no assessed housing need are still able to apply directly to any of the Housing Associations with social housing stock in the South Staffordshire district. Many operate their own housing registers as not all properties that become vacant are provided under a nomination agreement to the Council to let under this policy.

### **Qualification rule 2: The need to demonstrate a local connection to South Staffordshire**

To qualify for the Housing Register an applicant (or, alternatively a member of the applicant's household) must meet one of the following rules. They must have:

- a) Lived in the area continuously for the last 2 years and that residence was of their choice, or
- b) Are employed in permanent employment in the area and to travel to work by public transport would take them in excess of one hour each way. Permanent employment is defined as paid employment for 16 hours or more per week for period of at least 2 years and is not work that is considered to be temporary, casual or seasonal. Where there is a zero hour permanent contract the assessment will consider if, on average over a 3-month period, the person is working for 16 hours a week or more and that zero hours contract is not a temporary contract.

Where an applicant or partner is self-employed they must demonstrate that the self-employed work they perform is:

- 1) In the Councils area and

- 2) Is on average 16 hours a week or more
- 3) Cannot be performed from home, and
- 4) They have been self-employed for a continual period of at least 6 months and
- 5) Their self-employment is not work that is considered to be temporary or seasonal.
- 6) In addition the applicant or partner must be working self-employed at the point an offer of a tenancy is made.

*Note: Employment must be their actual place of work in area and not employment based on a head office or regional office situated in the area but from which the applicant does not work. Where working hours fluctuate an average will be taken over the last 3 months.*

- c) Have close family (normally considered to be a mother, father, brother, sister, or adult son or daughter) that have lived in the district for a minimum of the last 5 years. In addition, the circumstances must be that the applicant needs to be in the South Staffordshire district to give or receive essential support from close family. It is for the Council to assess and decide on whether the support is essential.

*Note 1: The Council will consider whether there are exceptional circumstances whereby other family members may be considered to provide a local connection. For example, the circumstances where a person has been brought up by an extended family member, in the absence of their own parents and the applicant continues to receive essential support from this person.*

*Note 2: the level of support required must be significant and cannot be short term or low level such as to carry out shopping once a week, and there is no existing support package in place.*

Once registered an applicant must continue to meet one of the 3 local connection qualification rules. If the applicant no longer meets this rule they will be removed from the register as they will no longer qualify for inclusion under this rule.

If an applicant has lived in the district for 2 continuous years in the circumstances where they have been placed into temporary accommodation in the district by another local authority, they will not qualify to join the Housing Register. This rule is justified because the local authority that has placed the household into temporary accommodation in South Staffordshire will legally retain the responsibility for helping the applicant to obtain long term settled housing.

Persons who have been detained in the Local Authority area (e.g., in prison or hospital), will not be able to establish a local connection as this does not constitute a choice of being resident in the area.

For the purposes of determining a local connection for residence, the Council will accept the following circumstances as demonstrating 'normal residence':



- a) Residency in a non-traditional dwelling, such as a mobile home that is placed on a residential site, or an official pitch.
- b) People who are forced to sleep rough in South Staffordshire as long as they meet the 2-year qualification period for residency.

There are a number of exceptions to the 2-year residency rule. These are:

1. Where the Council has placed an applicant into temporary accommodation outside of South Staffordshire.
2. Where the Council agrees that there are exceptional circumstances requiring a move into South Staffs. This will be decided on a case-by-case basis. Examples where exceptional circumstances may be considered on a case-by-case basis include:
  - An applicant is on a witness protection programme and the Council has agreed that a move to South Staffordshire is essential, or
  - Where the Council agrees there is a very exceptional need to live in South Staffs to provide or receive essential support.
3. The Council will consider any application from a gypsy or traveler household where the applicant may not meet the 2-year continuous period of residence rule, if the period has been broken by travelling. The Council will consider on the facts of each case when deciding whether the rule should be waived.
4. Applicants who satisfy the right to move criteria. The Right to Move qualification regulations 2015 states that local connection qualification rules must not be applied to existing social tenants who seek to move from another Council district in England, and who have a need to move for work related reasons to avoid hardship. However, the Council policy is to limit these moves to no more than 1% of all lettings per year.  
*See appendix 6 for details of how the 'right to move' criteria will be applied*
5. Where at the date of application the applicant is not currently resident in South Staffs whilst:
  - a) receiving medical or respite care
  - b) serving a custodial sentence
 In these circumstances the applicant must have been living in the South Staffordshire area 2 continuous years prior to their current accommodation circumstances
6. Applicants that satisfy the Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012. These are:
  - a) Applicants who are serving members of the regular armed forces
  - b) Applicants who served in the regular armed forces within the 5 years immediately prior to the date of their application
  - c) Applicants who are serving or former serving members of the regular armed forces or reserve forces who suffer from a serious injury, illness or disability sustained as a result of their service
  - d) Applicants who are a bereaved spouse/civil partner of a former serving member of the regular armed forces and have recently ceased (or will

- soon cease) to be entitled to reside in services accommodation following the death of their spouse/civil partner.
- e) The divorced or separated ex-spouse of a member of HM Armed Forces, who is currently serving or going through resettlement, will be exempt from the local connection criteria for a period of six months following the divorce or separation
7. Applicants that satisfy the Allocation of Housing (Qualification Criteria for Victims of Domestic Abuse and Care Leavers) (England) Regulations 2025. These are:
- a) Applicants who are or have been a victim of domestic abuse carried out by another person, who needs to move for reasons connected with that abuse, including from accommodation initially occupied on a temporary basis.
  - b) Applicants who are care Leavers below the age of 21 years (or 25 if they are pursuing a programme of education agreed in their pathway plan) who are owed a duty under section 23C of the Children Act 1989 and are an eligible child, a relevant child or a former relevant child.
    - a. "Eligible child" is aged 16 or 17 and has been looked after by a local authority for a prescribed period, or periods amounting in all to a prescribed period, which began after he reached a prescribed age and ended after they reached the age of sixteen
    - b. "Relevant child" is not being looked after by any local authority in England or Wales, was, before last ceasing to be looked after, an eligible child and is aged 16 or 17.

**Qualification rule 3: Circumstances where an applicant has a current or former housing rent arrears, or another relevant recoverable housing related debt.**

Generally, applicants who have housing related debt will either:

- a) not qualify to join the housing register if the debt owed is over £1,000 or
- b) can qualify but will not be entitled to be made an allocation of housing until the debt is resolved as per the rules set out below. If an applicant is allowed to join the housing register they will be ineligible to be considered for an offer until the debt has been resolved but they will still be allocated a band and will accrue their time in band whilst they take action to resolve the debt as per the rules set out in this section of the policy.
- c) For housing related debts of £1 - £499 an applicant will normally be considered for an offer of accommodation with no penalty).

Housing related debt includes but is not limited to:

- a) Any current or former tenant rent arrears or charges for use and occupation owed to any local authority, registered provider or private sector landlord
- b) Temporary accommodation charge arrears for a license or a non-secure tenancy, where that temporary accommodation was provided by South Staffordshire Council

Housing related debts apply to both the applicant and any partner included in their application.

The purpose of this qualification rule is:

- To ensure any relevant debt owed to any Council or social landlord is recovered and
- To consider whether an applicant's current position creates a risk of future non-payment of rent.

The following framework will be used to guide officers when applying this qualification rule. The Council will consider:

- 1) The reasons why the applicant accrued the housing related debt and whether there are exceptional circumstances that should be considered when applying the rule.
- 2) Whether the debt has been caused by factors difficult for the applicant to control, for example a case where an applicant was genuinely unable to pay the full rent due to being impacted by the 'spare room subsidy' rule. This is also known as the "bedroom tax"
- 3) Whether the applicant still owes that debt, and if they do, the extent of the arrears/debt as well as whether it is a recoverable debt, or a statute barred debt.
- 4) Whether the applicant has taken debt advice, acted on it, and entered into an arrangement to clear the arrears/debt.
- 5) If an arrangement has been made, the amount of arrears/debt paid off, any amount outstanding, and the regularity of payments made.

After considering the above the Council will decide whether the applicant will not qualify for the housing register, or that they will be allowed to qualify, but not considered for an offer until the issue has been resolved to the satisfaction of the Council. Debts of over £1,000 will normally mean that, unless there are exceptional circumstances, the applicant automatically does not qualify for the housing register until that debt has been reduced to under that amount, after which the rules set out below must be met before they will be considered for an offer of accommodation.

Applicants with housing related debts between £501 and £999 will be eligible to join the register but ineligible to be considered for an offer of social housing until they have made a repayment commitment to clear the debt and are making regular payments of an agreed sum which they have maintained for a period of 3 months.

This will normally mean not having missed a single payment; and the arrears have reduced to a figure that is equal to or less than 25% of the total debt. At this stage the application will be re-assessed and allowed to be considered for an offer.

Applicants with housing related debts between £501 and £999 will still be allocated a band and will accrue their time in band whilst they take action to resolve the housing related debt as per the rules in the policy.

The applicant will be expected to continue making regular payments of the agreed sum until the debt is cleared – if payments are missed then the

application will again be suspended from being considered for an offer until the arrears are cleared, or payments have been made satisfactorily for at least a further three months.

If arrears are still outstanding when an applicant is made an offer, they will be expected to sign an agreement to continue the agreed payments after they have moved.

For applicants who are assessed as not qualifying for the housing register under this rule because the amount owed is over £1,000, a new application will be considered when either:

- a) They have reduced the debt to under £1,000, or
- b) There are changed circumstances that the Council agree are exceptional after considering the facts of the case presented

### **Current or former rent arrears owed to a private sector landlord**

The Council normally only consider rent arrears from an applicant's last private rented tenancy in the circumstances where the council has obtained information that confirms on the balance of probabilities that a debt is owed. If there is a debt owed it will be for the assessing officer to decide on the facts gathered, the level of debt and the reasons for it, whether the applicant should be classified as a non-qualifying or should be allowed to qualify and if so whether they should be suspended from being considered for an offer until the debt is resolved. Where it is established that a debt is owed the same rules will apply as per a social housing debt above.

Where an applicant or their partner has held a private rented tenancy in the last 5 years the Council will write to their last landlord or lettings agency to enquire as to the reasons why the tenancy was terminated and whether there were any rent arrears at the point the applicant left the property. Applicants should not be penalised in the circumstances where a landlord or lettings agency fails to respond within 28 days and an applicant will be allowed onto the register unless there is other evidence obtained which indicates that the applicant, or partner, may have accrued substantial rent arrears from their last tenancy.

The Council will only contact the landlord or agent for the last rented property. However, where it comes to the attention of the Council that there were significant rent arrears relating to a previous private rented tenancy in the last 5 years that was not the applicant's last tenancy, a decision will be taken on the facts of the case whether to suspend the applicant from being considered for an offer until the debt is resolved.

### **Exceptions to the housing related debt qualification rule**

The only exception to the housing related debt rule is where an applicant can demonstrate that their circumstances are exceptional, and they would therefore face serious hardship or risk through not being allowed to qualify. An exception may be considered where, for example, an applicant has a good payment history but has incurred a debt as a result of a 'one off' problem, or where a

tenant had to flee domestic abuse and a subsequent debt has built up for the tenancy left.

Note 1: It is the responsibility of the applicant to make the case as to why their circumstances are exceptional. Once a request has been made for exceptional circumstances to be applied to their case it will be considered under the statutory review procedure.

Note 2: This qualification rule also applies to applicants currently on the register. An applicant's eligibility to remain on the register will be kept under review. An applicant may be rendered ineligible (or allowed to remain on the register but not be allowed to bid) should the Council become satisfied that there is new evidence, or a change of circumstances, meaning that this rule should be applied.

Note 3: For applicants who have had their rent arrears included in a 'Debt Relief Order', bankruptcy declaration or individual voluntary agreement (IVA) a period of at least 12 months has to pass from the declaration of insolvency to the point a debt is cleared. Should an applicant maintain their finances for this period, this will be considered as strong evidence that their previous problem has been resolved.

#### **Qualification rule 4: Unacceptable behavior**

The non-qualification rule for unacceptable behaviour will apply where an applicant, or any member of their household, has demonstrated serious unacceptable behaviour that, in the view of the council, makes them at the time of their application, or since their application, unsuitable to be a tenant.

The unacceptable behaviour disqualification rule will also apply to applicants currently on the Housing Register. An applicant's eligibility to remain on the Housing Register will be kept under review and an applicant may be rendered ineligible should the council be satisfied that the rule relating to unacceptable behaviour should be applied to their case.

Examples of unacceptable behaviour that may result in a decision that an applicant will not qualify to join the housing register include:

- a) they or a member of their household has committed anti-social behaviour in or around the vicinity of their home that has resulted in an ASBO, ABC, injunction or other legal deterrent being issued within the past five years or on the test of 'the balance of probabilities' the Council is satisfied that the behaviour took place.
- b) they or a member of their household have a conviction for using their accommodation, or allowing it to be used, for illegal or immoral purposes such as drug dealing, within the past five years.
- c) they have been evicted from a tenancy by a social or private landlord for a breach of tenancy conditions, including non-payment of rent, within the past five years.
- d) committing acts causing or likely to cause nuisance or annoyance to neighbours or others in the area where they live or have previously lived.

- e) conduct likely to cause nuisance or annoyance if they were to be offered a tenancy. This is conduct or behaviour that does not only relate to a previous social housing or private rented sector tenancy. It may include the circumstances where an applicant, or a member of their current or prospective household, is the subject of actions being taken by any council (or some other recognised body) on grounds of alleged antisocial behaviour (ASB).
- f) circumstances where the applicant, or any member of their household, has assaulted a member of the council's staff, whether or not an injunction is being sought, or has been obtained.
- g) being subject to a court order (including an interim order) for breach of tenancy conditions.
- h) conviction for illegal or immoral use of their current or former home.
- i) causing nuisance and annoyance to neighbours or visitors.
- j) committing criminal offences that still pose a threat to neighbours or the community such as drug dealing.
- k) being violent towards a partner or members of the family.
- l) allowing the condition of the property to deteriorate in avoidable circumstances.
- m) paying money illegally to obtain a tenancy.
- n) unlawfully subletting their tenancy.
- o) applicants who have been convicted of housing or welfare benefit related fraud, where that conviction is unspent under the Rehabilitation Offenders Act 1974.
- p) having unspent convictions where an assessment by the Council concludes that the applicant is unsuitable to be a tenant due to a significant risk to potential neighbours and/or communities such as convictions for selling drugs.
- q) an applicant or any member of their household has been responsible for any racial harassment or other hate crime. 'Racial harassment' and 'hate crimes' are defined as racist, religiously aggravated, faith, gender, age, disability, and trans phobic or homophobic or gender re-assignment harassment or hate crime. A hate crime or racist incident is defined as any incident which is perceived to be racist or hate crime related by the complainant or any other person.

The assessing officer will be guided by the following framework when assessing whether an applicant should not qualify based on their unacceptable behaviour:

- a) The behaviour need not have led to possession, prosecution, or other enforcement action by a statutory agency if they had been a tenant, provided that, on the balance of probability, the household is responsible.
- b) in normal circumstances the behaviour concerned should have occurred within the last five years. In cases of a more serious nature, for example, those involving criminal prosecution, a longer timescale may be appropriate if the applicant still poses a threat to neighbours and community.
- c) there must be reasonable grounds for believing that the behaviour could continue or be repeated. For example, the applicant may have issued threats, or there might be a history of repeat offending.



When assessing whether behaviour may result in the applicant not qualifying the assessing officer will be guided by the following framework. They will consider:

- 1) the seriousness of the applicant's behaviour.
- 2) the duration of the behaviour and/or the number and frequency of incidents.
- 3) the length of time that has elapsed since the behaviour took place.
- 4) any relevant vulnerability or support needs that may explain the behaviour.
- 5) whether there is meaningful engagement with support agencies.
- 6) critically, whether there has been a significant and sustained change in the applicant's behaviour.
- 7) whether they believe on the evidence that the behaviour is likely to still reoccur now or at the point a tenancy was offered or commenced.
- 8) whether the circumstances that caused the behaviour have changed. For example, whether nuisance was caused by drug or alcohol problems that the applicant has since successfully resolved.
- 9) whether the member of the household responsible for the behaviour is still a member of the household.
- 10) whether the council can accept any assurances from the applicant as to future behaviour and is signed up to an agreement setting out the behaviour that is expected of them.
- 11) if the unacceptable behaviour is believed to be due to physical, mental or learning difficulties, whether, with appropriate support, the applicant could maintain a tenancy.

Applicants to whom the rule is applied will be written to and informed that:

- 1) the unacceptable behaviour rule has been applied to their case and they do not qualify until the behaviour has been resolved.
- 2) what they must do to resolve the problem, and
- 3) they have a right to ask for a review of the decision made to disqualify them.

Non-qualification will apply until the applicant (or a member of their prospective household) has demonstrated, to the satisfaction of the council, their previous unacceptable conduct is unlikely to reoccur. This may include demonstrating cooperation with support agencies leading to a substantial improvement in behaviour.

Where an applicant is disqualified, any new application will only be reconsidered at the request of the applicant and only where there has been no reasonable cause for complaint or concern against the applicant (or members of their prospective household) for a continuous period of 12 months. It is the applicant's responsibility to notify the council when they have, in their view, resolved the issue and they will need to present evidence to back up their view as part of any new application.

An applicant may re-apply to join the housing register after 12 months. During this time they will be expected to demonstrate behaviour that would make them suitable to be a tenant, such as no further anti-social or criminal behaviour in or



around the vicinity of their home and/or no further breaches of tenancy conditions.

### **Qualification rule 5: Financial resources**

Applicants who are considered to have sufficient financial resources to buy or rent suitable accommodation will not qualify for the Housing Register.

#### **Sufficient financial resources**

With regard to finances, single and joint applicants will not qualify to join the register if:

- 1) Applicant/s have a total household income of £50,000 gross per year, or
- 2) Have resources of over £16,000 from investments or savings.

These financial limits will be reviewed every two years in line with the financial market.

Dependent children or non-dependent adult children's income will not be considered as part of the household's total income assessment.

'Sufficient financial resources' includes any assets or investments even if they are not immediately available to the applicant.

In applying this qualification rule the Council will disregard any lump sum received by a member of the armed forces when leaving the armed forces or received as compensation for an injury or disability on active service.

Although this rule will mean applicants assessed as having sufficient financial resources cannot join the Housing Register, it does not prevent them being considered for any low-cost part ownership, or full ownership schemes. On request, information can be given as to which Housing Associations or developers are currently operating such schemes in the South Staffordshire area and how applications can be made.

### **Qualification rule 6: Homeownership, or legal interest in homeownership**

An applicant cannot qualify for the housing register if they or their partner own a residential property in the UK or elsewhere. Applicants who have been the owner of a residential property within the last 5 years will be required to provide proof of the proceeds from the sale and of the disposal of any proceeds. Where proceeds from any sale have been spent recklessly and, as a result, takes an applicant's financial resources below the disqualification level set, an applicant can still be determined as not qualifying for the housing register.

#### **Exemptions to the financial resources and homeownership qualification rules**

Applicants who do not qualify under the homeownership or financial resources rules may be considered as an exception if:

- a) If as a result of a divorce settlement a Court has ordered that an applicant may not reside in the former matrimonial or civil partnership home in which they still have a legal interest for a period which is likely to exceed 5 years.
- b) Where there are large families on benefits including disability benefits where their total household income exceeds £50,000 a year
- c) Where someone is a homeowner and is statutory homeless due to domestic abuse and whose property has not yet been sold. A decision will be made as to whether to treat this as an exemption based on the facts and circumstances of the case.
- d) The applicant has a substantial disability, and their current home is not suitable for their specific needs.

Exemption d) is intended to cover situations where a person owns their own home but where it is agreed that they are no longer able to manage in it due to their advancing years, or due to a substantial disability that makes living in their home impracticable and where selling is unlikely to provide sufficient funds to purchase alternative accommodation that would be suitable for their needs.

### **Qualification rule 7: Fraud or giving False Information**

Applicants who are found to have withheld or given false information may be removed from the register and will not be able to reapply for a period of 12 months. Decisions to remove the person from the register will be made based on the seriousness of the attempted fraud or false information given including an assessment of why information was withheld.

How the Council will apply this rule where it is suspected that false information has been provided, or important information has been withheld is set out in appendix 7.

### **Qualification rule 8: Removal from the Housing Register for refusing 2 suitable offers within a 12-month period**

Any applicant who refuses 2 reasonable offers within a 12-month period will be disqualified from the housing register and not allowed to reapply for a period of 12 months (Note: Applicants owed a statutory homeless duty are only allowed one suitable offer and a refusal will mean that their priority for being owed a statutory homeless duty will be removed).

This rule is intended to tackle the problem of some applicants making a successful bid and then reusing the property offered, which has the impact of increasing the time it takes to re-let times vacant homes. The Council will determine whether an offer was reasonable for an applicant to accept using the reasonable offer criteria set out at appendix 4.

### **2.3: How exceptional circumstances will be considered for any of the qualification rules**

The Council will retain the ability, in exceptional circumstances, to exercise its discretion when applying any of the qualification rules listed, or any other rule adopted under this policy. Any person who is not a qualifying person by reason of the above criteria may be deemed to be a qualifying person for exceptional

circumstances by the Housing and Homelessness Team manager or an equivalent senior service manager responsible for housing in South Staffordshire.

Where in their application to join the Housing Register an applicant makes a case for discretion to be applied for exceptional circumstances, this will be considered as part of the application. Otherwise, where the case for discretion has not been made out as part of the application, the applicant will have a second chance to make the case for why discretion should be applied through the review process. For example, where an applicant has requested a review for a decision that they do not qualify, or a decision as to what band is owed, they may make the case for why discretion should be applied to their case for exceptional circumstances.

It is for the applicant to request a review and make the case for why discretion should be applied to their case for exceptional circumstances. A request for a review by an applicant of a decision that an applicant does not meet a qualification rule, or for any rule in the policy to be waived, will also be taken to be a request for any exceptional circumstances to be considered. This request for review should be within 21 days of their application being refused.

Where requested, the council will consider whether the applicant's circumstances (or those of a member of the applicant's household) are so exceptional that discretion should be applied.

The applicant will receive a written decision on their claim for exceptional circumstances to be applied within 56 days and, where that decision is that the case is not considered to be exceptional, reasons will be given.

Note the council cannot waive the eligibility rules for any applicant who is not allowed to access social housing under the immigration and 'persons from abroad' rules set by Central Government.

In deciding whether an applicant's circumstances are exceptional the council will fully consider the Equality Act 2010 and Children Act 2004 where children are part of the applicant's household. With regard to the Equality Act, the council will specifically consider:

- a) whether the person, or a member of their household, meets the definition for one or more of the nine protected characteristics listed in the Equality Act 2010
- b) if we agree that the applicant or a member of their household comes under the definition for a protected characteristic, the council will fully comply with Section 149 of 2010 Equality Act and ensure it has obtained all relevant information relating to the applicant's protected characteristic and will consider that if they were not able to qualify for the Policy, whether this would have an exceptionally detrimental impact on the person with that protected characteristic: and
- c) ensure any decision that the applicant's circumstances are not exceptional will be a decision that is a proportionate means of achieving the legitimate objectives for the policy.

## Section 3: Applying to join the Housing Register

### 3.1: How to apply

People wishing to join the register must apply on-line through the Customer Portal <https://southstaffs.housingjigsaw.co.uk/>.

Any applicant who may need help in completing their on-line application can call the Housing Team on 01902 696000 or via email to [homes@sstaffs.gov.uk](mailto:homes@sstaffs.gov.uk), where they will be guided through the process of making their application on-line. There is free access to the 'internet' at libraries, and at some community facilities. A home visit or office appointment can be offered when an applicant has no access to the 'internet' or is unable to use the 'internet'.

The Council Housing Team will help any person who is likely to have difficulty in making an application to join the Scheme. This assistance will include:

1. Help to complete the application form
2. Explaining what evidence might be required for the Council to determine any eligibility and qualification rules
3. Explaining what evidence might be required to determine the degree of priority to be given to an application

The housing application webpages contain a list of the supporting documents that an applicant must provide in order for the Council to progress their application. Applicants can download the supporting documents requested directly from the website.

Once the application has been received there may be a need for additional information. If so, an applicant will receive a phone call, email or letter asking for the additional information needed.

If an applicant is unable to email the documents required, they can be brought into the Codsall Community Hub, Wolverhampton Road, Codsall, WV8 1PX.

Any application forms that are not completed fully cannot be processed meaning that an applicant will not be able to access the housing register until the information is fully completed and assessed.

The Council will make enquiries it considers necessary in order to verify and assess an application for housing. This may involve contacting previous landlords, health or medical advisors, police etc.

The Council will process applications within a reasonable period of time (relative to the particulars facts given in the application) after all documentation has been received from an applicant.

If accepted onto the register the applicant will be informed of:

- 1) The band they have been placed in (this determines priority)

- 2) The date of application (may be used to determine priority within the band allocated)
- 3) The size and type of properties for which they can bid
- 4) Their application reference number (applicants will need this to bid)
- 5) How to seek a review against their banding if they think it is wrong.

If an application to join the housing register is refused the applicant will be informed in writing and will have a right to review the decision made.

Copies of all adverse decisions will be made available for a reasonable period of time for collection by the applicant, or by someone on their behalf, at the main offices of the Council, where an applicant has not provided either an email address or postal address.

Prisoners can register in the 6-month period prior to their date of release if they meet the qualification rules but will not be able to bid for a property until 1 month prior to release.

### **3.2: The date a band will be allocated**

The band start date is the date that the housing register application was received for assessment, unless an applicant's housing need and/or circumstances changes and any reassessment results in the applicant being placed in a higher band. In these circumstances they will have their effective date reset as the higher band reflects their higher level of housing need.

Note for eligible homeless applicants who meet the qualification rules to join the Housing Register the following will apply with regard to their band start date:

- a) Owed a section 195(2) Prevention of homelessness duty – Band date is the date the duty was owed and not the date of the homelessness application
- b) Owed a section 189B (2) Relief of homelessness duty – Band date is the date the duty was owed and not the date of the homelessness application
- c) Owed the Main section 193(2) duty – Band date is the date the Relief of homelessness duty was owed and not the date the Main duty was owed. This is because to start the date at the date the Main duty was owed would disadvantage an applicant by 56 days who has been found to be in priority need and unintentionally homeless
- d) Circumstances where the relief duty has ended, and the applicant is assessed at this point as not being in priority need - Band date is the date the Relief of homelessness duty was owed and not the date the Relief duty is brought to an end and the homeless but not in priority decision is confirmed.

### **3.3: Assessing Applications**

In order to assess an applicant's housing need and their place on the Housing Register the policy has adopted a 'needs based' banding system detailed in section 4 below.

Any band awarded reflects an applicant's housing need with the higher the band awarded reflecting the greater level of housing need.

Applicants will be required to sign a declaration, or to give informed consent, to confirm their understanding that:

- a. The information given is correct and that they will notify the Council of any change in their circumstances.
- b. Enquiries will be made concerning their eligibility for housing and level of priority.
- c. Information will be provided to other partner organisations that are part of the scheme.

Once an applicant provides information, the Council will process that information under Article 6 GDPR. The processing is necessary under the 'Public Task' purpose and is necessary for the Council to perform a task in the public interest or for its official functions, in this case to meet its legal responsibility to assess housing applications, and we are satisfied that the task or function has a clear basis in law.

It is the responsibility of the applicant to provide all the information requested to assess their circumstances, and to provide any supporting information or documents that are requested. Incomplete applications will not be made active until such time as the Council is satisfied that it has in its possession all of the information it requires to complete its assessment.

All incomplete applications will be cancelled after a period of 28 days measured from the date further information has been requested. If cancelled this does not prevent the applicant making a subsequent application at a later date, although in such cases the applicant's effective date of registration would not be backdated to the date of the earlier application.

The Council may request information or a reference from an applicant's current or previous social landlord and may, depending on whether the application gives rise to any concern, request a reference from the most recent private sector landlord if the applicant is or has been a private sector tenancy.

Where a social or private landlord does not reply a reminder will be sent, and if still not forthcoming any other information or records available will be checked to try to determine whether there have been any concerns over the way an applicant may have conducted their tenancy. An applicant should not be disadvantaged if, despite every effort, it is not possible to obtain a reference from their current or previous landlord.

All applications are subject to verification checks and these may be applied:

- At the point of initial application
- Following any change of circumstance notified to the Council by the applicant
- Following any routine validation audits
- Following an annual review of the application
- At the point of an offer of accommodation
- At the point of letting

### **3.4: Checks into any court cases or unspent criminal convictions**



All applicants and members of their prospective household will be requested to disclose any pending court cases or unspent criminal convictions.

The Council may use any information disclosed (or any other information obtained during the assessment or following registration) to ascertain whether the applicant should be disqualified from joining, or from remaining on the housing register, after applying the serious unacceptable behaviour rule.

Spent convictions are not required to be disclosed and will not be taken into account in assessing a person's eligibility to join the register. The assessment will consider whether there is evidence of any current serious unacceptable behavior regardless of whether a person has been convicted in the past for that behavior.

If the Council decide that, on the information obtained during the assessment process, there is a real pressing need for a police check, a supplementary request for information and declaration will be sent to the applicant asking for more details and for permission from the applicant for the Council to make the relevant checks. Failure to give permission may result in the application not being made live whilst the Council consider the information available to it.

Information gained will not automatically exclude an applicant from the register. Information received may also be used to make informed decisions about the suitability of any property that may be offered.

All assessments will be carried out in accordance with the data protection and information sharing policies and other legal requirements.

### **3.5: Persons entitled to be considered as part of the application**

Joint applications may be accepted and will be treated as one application. The housing need of the whole household will be considered in assessing housing need.

Persons entitled to assistance must be members of the applicant's immediate family who normally reside with the applicant. Any other person or persons will only be considered as entitled if the council is satisfied that it is reasonable for that person to reside with the applicant. This will normally exclude lodgers or anyone sub-letting from the applicant.

Applicants should only include persons on their application who are a permanent member of their household and who will be occupying the accommodation offered as their only or principal home.

People who usually live with the applicant but are temporarily absent (for example, they are in prison on a short-term sentence, or in the care of any local authority, staying in hospital, or undertaking a college or university course), may be considered as a usual household member at the discretion of the council and depending on the facts presented.



Specifically, a person's housing application can include the following household members:

- a) spouses or civil partners where the applicant lives with and/or intends to live with their spouse or civil partner
- b) partners where the applicant is currently cohabiting with a member of the same or opposite sex
- c) children who reside with and are dependent upon the applicant. Children are defined as under 18 for these purposes
- d) any other household member such as an adult child where it is accepted that:
  - they have been part of the applicant's household for a period of 12 months prior to their application to the council; and
  - they reside with the applicant as part of their household,
  - and the applicant will also need to demonstrate that this is not a short term or temporary arrangement.

Family members who do not currently reside in the UK cannot be added to a Housing Register application.

The council may also refuse to consider an application for assistance or someone's inclusion on an application if the person concerned (i.e., other than the applicant) has made a separate housing application.

Joint tenancies are normally granted by a Housing Association where applicants have a long-term commitment, for example, married, or unmarried couples, or civil partners. This decision is for the Housing Association offering accommodation, who will decide whether to allow a joint tenancy depending on the circumstances.

For households eligible to be rehoused only because of the housing need of a 'restricted persons' (as required under the homelessness legislation), the council has a duty to arrange as far as practicable, an assured shorthold tenancy with a private landlord.

If the main applicant is eligible and not subject to immigration control, non-eligible dependent children and other dependent family members will be taken into account when deciding the size of accommodation that the household is entitled to.

### **3.6: Households with access to children/shared residency order or Child Arrangement Orders**

As part of the assessment process the Council will record whether the applicant claims to have children that live with them part of the week and whether or not this arrangement is set by the court or not.

The Council will then apply the test in Section 189(1)(b) of Part 7 of the Housing Act 1996 to decide whether any child both lives with and is dependent on the applicant. Unless this test is passed an applicant will only be able to be considered for the size of accommodation relevant to their circumstances.

Following this assessment there will be cases where it is agreed that children live with the applicant on a 'shared arrangement' even though they do not exclusively live with the applicant.

In these cases, even though the child/children can be included as part of the application there will be a number of factors that will be considered when deciding what size accommodation can be offered. These factors include:

- a) The ability of the applicant to afford the rent with or without help from benefits
- b) The availability and popularity of family housing in any area that an applicant expresses a preference to live in. For example, a partner housing association may be willing to be more flexible where a vacancy relates to a flat than a house as long as the rent is assessed as being affordable.

### **3.7: Medical priority**

If the Applicant or a member of their household believe that they have a 'Medical Need' to be rehoused, the Medical Circumstances section of the form should be completed. Applicants will be asked to provide information about why their current home is affecting their health. In these instances letters of support from their GP, Consultant and/or Occupational Therapist will be requested from the applicant if they are available. Evidence submitted by an applicant should outline how a condition specifically affects an applicant's current and future housing needs. Most cases will be assessed by a Housing and Welfare Assistant using the guidelines set out in this section of the Policy and referencing the examples set out in annexe 3. For more complex cases a manager will make the decision and may, at the Council's discretion, be referred for an independent medical opinion to help the officer decide whether an award is appropriate.

When assessing whether to award Band 1, 2 or no priority, the council will follow the five-stage assessment set out below:

- 1) Is the medical/disability issue serious enough for a priority banding to be considered?
- 2) If the medical condition is serious enough for a priority banding to be considered the assessing officer will then decide if there is a direct link between the identified medical problem and the applicant's current housing accommodation/situation, i.e., on the facts obtained (from the applicant and any medical information or reports submitted including any advice from an independent medical advisor or occupational therapist if sought, or required) does the assessing officer accept that the applicant's current housing accommodation/circumstances are making their medical condition or disability substantially worse, or will make it worse?
- 3) In practical terms, the officer will consider the adverse effect this has on the applicant's ability to manage day-to-day tasks in their current home. The applicant's current housing accommodation/circumstances may be impacting on their medical condition or disability but not to the extent that an award of Band 1 or 2 priority should be granted under the criteria adopted for the Policy. There are examples listed in annex 3 for when an

award of Band 1 or 2 may be awarded and they are used to guide the officer when making their decision.

- 4) Before making an award, the assessing officer needs to be satisfied there is a realistic expectation that the impact on the identified medical condition/disability would be removed, or significantly improved, through the provision of alternative accommodation.
- 5) If the officer is satisfied that the impact on the identified medical condition/disability would be removed or significantly improved, they would then decide whether to award Band 1 or 2 depending on the severity of the impact.

### **3.8: When medical priority will not normally be awarded**

Medical priority will not normally be awarded in the following circumstances:

- a) where the applicant has a health issue, however severe, that is not impacted by the accommodation occupied
- b) health problems that are not affected by housing or cannot be improved by moving
- c) where a move would only make a marginal improvement to the applicant's condition
- d) medical impacts caused by housing defects that are likely to be rectified in a reasonable time frame
- e) where another reasonable course of action is available to the applicant to resolve their difficulties
- f) time-related medical problems (e.g., pregnancy-related problems or a broken leg)
- g) disrepair problems not impacting significantly on the applicant's medical condition. (Note: under the Policy an applicant may receive priority separately for living in unfit or unsatisfactory housing depending on the assessment made of their circumstances and impact)
- h) overcrowding not impacting significantly on the applicant's medical condition. (Note: under the Policy an applicant may receive priority separately for being overcrowded)
- i) if the situation can be resolved by equipment or minor adaptations which can be implemented in a reasonable period of time.

Medical assessments are not just related to banding. The council will also consider requests for future housing, for example regarding the floor level a household may need and whether an extra bedroom is required due to a child having autism. Guidelines for assessing extra bedroom requests for ADHD, Asperger's, sensory processing difficulties, and other mental or physical health problems are set out in annex 3.

### **3.9: The requirement to inform the Council of any change of circumstances**

Applicants are required to inform the council in writing of any material change in their circumstances that may affect their priority for housing. Examples of a change in circumstances include but are not limited to:

- a) a change of address or contact details, for either themselves or members of their household
- b) a change in their medical condition or disability (either existing or newly acquired)
- c) additional family members or other people they wish to add to their application (It will be for the council to decide whether they will allow additional people to join the application)
- d) any family member or any other person on the application who has left their household; and/or
- e) any significant changes in income, savings, or assets, that may require a reassessment under the income and savings qualification rule.

Applications may be temporarily suspended while the council assesses the information provided by the applicant and completes further enquiries that may be necessary.

Where following a change in an applicant's circumstances this results in a change to the applicant's application or banding, they will be informed in writing.

Note: on allocation of accommodation, verification checks into the applicant's current circumstances are likely to be carried out again by the council team administering the nomination, or Housing Association that owns the property. This is to ensure the allocation is being made in accordance with the applicant's current housing circumstances and needs at the time of a prospective offer. Therefore, a failure to notify the council of a change in circumstances may lead to an offer of housing being withdrawn and the application suspended whilst changes that were not notified to the council are assessed.

### **3.10: Assessing overcrowding and the bedroom size that can be allocated**

In determining the number of bedrooms required, one bedroom is required for each of the following:

- 1. Applicant and Partner
- 2. One bedroom for any additional adult couple
- 3. Two children of different sexes up to the age of 10
- 4. Two children of the same sex under the age of 18
- 5. Each child over the age of 18
- 6. Where the Council agree that an overnight carer is required

Notes on how the Council will apply the above criteria:

- 1) Children are not considered as part of the household of the applicant if the children have a main permanent residence elsewhere.
- 2) Families headed by a single parent will be treated in the same way as a family headed by a couple.
- 3) Couples should always have their own bedrooms and not share with children.
- 4) Any property with 2 reception rooms will have one counted as a bedroom
- 5) Unborn babies are not considered when determining the number of bedrooms needed.

- 6) An applicant should note that when nominated the Housing Association may have adopted different criteria for determining the number of bedrooms a household requires.

### **3.11: Applications from members of the Council and staff**

To ensure the council is seen to be treating all applicants fairly, any application for housing or rehousing from members of the council, or employees of the Council or their relatives must be disclosed.

If an applicant has a connection with the Council they are treated no differently than any other applicant. However, before any offer of accommodation is made this must be authorised as set out below:

- Any applicant who is a current elected member of the Council, or a former elected member of the Council – Chief Executive for the Council (CEO)
- Any applicant who is a current member of staff of the Council – Corporate Director / Assistant Director
- A close relative of any current member of the Council's Housing Service defined as mother, father, son, daughter, brother, sister, partner, uncle, aunt, grandparent, or grandchild - Corporate Director / Assistant Director

### **3.12: Reviewing the Housing Register**

Every applicant on the Register will have their application reviewed annually, or more frequently as decided by the Council in order to manage the administration of the register. An annual review (renewal), message is sent to an applicant prompting them to renew their application. Each applicant is asked to agree to renewing their application and to check that their circumstances have not changed. If an applicant has not responded after 28 days a second reminder will be sent by email (or by letter, if the applicant does not have an email account). If no response is received to the renewal reminder then the application will be cancelled.

### **3.13: Cancelling Applications**

An application will be cancelled from the Housing Register in the following circumstances:

- a) at the request of an applicant
- b) where an applicant does not respond to an application review, within the specified time set out in any correspondence sent to them
- c) where any Council or Housing Association has housed the applicant
- d) when a tenant completes a mutual exchange
- e) where the applicant moves and does not provide a contact address
- f) where the applicant has died
- g) where, at the housing application or any reassessment, an applicant has not supplied information requested within 28 days
- h) where an applicant already registered becomes ineligible or is disqualified under the rules adopted for this policy
- i) where the applicant buys a property either through the Right to Buy or Right to Acquire or through the open market or inherits a property.

Any applicant whose application has been cancelled has the right to ask for a review of that decision.

Where an application has been cancelled, consideration will be given to reinstating the application where the applicant contacts the Council's Housing Team within three months of the cancellation date; and the applicant is able to provide evidence of good reason for not responding within the required timescales.

### **3.14: Deliberate worsening of circumstances**

Where there is evidence that an applicant has deliberately made their housing situation worse in order to gain a higher priority on the register, the assessment of their needs will be based on the circumstances before the change in their situation brought about by their actions to deliberately worsen their circumstances.

Examples of deliberately worsening circumstances are:

- Applicants who have allowed family members or others to move into their property, who previously had suitable accommodation, or the financial means to secure their own accommodation, and this has resulted in the property being overcrowded.
- Applicants who have moved from previously suitable or more suitable accommodation which was affordable and reasonable for them to continue to occupy, into a less suitable property which would result in a band 1 or 2 award.
- Homeowners who have transferred their property to another family member within the last 5 years from the date they make their application to the housing register.
- Applicants who have given up affordable and suitable private rented accommodation which they are able to maintain, to move in with other relatives or friends, creating a situation of overcrowding and/or sharing of bathroom/kitchen.
- Requesting or colluding with a landlord or family member to issue them with a notice to leave their accommodation.

These are examples only. There may be other circumstances where the Council decide that an applicant has deliberately worsened their circumstances

### **3.15: The Review Procedure**

Under the housing legislation an applicant has a legal right to request a review of any of the following decisions reached by the Council:

- a) A decision that an applicant is ineligible, or not a qualifying person to join the Housing Register.
- b) A decision regarding which band an applicant has been awarded.
- c) The priority date granted for the band awarded.

- d) To remove an applicant from the Housing Register.
- e) Any decision about the facts of the case that has been used to assess their application including the decision the Council has made on who can be included in the application.
- f) Where an applicant considers that a decision has been reached based on incorrect information.

### **3.16: How a request for a review will be dealt with**

- 1) A review must be requested within 21 days of the date of the letter advising the applicant of the decision on their application.
- 2) The request for review should be made in writing by email or letter addressed to:

Housing and Homelessness Assistant Team Manager  
Housing Options Team  
Codsall Community Hub,  
Wolverhampton Road,  
Codsall, WV8 1PX

- 3) The applicant should give reasons why they wish to have the decision reviewed so that the Council can ensure that the request falls under the statutory review request criteria.
- 4) Upon receipt of a request for a review the Council's Reviewing Officer will send an acknowledgement letter explaining the review process and procedure to be followed.
- 5) The officer undertaking the review will not normally have been involved in making the original decision.
- 6) An applicant may be asked to attend an interview and, if so, can be accompanied by an advisor or friend.
- 7) The review will be carried out and the decision and the reasons for it will be given to the applicant in writing within 56 days of the request being received. There is no right to request a review of this review decision.



## **Section 4: How an applicant's housing needs and circumstances are assessed**

### **4.1: The Banding system**

The demand for social housing exceeds supply in South Staffordshire and therefore this policy prioritises the housing of applicants assessed as being in the greatest need. Once registered many applicants will still unfortunately not have sufficient housing need to be offered a property.

A banding system will normally be used to decide when to make an offer of accommodation and to whom, unless the Council applies the direct lets procedure as set out in this policy.

The Council has chosen to adopt a simple and transparent system creating 3 queues where people will be ranked by date order in each queue.

**Band 1 – Urgent housing need to move:** these are applicants that are owed a statutory award of 'reasonable preference' but whom the Council believes should also be awarded 'additional preference' based on their urgent housing need.

**Band 2 – High priority statutory housing need to move:** these are applicants that are owed a statutory award of 'reasonable preference' under the policy and have been awarded band 2 priority based on their assessed high housing need.

**Band 3 – Identified statutory housing need to move:** these are applicants that are owed a statutory award of 'reasonable preference' under the policy and have been awarded band 3 priority based on their assessed housing need

The following section provides details for the 3 bands an applicant may be awarded based on the Council's assessment of their housing need. How the policy defines and assesses housing need is described below. Where there are further details (beyond that contained below) for how the housing need criteria will be assessed, these are set out in appendices. For example, the process for how the Council assesses applications where it is claimed there is a housing need based on the impact of an applicant's current housing on their physical or mental health is detailed in appendix 5.

It is important to note that applicants will be placed in the appropriate band following an assessment that their housing need meets the threshold for that band. An applicant who qualifies under more than one of the housing need criteria will be awarded the highest priority they are entitled to under the criteria. They will not be awarded a higher band just because they meet more than one housing need criteria. For example, an applicant who meets 2 Housing Need criteria for Band 2 will still only be awarded band 2 and not Band 1.

### **4.2: THE BANDING SYSTEM AND THE ADOPTED HOUSING NEED CRITERIA FOR EACH OF THE 3 ADOPTED BANDS**

## **BAND 1: EXCEPTIONALLY URGENT NEED TO MOVE**

### **1: Exceptional or medical impact with an immediate need to move**

Where an applicant (or a member of their household) is unable to continue to occupy their current accommodation due to exceptional medical need or disability. *(See appendix 5 for how band 1 medical will be assessed and awarded)*

### **2: Exceptionally urgent need to move due to violence, harassment, or protection issues**

Not every circumstance that may present can be captured under this category therefore below are examples where the award may be considered. The list is not exhaustive:

- a) Applicants who the Council agree need to move immediately due to domestic abuse threats from an ex-partner or family member they do not live with, or extreme threats of violence, extreme harassment, or other extreme circumstances deemed to significantly affect a household's welfare and wellbeing. Note applicants would be encouraged to present as homeless where the Council is of the view that it isn't safe for them to remain in their home. If the Council accept a homelessness duty an applicant will be banded according to the homelessness banding criteria.  
For any Housing Association tenant, the expectation is that where it is safe to do so a like for like management transfer would be granted or an emergency decant whilst a suitable transfer was arranged.
- b) Exceptional circumstances due to significant problems associated with the tenant's occupation of a dwelling in the social or private rented sector and there is an extreme risk to the tenant or their family's safety if they remain in the dwelling/area.
- c) For applications in circumstances where there is a critical and serious threat to the well-being of a child and their accommodation is a major contributory factor to that risk. This will be in circumstances where the relevant manager in Children's Services or equivalent assesses the level of risk exposure in relation to the child or children remaining in the current property as being so critical that no other reasonable options in relation to accommodation are available to protect the child.

### **3: Band 1: Unfit or unsatisfactory housing – exceptionally urgent cases**

**There are 3 circumstances where Band 1 may be awarded:**

#### **1) Band 1 for applicants without access at all to any of the following facilities:**

No access to:

- a) A bath or shower
- b) A toilet
- c) Cooking facilities
- d) Running hot water supplies
- e) Electric/gas needed for essential activities

Applicants who have access to shared facilities re cooking; bathroom and toilet will not qualify under these criteria.

This does not include applicants sleeping rough or with no fixed abode. They will be dealt with under the homelessness criteria in this banding policy.

**2) Band 1 for applicants where unsatisfactory housing is having an exceptional impact.**

Applicants who currently occupy a private sector property which has at least one Category 1 Hazard (excluding overcrowding) under the Housing Health and Safety Rating System (HHSRS) and where a Prohibition Order has been served or is intended to be served under the Housing Act 2004 and the effect of the Prohibition Order is likely to mean that the applicant(s) will lose the use of their home on a permanent basis. The relevant conditions at the property must be life threatening, or in the Council's view present an immediate threat of serious injury to the occupant(s)

This includes a property that has severe damp, major structural defects including subsidence, flooding, collapse of roof, or have living conditions which are a statutory nuisance, and there is no prospect of the problems being remedied within a period considered to be reasonable by the Council and the household are not able to afford to resolve their own housing problem by moving to alternative private sector accommodation.

Note - this category does not include Housing Association tenancies because there is a legal requirement on social landlords to urgently remedy defects that pose a risk to their tenants

**3) Band 1 due to demolition or Compulsory Purchase Order (CPO) cases.**

Where the applicant's property is subject to demolition or subject to a Compulsory Purchase Order for redevelopment

**4: Band 1: Severe Overcrowding - People currently living in severely overcrowded accommodation defined as needing three or more bedrooms as defined by the bedroom standard set out in this policy.**

Where an applicant's household is severely overcrowded defined as requiring 3 or more additional bedrooms to reach the bedroom standard and where the Council either:

- a) In the case of a private sector has issued a prohibition order due to an assessed significant risk to the household's safety if they were to remain, or
- b) Intend to issue a prohibition order due to an assessed significant risk to the household's safety, or
- c) In the case of a Housing Association tenancy where a prohibition order is not likely to be issued this will be assessed by the Manager responsible for the Allocation policy who will decide whether Band 1 should be awarded because of the significant risk to the household's safety if they were to remain.

**5: Armed Forces who meet the following criteria**

Applicants with urgent housing need and have access to no other accommodation who:

- a) Are serving (and will soon leave) the regular forces and is suffering from serious injury, illness, mental ill health, or disability which is attributable to the person's service
- b) Has recently ceased, or will cease to be entitled, to reside in accommodation provided by the MOD following the death of that person's spouse or civil partner who has served in the regular forces and whose death was attributable (wholly or partly) to that service or
- c) Is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service

## **6: Care leavers**

Care leavers aged 18 – 21 whose care placement is coming to an end and they are assessed as being able to manage a tenancy providing they have been looked after and accommodated by Staffordshire County Council either within the County Council's area or out of area, and the council has a duty of care accepted under the Children Act.

## **7: Move on from Supported Housing**

Applicants living in a short-term commissioned Supported Housing project who are assessed as ready to move on and where there is no other suitable option for meeting their housing need other than social housing.

**8: Applicants owed a main section 193(2) homelessness duty by South Staffordshire District Council, or are owed a relief duty and would be likely to be owed a main duty if the relief duty is unsuccessful**

## **BAND 2 – URGENT/HIGH NEED TO MOVE**

**1: Overcrowded by 2 bedrooms** as defined by the bedroom standard set out in this policy

### **2: Severe impact medical need**

Where an applicant (or a member of their household) is living in accommodation with a severe, long term, medical conditions (chronic or progressive) or severe disability that means they urgently need to move because their home is assessed as being highly unsuitable and is directly detrimental to the applicants' physical or mental health.

*(See appendix 5 for how band 2 medical will be assessed and awarded)*

### **3: Unsatisfactory housing conditions or fitness**

Private sector tenants that the relevant Council has determined that the property poses a category 1 hazard under the Health and Safety fitness rating and the Council's assessing officer is satisfied that the problem cannot be resolved by the landlord within 6 months and as a result continuing to occupy the accommodation will pose a considerable risk to the applicant's health. This includes a property that has severe damp, major structural defects including subsidence, flooding, collapse of roof, or have living conditions which are a statutory nuisance, and there is no prospect of the problems being remedied within a 6-month time period, and the household are not able to resolve their own housing problem by moving to alternative private sector accommodation

### **4: Former Regular Armed Forces Applicants**

Members of the Armed Forces persons who meet the following criteria:

- a) They are serving in the regular forces and will be discharged within 6 months and have served for 5 years or more, or
- b) They were serving in the regular forces and they apply to join the housing register within 1 year of discharge, and
- c) Had been previously living in South Staffordshire immediately before joining the armed forces or since leaving

And d and e below must also apply

- d) They did not leave the armed forces as a result of a dishonorable discharge, and
- e) They do not own or have a legal interest in any other property

### **5: Band 2 for a statutory homeless duty defined as:**

- 1) Applicants owed a section 195 (2) prevention of homelessness duty and the applicant is, at the point of that duty being accepted, considered likely to be in priority need and unintentionally homeless if the prevention or relief duty is unsuccessful. *Note when shortlisting any applicant in this first group will appear on any shortlist before an applicant in groups 2,3 and 4.*

- 2) Applicants owed a section 189B (2) Relief duty by South Staffordshire Council and the applicant is, at the point of that 189B duty being accepted, considered unlikely to be in priority need, or likely to be intentionally homeless,
- 3) Applicants owed a section 195 (2) prevention of homelessness duty and unlikely to be owed a main duty if the prevention or relief duty is unsuccessful
- 4) Applicants where the relief of homelessness duty has been brought to an end and the applicant determined to be homeless but not in priority need

## **6: Insecurity that risks homelessness**

“A pregnant woman or applicant with a child or children who are sharing a home with family who are not part of their household and where:

- a) They have no ownership or tenancy rights, and the arrangement is short term and very insecure and only available whilst the applicant is actively seeking an offer of social housing or alternative accommodation with friends or in the private rented sector, and
- b) They were owed a prevention of homelessness duty as they were assessed as likely to become homeless within 56 days, and that duty has ended because they have been allowed to remain at home whilst they bid for social housing with their Band 2 priority and it is likely that they can remain for at least a year, and
- c) The family member with the interest in the home has agreed to allow the applicant to remain for at least a year.

*Note when shortlisting any applicant awarded the insecurity that risks homelessness group applicants will appear on any shortlist before an applicant in groups 1,2,3 and 4 from the statutory homeless band 2 groups set out above.*

## **BAND 3 – ALL OTHERS ASSESSED AS HAVING A STATUTORY REASONABLE PREFERENCE**

### **1: Band 3 Homeless**

- 1) Applicants where the relief duty has been brought to an end and an applicant has been assessed at that point as being intentionally homeless.
- 2) Applicants owed the 193 C (4) main duty where the prevention or relief duty was ended by the Council due to their deliberate non-cooperation

### **2: ‘Right to move applicants’**

Existing social tenants of accommodation in England who the Council have assessed as qualifying under the Government’s Right to Move regulations. Allocation to applicants who qualify for this award is limited to a maximum of 1% of all lettings.

### **3: Overcrowded and deficient by one bedroom**

Where an applicant’s household is overcrowded defined as requiring 1 additional bedroom to reach the bedroom standard

#### ***Note for Banding 2 or 3 for Homelessness***

*Any band 2 banding for applicants found to be not in priority need or band 3 for being intentionally homeless when a relief of homelessness duty have been brought to an unsuccessful conclusion, is dependent on the applicant remaining homeless. If their circumstances change and they are no longer homeless the banding will be removed. If an offer of accommodation was to be made and, upon verification, the assessment is that the applicant is no longer homeless, that offer would be withdrawn.*

### **4.3: Advertising Properties**

Choice based lettings is about the applicants being given more choice over where they would like to live. Properties will be advertised, and applicants will be able to indicate the properties for which they want to be considered by ‘bidding’. Once the bidding process closes a shortlist will be compiled and the property allocated will be based on the banding priority of the applications and the time they have waited as long as they meet the criteria set out in the advertisement.

It should be noted that in certain circumstances a Registered Provider Housing Association might apply their own additional rules regarding the allocation of accommodation. For example, an association may wish to apply its own test of affordability. The aim of all partners is to keep these additional rules to a minimum.

Adverts will clearly indicate any restrictions on bidding (e.g., where properties have been adapted and/or are specifically for people with disabilities) and will detail any particular criteria that apply (e.g., any affordability criteria).



#### **4.4: The bidding and selection process**

Properties are advertised on a weekly cycle. Applicants may express an interest through bidding on any advertised property that meets their needs. They are able to place up to 3 bids each bid cycle.

Within bands, priority is awarded according to the effective date with the exception of offers made outside of band and date order as set out in the policy.

In the circumstances where there are two households with the same band and registration date that bid for a property a decision to offer the property will be based on the household who is assessed by the Council as being most suitable for that property.

#### **4.5: Offers of accommodation**

This section sets out the procedure that will apply to making an offer of accommodation once an applicant has been selected from a shortlist of successful applicants bidding for that property.

For the purpose of this policy an “allocation” is defined as occurring when the Council nominates a person to be an assured tenant (encompassing fixed term and affordable tenancies) of social rented housing held by a Registered Provider operating in the South Staffordshire area.

The law requires Registered Providers to publish rules and policies about how housing allocations will be made. Applicants should consult individual Registered Providers about their rules and policies concerning allocation of social rented housing if they have any questions concerning an individual registered provider’s rules.

The size of a home that an applicant may be entitled to is determined by the rules set by each individual housing association.

Once selected and, prior to an offer being made, the Housing Register and Allocations Team will carry out a further verification of their eligibility and priority. In certain situations, the offer will not be made, or if made may be withdrawn if:

- Since joining the scheme an applicant has become ineligible.
- On verification of the applicants’ details, the priority band has been incorrectly awarded due to the information received by the applicant, or due to mistakes in the assessment of the application itself.
- The applicants’ circumstances have changed since the priority band was awarded and the applicant is no longer entitled to the same level of priority.
- The Housing Association landlord for the property being advertised has evidenced housing management reason not to offer the property to the person selected.

The Housing Association who owns or manages the vacant property that has been advertised will be responsible for writing to the successful applicant once

notified by the Council. They should provide the applicant with additional detail of the property, a potential tenancy commencement date and details of how to view the property.

The Housing Association will normally seek a tenant reference and will undertake an affordability assessment before making a formal offer of a tenancy. Each Housing Association will require rent in advance and applicants will be required to demonstrate that they have these resources available. The requirement may be 1 week, 2 weeks or 1 month's rent in advance depending on the rule adopted by the Housing Association offering the property.

If an applicant does not reply to an invitation in writing, by letter or email or text, to view a property within the number of working days set by the Housing association offering the property then the offer will be deemed to have been refused and the property will be offered to the next applicant on the shortlist who qualifies for that offer.

A suitable and reasonable offer of accommodation is defined in appendix 4 of the policy.

There may, unfortunately, be exceptional circumstances where, following a viewing or notification of offer, an offer may still be withdrawn. This can be done up to the point when a tenancy agreement is signed. Examples of reasons when a property offer may be withdrawn are:

- The property is not suitable for the households needs
- The property fails to become available
- There is an issue and concern for community safety
- It comes to light that information has been withheld
- It comes to light that the household or member of the household has a property related debt
- The offer has been made in error
- The household's circumstances changed
- The property is required for an emergency
- It transpires that the rent would not be affordable

There must be clear grounds recorded by the partner Housing Association for refusing or bypassing applicants who are top of any shortlist. Where an applicant has been refused or bypassed because they have failed a verification check or that their circumstances have changed, BFC should be informed and the applicant should be informed by the Housing Association of the reason.

For all other reasons for example, issues of public safety, risk, or sustainability of the tenancy, an applicant, upon request, will be informed of the reason behind the decision to refuse or bypass them.

#### **4.6: Local Lettings Policies**

Local lettings initiatives may be applied to meet the particular needs of a local ward or area or to address sustainability and community issues to ensure that the housing allocation scheme is able to contribute to building sustainable

communities. Appendix 2 gives full details for how local lettings policies will be assessed and applied.

## Section 5 Appendices

### Appendix 1 – Definition of Terms

Accessibility – Used here the term refers to how ‘user friendly’ the service is to all people who may want to use it.

Adapted Property – Property that is suitable for those with a physical disability i.e., where a stair lift has been fitted.

Automatic Bidding – Within the ICT system a means of expressing an interest in a property for someone, without making the bid themselves.

Banding Scheme – The method by which customers are prioritised for social housing (previously ‘points schemes’).

Bidding – The term used to describe people who register an interest in a property (no money is involved in making the bid).

Choice Based Lettings (CBL) – The system of letting property that gives customers choice in where they live through advertising property.

Housing Register – A list of people applying for social housing (commonly referred to as a ‘housing waiting list’).

Applicants – Those people applying to the scheme for housing.

Effective Date – The date used to decide between customers in the same Band to establish who has waited longest.

Hard to Let – Low demand property where it takes longer to find a tenant.

Letting Policy – The means by which it is decided how a property will be offered to applicants.

Local Lettings – Short term policy made in local areas (to tackle specific, identified housing management issues) on how property will be offered that differs in some part from the overall scheme policy.

## **Appendix 2: How any local lettings policy will be applied and reviewed**

Local lettings initiatives may be applied to meet the particular needs of a local ward or area or to address sustainability and community issues to ensure that the housing allocation scheme is able to contribute to building sustainable communities.

They will be tailored to fit local situations in well-defined communities (such as a particular block of flats, an individual street, or new housing development, or may be applied to a parish or a village in a rural area). Each local lettings policy will be based on a detailed analysis of relevant information gathered from a variety of sources and may include, for example, evidence from internal departments, partner Housing Associations, local Councillors, and the community itself. (Evidence may include information such as tenant profiling, the incidence of anti-social behaviour, and stock turnover in a particular block, street or area, a neighbourhood plan or the need to provide housing for local people in rural villages and parishes).

The following are examples of local lettings policies that may be deployed under this policy. The list is for illustrative purposes and is not exhaustive.

- 1) Age restrictions.
- 2) Prioritising applicants who are key workers, as defined by the Council
- 3) Restrictions on lettings to vulnerable households where there are already a concentration of supported tenants/residents in a street or block.
- 4) Lettings to childless households where there are high concentrations of children and young people living on a specific estate, street or block.
- 5) Disregarding household type or property matching rules to allow, for example, under-occupation to reduce child density or to account for future family growth.
- 6) Ensuring that there is a balance of working and non-working households allocated to a scheme.

New developments will normally have local lettings policies (usually only applies to first lettings) regardless of whether the new development is subject to a Section 106 agreement or affordable housing statement. Where a new development is subject to a Section 106 planning agreement the criteria set will be followed.

In order to ensure a reasonable mix of household sizes and types, and families with children of different ages, a local lettings policy will normally be used for new developments larger than four properties. This may set restrictions on the number of lettings, which can be made to families with young children, for example, or the number of families who are not working.

### **How will a local lettings policy be assessed and agreed?**

The Council will decide when a local lettings policy may be appropriate and why.

There must be a clear evidence base for adopting a local lettings policy. The following framework will be used by the Council to decide whether a local lettings policy is appropriate:

- 1) That there is a clear definition of the objective to be achieved by that particular local lettings policy.
- 2) That there is a clear evidence base to back up the need for a local lettings policy.
- 3) That any potential equality impact has been considered.
- 4) How long the local lettings policy is intended to operate.
- 5) When the local lettings policy should be reviewed.

A written record of each policy adopted or rejected should be kept.

It is the intention that local lettings policies will be fluid with new policies being added as are required and existing policies being deleted once the objective for that policy has been met.

Any property advert will state whether there are any local lettings restrictions or criteria.

### **Appendix 3: List of the Registered Provider Housing Association partners to the scheme who provide nomination rights.**

Homes Plus – 25%

Nominations agreements have been adopted between the Council and Registered Providers that own and/or manage social rented housing in the South Staffordshire area. All such agreements prescribe the portion of lettings that any registered provider will make available to the Council. Where it has been agreed the nominations agreement will also have a criterion for how Registered Providers can accept or reject a nomination, plus describe how any disagreements about nominations will be resolved.

The Council and any Registered Provider that have entered into a nomination arrangement, have agreed an information sharing protocol that accords with the General Data Protection Regulation and Data Protection Act 2018. The Council will require written consent from an applicant to share their information with a Registered Provider.



## **Appendix 4: Definition of a reasonable offer**

A refusal of an offer of the correct size and type will normally be considered unreasonable.

### **Guidance on reasonable and unreasonable refusals:**

#### **1) Property size**

The property must be the appropriate size for the household's needs at the time of making the offer. Where the family composition has changed, so that the property offered is too small or large for the applicant's needs, the refusal will be recorded as reasonable.

It is the applicant's responsibility to ensure that they register any change in their circumstances that will affect the number of bedrooms to which they are entitled.

Where the applicant refuses a property because it is too small on grounds of the need for an additional or larger bedroom(s) due to medical/mobility factors, but it meets the lettings standard, this will normally be considered to be an unreasonable refusal unless the applicant provides new medical information at the offer stage that is accepted by the Council.

#### **2) Property type**

It will not be considered to be a reasonable refusal due to a dislike of the property type. Therefore, an applicant cannot reasonably refuse an offer because for example, it is in a tower block, it does not have a garden or a particular heating system, it is on a wrong floor, or does not have a lift. If the applicant states medical grounds for refusing the property, these should already have been disclosed and considered as part of the assessment of their application, unless new information is submitted that is accepted by the Council.

Where specialist accommodation is offered to a household inappropriately, this is considered to be a reasonable refusal. This may be for example:

- a) Offers of wheelchair standard housing to households which do not have wheelchair users
- b) Offers made to disabled applicants which are unsuitable for their needs, for example where they are unable to open a door entry system because the doors are too heavy
- c) Offers of sheltered housing where the applicant is not of the appropriate age.

#### **3) Property condition**

Where a property is refused on grounds of repair/decoration, this will be considered an unreasonable refusal unless the voids team decides to withdraw the property from letting for further works to be carried out.

#### **4) Area of choice**

Where the offer is not within one of the applicant's specified areas, the refusal will not be considered to be reasonable. It should also be noted that where an applicant is made a direct offer such as: where the applicant has been assessed as being statutory homeless and are owed a statutory homeless duty, area of choice will not apply.

#### **5) Racial harassment**

Where an applicant from a black or ethnic minority household refuses the property prior to viewing because the previous tenant was rehoused as a result of racial harassment, or there is a known problem of racial harassment in the vicinity of the property, the refusal is considered reasonable.

#### **6) Choice of landlord**

An applicant cannot choose whether they are rehoused by a specific Housing Association. Therefore, any refusal for example by an applicant of a property because it is a Housing Association property with no 'Right to Buy', or 'Right to Acquire', or the rent is higher than another social landlord will not be considered to be reasonable (unless in the example of the rent level the assessment is that the offer is unaffordable for the applicant in question).

#### **7) Pets**

One of the conditions of the tenancy agreement is that a tenant must obtain the written consent of the landlord before keeping domestic pets.

Any intention to keep a pet must comply with the Housing Association's tenancy terms and conditions, which means that permission must be sought and agreed prior to signing the tenancy agreement for the property. Therefore, any refusal on the basis that permission has not been granted to keep a pet is not reasonable.

## **Appendix 5: Assessing whether an applicant qualifies for a priority Band 1 or 2 on the basis of medical priority**

The assessment: Awarding Medical Priority for significant Medical Conditions that are being made worse by an applicant's housing circumstances

### *The Policy*

Medical priority can be awarded under 2 of the adopted bands. These are:

**Band 1: Emergency Medical** - Applicants who are suffering sudden or severe progressive life-threatening medical conditions and need an immediate move (e.g., to facilitate hospital discharge) because their current home is unsuitable (as it does not meet their medical needs and/or cannot be adapted) and poses an immediate and serious danger to the individual.

**Band 2: Severe Medical Need** - Applicants who are suffering severe, long term, medical conditions (chronic or progressive) or severe disability that need to move urgently because their home is deemed unsuitable and is directly detrimental to the applicants' health condition

### **The framework that will be applied to assess medical impact cases**

#### **The detail for the operational guidance that used to assess medical cases**

The following operational guidance framework has been developed to help officers to make their decisions on whether medical priority should be awarded.

- 1) The applicant will be asked to indicate on their on-line application form whether they or anyone in their household has an illness or disability that is affected by their current accommodation.
- 2) Applicants will be asked for information and any supporting documentary evidence, regarding how their health or welfare are affected by their current home, or why the applicant's health cannot be managed in their current accommodation.
- 3) If the applicant indicates in their on-line that they have a medical problem but do not clearly address the relevant question of impact of their current housing on their condition, the assessing officer should contact the applicant to ask them specifically to describe how the current housing is impacting on the condition described (a standard letter/form will be used).
- 4) The on-line application form and any follow up email will explain that where supporting information from a health professional is available, the applicant should provide this information to support their application, but that we do not, as a matter of course, require an applicant to submit a medical report, or obtain letters from their GP before an assessment will be progressed. We do not wish to create further work or costs for doctors or applicants by insisting that medical reports are produced before an application can be considered.
- 5) On receipt, of all of the information the assessing officer will consider whether any supplementary information is needed from any other relevant professional, who may be able to explain the impact the applicant's current accommodation is having on their medical condition or disability.

- 6) The assessing officer should take into consideration any recommendations from the applicants GP, hospital consultant, or Occupational Therapy, Social Worker as applicable. The applicant should be informed that the Council is not responsible for chasing up requests made by the applicant to health professionals for further information.
- 7) While this information is being provided, and pending the assessment of medical priority, eligible and qualifying applicants who have another statutory housing need should be registered (if they meet the qualifying rules) and placed in a band according to that need. Where no other housing need exists, the application will remain as pending until any medical priority is determined.
- 8) The assessing officer supported, where necessary, by a senior officer, will normally make a decision whether or not to award a priority based upon the information provided. They will use these guidance notes and assessment framework contained here to help them make a decision.
- 9) If the assessing officer is of the view that it would be beneficial to obtain an opinion from an independent Medical Advisor, or Occupational Therapist they will make a referral. They should be asked to provide advice on the possible impact of any medical or disability condition to help address the impact of the applicant's current accommodation on that condition. A Medical Advisor will not normally be asked to carry out a medical examination and their opinion will be based on the information provided by the applicant and any supporting information from a medical professional and any information submitted by any organization supporting the applicant.
- 10) Some applicants may have a serious and debilitating health condition which requires specialist housing adaptations; however, a 'medical priority' award can only be given if their current home is unable to meet their needs. The assessing officer should consider whether the applicant already has the necessary adaptations in their current home before a 'medical priority' band is awarded to help them move. Also, consideration will be given as to whether the applicant could remain in their current home with further adaptations being put into place. A referral to the Occupational Health Service may be requested to determine the full options available before a 'medical priority' can be awarded.
- 11) In the circumstances where the assessing officer believes there may be an urgent and immediate need, due to the severity of the impact of their current housing on an applicant's disability, the case can (with a senior officer's approval) be submitted to the Occupational Therapy Team (OTT) for a more detailed assessment. In order to do this the OTT may visit the home of the applicant and consider any supporting information and may recommend whether Band 1 or 2 priority should be awarded, based upon the severity of the case and the urgency of the need for re-housing.
- 12) The OT may also make recommendations re the type of housing that the applicant may need.
- 13) Where priority is awarded applicants will only be considered for the type of accommodation assessed as being required. For example, if it is assessed that an applicant needs to move to a bungalow because due to their condition, they need to use a wheelchair, they will only be considered for suitable properties that meet this need.
- 14) If an existing social housing tenant applies to the scheme due to their current property being medically unsuitable for their needs, the assessing officer should request an opinion of their current landlord before a medical banding is awarded. This is to ensure that the property could not be adapted to meet

the needs of the applicant rather than seek a move to alternative social housing.

- 15) The assessment officer in considering evidence to support a medical impact banding should consider evidence submitted by a relevant medical professional. A relevant medical professional is defined as:
  - Occupational Therapist
  - Specialist medical advisor
  - Community / mental health nurse
  - Hospital / discharge liaison
  - Social Worker
  - GP
  - Health visitor
- 16) Applicants are not required to obtain any supporting medical evidence in support of their application before an assessment is made although where this is already available, they should be asked to provide it in support of their case.
- 17) Whilst GP's provide the most likely source of medical opinion for most housing applicants, it is not uncommon for GP surgeries to refuse a request from a patient or the Council for supporting medical information. This is due to GP surgeries facing increasing demand on their services and GP's time for 'non-clinical' matters. If an applicant is unable to gain supporting information from their GP, advise the applicant to try other agencies or professionals who may be involved with their case. In the absence of any medical professional being able to verify and support an applicant's health needs, the assessing officer should consider all other supporting information available including the applicants own self-assessment of their needs. The Council will not pay for the release of medical information from a GP.
- 18) Where the assessing officer believes that further medical information is required before they can complete the assessment the assessing officer should ask the applicant to obtain relevant information from their GP or medical professional dealing with them.
- 19) The assessing officer should not as a matter of routine ask the applicant to obtain further medical information. In the majority of cases, it can be expected that from the information provided by the applicant in answering the questions set that the assessing officer should be able to decide on whether the medical problem has such an impact to meet the criteria set out for an award of a Band 1 or 2 using the examples set out in this procedure for each of those Bands.
- 20) Further medical reports or information on the impact may be required where the officer is considering a Band 1 or 2 award and less likely when an officer is considering a Band C award.
- 21) There will be occasions when advice, or clarification, from a GP or hospital consultant may need to be sought by the applicant. For example, where it is claimed that an applicant's housing circumstances is severely affecting their mental health.
- 22) It is important to note that the assessing officer is not making a medical opinion. The role of the officer is to consider evidence re the impact of an applicant's current housing circumstances on any medical condition or disability.
- 23) Applicants who require support to live independently with their medical condition will be placed in a priority band for their medical need but may be suspended from bidding until an appropriate package of support has been

- agreed. If no appropriate support package has been agreed the applicant will not be offered accommodation whilst a support plan/package is pursued.
- 24) Each individual on the application with a health or welfare problem will be assessed. If there is more than 1 member of the household whose health and/or welfare is being affected by their housing, their application will be awarded the need relating to the severest problem.
  - 25) Where an applicant has been placed in bands 1 or 2 as a result of a medical need this may be reviewed on a regular basis to ensure the award is still relevant and will be reviewed at the point an applicant receives an offer.
  - 26) The review will determine whether the level of priority is still appropriate. The review may involve a phone-call to the applicant and/ or support agency, an email, or a home visit.
  - 27) Where an applicant already registered notifies a change of medical circumstances that are impacted by their current housing the applicant's priority will be re-assessed using the same process.
  - 28) Applicants should be informed in writing by email/letter of the outcome of their health and wellbeing assessment, and brief reasons explaining why the decision was made. If they disagree with the assessment there is a right to review but they should be informed that they must state the reasons for review in writing and provide any additional health and wellbeing evidence so the case can be reconsidered. (There are template letters for this purpose).
  - 29) In addition to medical banding the assessing officer may also decide (but is not required to decide) to give a property recommendation or location recommendation upon which the banding award is conditional. The property recommendation or location would normally be due to clear evidence from an appropriate health professional or OT which is accepted by the officer.

### **Making the decision on what banding if any should be awarded**

#### **When medical priority will not normally be awarded**

Medical priority will not normally be awarded in the following circumstances:

- a) Where the applicant has a health issue, however severe, that is not impacted by the accommodation occupied
- b) Health problems that are not affected by housing or cannot be improved by moving
- c) Where a move would only make a marginal improvement to the applicant's condition
- d) Medical impacts caused by housing defects that are likely to be rectified in a reasonable time frame.
- e) Where another reasonable course of action is available to the applicant to resolve their difficulties.
- f) Time-related medical problems (e.g., pregnancy-related problems or a broken leg)
- g) Disrepair problems not impacting significantly on the applicant's medical condition. (Note under the policy an applicant may receive priority separately for living in unfit or unsatisfactory housing depending on the assessment made of their circumstances and impact).



- h) Overcrowding not impacting significantly on the applicant's medical condition. (Note under the policy an applicant may receive priority separately for being overcrowded).
- i) If the situation can be resolved by equipment or minor adaptations which can be implemented in a reasonable period of time.

### **The assessing officer should follow the 5 - stage process below**

When assessing whether to award band 1 or 2 or no priority, the assessing officer will follow the 5-stage process set out below:

1. Is the medical/disability issue serious enough for a priority banding to be considered?
2. If the medical condition is serious enough for a priority banding to be considered the assessing officer should then decide if there is a direct link between the identified medical problem and the applicant's current housing accommodation/situation, i.e. on the facts obtained (from the applicant and any medical information or reports submitted including any advice from an independent medical advisor or OTT) is the officer accept that the applicant's current housing accommodation/circumstances is making their medical condition substantially worse, or will make it worse.
3. In practical terms the officer should consider the adverse effect this has on the applicant's ability to manage day-to-day tasks in their current home. The applicant's current housing accommodation/circumstances may be impacting on their medical condition or disability but not to the extent that an award of band 1 or 2 priority should be granted under the criteria adopted for the policy. The examples listed for an award of band 1 or 2 are used to guide the officer when making their decision.
4. Before making an award the assessing officer needs to be satisfied that there is a realistic expectation that the impact on the identified medical condition/disability would be removed or significantly improved through the provision of alternative accommodation.
5. If the officer is satisfied that the impact on the identified medical condition/disability would be removed or significantly improved they would then decide whether to award band 1 or 2 depending on the severity of the impact and using the examples below to guide them.

### **Examples of circumstances to help the assessing officer to decide when Band 1 (Emergency) should be awarded on medical or disability grounds**

The following Band 1 examples are intended to guide the assessing officer on the threshold set for a Band 1 award. They can also serve to help an applicant understand the threshold for a priority award to be granted. A band 1 award is for ***"Applicants who are suffering sudden or severe progressive life-threatening medical conditions and need an immediate move (e.g., to facilitate hospital discharge) because their current home is unsuitable (as it does not meet their medical needs and/or cannot be adapted) and poses an immediate and serious danger to the individual."***

1. Applicants who have a progressive, chronic or life-threatening medical condition and cannot be discharged from hospital because they do not have any accommodation, or their accommodation is unsuitable for example,



because they cannot access toilet and/or bathing facilities in the property. This will include cases that cannot be discharged from hospital because their home is, and will remain, permanently entirely unsuitable or entirely inaccessible to live in.

2. Where the assessing officer accepts that the evidence from a relevant health professional indicates that there is a significant risk of serious and permanent injury and/or permanent disability.
3. Applicants who have a progressive, chronic or life-threatening medical condition and urgently need to move to accommodation with significant disabled adaptations, such as accommodation suitable for a wheelchair user.
4. A serious illness, where an applicant is receiving palliative care and urgently requires rehousing to facilitate the on-going provision of that care
5. The applicant's health is so severely affected by the accommodation that it is likely to become life threatening, e.g., applicant has severe mental health problems that are significantly exacerbated by their accommodation and that opinion is fully evidenced by the applicant's consultant or mental health services
6. Due to limited mobility a person is unable to access essential parts of the property e.g., bathroom/toilet and no adaptation is possible
7. A member of the household is elderly or disabled or has a progressive illness and is likely to require admission to hospital or residential/nursing care in the immediate future and re-housing would enable the person to remain at home.
8. Where the applicant is prevented from having access to kidney dialysis, respiratory, or other similar essential equipment. This will normally apply where these circumstances are likely to prevent someone from remaining in their home for all or most of the time. Such a condition would be likely to be ongoing, rather than a temporary condition

### **Examples of circumstances to help the assessing officer to decide when Band 2 should be awarded on medical or disability grounds**

1. A life-threatening condition which is seriously affected by the current housing and where re-housing would make that condition significantly easier to manage
2. A life limiting condition and their current accommodation is affecting their ability to retain independence or enable adequate care
3. A new and life-changing condition that severely impairs their mobility, meaning they are unable to carry out day-to-day activities, or have difficulty accessing facilities inside and outside of their accommodation and require housing into suitable accommodation
4. An applicant or member of his/her household usually has a chronic condition examples might include a respiratory condition, severe asthma or emphysema – and that the condition is being made worse by the current accommodation.
5. Where their current property leaves a person at risk of infection, e.g., where an applicant is suffering from late-stage or advanced AIDs
6. People who have a severe mental health or learning disability which significantly affects their ability to lead a normal life and which puts them at risk of admission to hospital or residential care. Evidence would normally need to be provided from a specialist consultant psychiatrist or a certified pediatric nurse that their current accommodation is having a significant detrimental impact on the mental health of any member of the household

7. People living in a mobile home, caravan or converted vehicle which, due to medical conditions, the vehicle cannot meet their essential needs
8. Where remaining in the current accommodation poses a significant risk of serious and permanent injury and/or permanent severe disability
9. Someone with a medical or disability who's housing has rendered them housebound
10. Where a move would avoid the need for another service (e.g., Social Services) from having to provide a significant level of support. This might include for example residential care, overnight care provision, or other support with similar resource implications
11. Where someone suffers with epilepsy or other conditions that cause frequent and unpredictable falls and all medical interventions to prevent them have been investigated. This will involve an assessment of the layout of their current accommodation, for example the number and nature of steps, stairs or other hazards that may increase the risk of serious injury
12. The applicant or household member requires significant disabled adaptations to meet their needs and this is not possible in their current accommodation or would not be cost effective.
13. Armed forces personnel who need to move to suitable adapted accommodation because of a serious injury, medical condition or disability that he or she has sustained as a result of service.
14. Veterans who have actively served in the armed forces and are suffering from severe post-traumatic stress disorder or serious illness directly related to service in the forces
15. An occupational therapist has identified that the current accommodation is partially suitable but:
  - The applicant or member of his/her household needs a major adaptation, such as a level access shower; or
  - The applicant or member of his/her household has significant difficulty managing stairs or difficulty accessing the property owing to stairs or slopes leading to doorways and the occupational therapist recommends a lift, ramped access or ground floor living; and
  - The adaptations are unlikely to be completed in a reasonable period of time
16. Applicants who have significant mobility issues and would benefit from a move to ground floor or level access accommodation
17. Applicants who have significant mobility issues and would benefit from a move to accommodation that has level access showering facilities
18. Applicants who have a significant physical or mental health condition that is directly affected by their accommodation and where a move to alternative accommodation would help to ease or resolve their condition
19. Children with severe conditions such as autism, or cerebral palsy or ADHD where their long-term needs cannot be met without long term settled accommodation.
20. A person with a severe disability requiring some adaptations to their property that cannot be provided for in their current accommodation.
21. Where an applicant can access their home but struggles to access normal day-to-day facilities within it (e.g., bath/shower/toilet) without experiencing significant difficulty, pain or other discomfort. This would include cases where an adaptation is possible but cannot be undertaken in a reasonable period of time. (Note: any priority would be removed if an adaptation is completed, or work started)

## **Reference points to help the assessing officer consider the medical condition and how it should be managed**

Use the BNF – National Institute for Health and Care Excellence (NICE) website to help you obtain advice on any medical condition, treatment and drugs taken by the applicant

a) Treatment summaries for every condition – very useful in that it covers how the condition needs to be managed and what is considered a serious level of medication

<https://bnf.nice.org.uk/treatment-summary/>

b) Drugs – description of every drug and information relevant to dosage and side effects

<https://bnf.nice.org.uk/drug/>

## **GUIDELINES FOR ASSESSING EXTRA BEDROOM REQUESTS FOR ADHD, ASPERGERS, SENSORY PROCESSING DIFFICULTIES AND OTHER MENTAL OR PHYSICAL HEALTH PROBLEMS**

*Note see annexe 6 for the other criteria and guidance for an award of an extra bedroom other than for ADHD, Asperger's, sensory processing difficulties and other mental or physical health problems*

Following a successful Court challenge the Government has issued new guidance in relation to the social size criteria which allows Housing Benefit to be paid on an extra room for children who are unable to share because of their severe disabilities.

The judgement is not binding on councils in respect of their Allocation Policy, however, when an applicant says that their children are unable to share a bedroom it will be for the council to satisfy itself that this is the case.

In making an assessment for an extra bedroom for ADHD, Asperger's, sensory processing difficulties, and other mental or physical health problems the council will consider the following framework to help guide the assessing officer:

- the nature and severity of the disability.
- the nature and frequency of any care required during the night; and
- the extent and regularity of the disturbance to the sleep of the child who would normally be required to share the bedroom.

In all cases this will come down to a matter of judgement on facts of each individual case.

A claim should normally be supported by medical evidence and many children will be in receipt of Disability Living Allowance (DLA) care component at the middle or highest rate for their medical condition or Personal Independence Payment (PIP) at the enhanced rate or mobility component.

Requested evidence will include, but may not be limited to, the following:

- medical evidence detailing the nature of the disability, how this effected by the home environment and the impact on other members of the household
- other supporting information from care and support agencies involved with the child and family (this should be specific information relating to the request for re-housing rather than a general letter of support and is likely to be from specialist rather than universal services); and,
- proof of DLA entitlement.

The circumstances where a possible award of an extra bedroom may be made include a consideration of all of the facts set out below:

- a) Supporting letters for example from school SENCO stating that they also use a calm room at school and why, a letter specifying aggressive behaviour and frequency, behaviour flow charts, list of aggressive behaviours displayed at school, also stating the danger of child sharing alone with another child, their sensory issues, their inability to cope with small changes and reaction as a result.
- b) Where there is professionally assessed evidence of a child or young person up to the age of 25 in the household who has a severe or profound learning difficulty, with a presentation of behavioural or emotional difficulties who exhibits sexually exploratory behaviour or other inappropriate behaviour of a serious nature and has a limited understanding around the impact of this on others. This may need to be certified by a consultant psychiatrist.
- c) The applicant or a member of their household (adult or child), need major medical equipment for the long term, such as home dialysis, equipment for percutaneous external gastrostomy feeding, long term large assistive equipment or and/or bulky medical supplies which need to be used and stored on a permanent basis.
- d) A DLA or PIP award letter indicating high care and low mobility.
- e) An assessment of need which supports the claim for an additional bedroom based on a severe impact where that assessment has been undertaken by the appropriate health or care professionals. The assessment would need to evidence that sharing with another family member who has care needs or behavioural problems that severely affect that family members ability to sleep, which in turn is having a very significant negative impact on their employment (to the extent that they may lose their permanent employment), or on their mental health (to the extent that they have been assessed with a severe mental health condition, or their current condition has become severe, as a result of having to share).
- f) Carer's award letter (or social services report) stating care award is due to care needing to be given day and night.

Examples unlikely to qualify include:

- a) Circumstances, for example, where the claimant is one of a couple who is unable to share a bedroom.
- b) Where children share and the claim is that by having to share this is impacting on their ability to study and complete homework but there is evidence that they are able to study elsewhere in the home or at relatives or using library services.
- c) Where family members provide overnight care and support only at weekends or for part of the year.
- d) People with mental health issues who say they want an extra room for a friend or relative who provides support.
- e) A claim based solely on the wish that the applicant requires an additional room so that a child can cut themselves off from the world, which they claim is essential to their mental wellbeing.
- f) People who are in receipt of formal overnight care (provided by NHS continuing care nurses, visiting agency carers, etc)

## **Appendix 6 - Right to Move Qualifying Criteria**

Right to Move – Statutory guidance on social housing allocations for local housing authorities in England

An existing social housing tenant (living outside of the South Staffordshire area) will not be disqualified on the grounds of no residential connection if they have reasonable preference under s166(3)(e) because of a need to move to the South Staffordshire area because the tenant works in the area or needs to move to take up an offer of work.

Whether or not the applicant meets the above criteria isn't solely determined by the need to move for work, but that it would cause them hardship if they were able to do so.

### **Definition of Work**

- Work should be a permanent contract or one with a minimum term of 12 months.
- Work should be of 16 or more hours a week (unless it can be demonstrated that the earnings are substantial).
- Work should not be voluntary.
- Work can include apprenticeships.
- The relevant district should be the main place of work.
- In the case of self-employed tenants, work should be regular as opposed to intermittent.

### **Distance, time and travel costs**

When determining hardship, the time taken to travel to work and the cost of the travel should be taken into account. The council considers the following criteria may suggest hardship:

- Travel time to get to work is in excess of two hours each way (personal or public transport depending on circumstances).
- Travel costs are more than £30 per day or 25% of net income from the employment or there is no transport available at all.

### **Other factors**

These factors are all considered on a case-by-case basis as to whether hardship would be faced by the applicant if they could not move:

- Would failure to move mean the applicant would lose an opportunity to gain a better job/promotion, an apprenticeship, increase hours/pay or move from unemployment to employment.

- If the nature of work likely to be available closer to the applicant's home.
- Personal factors including care responsibilities and medical conditions affected by the tenant not being able to move closer to work.
- Any other situation where hardship would be demonstrable if the tenant could not move.

### **Discretion**

Every application will be dealt with on a case-by-case basis allowing all circumstances and variables to be considered.

### **Proof of Work**

A combination of the following can be used as to prove that work or a job offer is genuine:

- Contract of employment (particularly if stating main place of work).
- Wage slips showing hours worked (particularly if zero hours contract) but they are unlikely to evidence the location of work.
- A letter offering employment (it is likely that the employer will be contacted to confirm acceptance).
- A letter from an employer to prove the work and location.

### **Right to Move Quota**

No more than 1% of all lettings will be prioritised for Right to Move applicants based on the total of the previous year's lettings by the council.



**Appendix 7: How the Council will apply the disqualification rule where it is suspected that false information has been provided, or important information has been withheld.**

Section 171(1) of the Housing Act 1996 makes it an offence for anyone, in connection with the exercise by a local housing authority of their functions under Part VI of the Housing Act 1996 (and therefore in seeking an allocation of accommodation) to:

- a) Knowingly or recklessly make a materially false statement or
- b) Knowingly withhold information that the Council reasonably required him/her to give in connection with the exercise of those functions.
- c) A person guilty of this offence is liable on summary conviction to a fine at the date of this scheme document of up to £5,000.

The circumstances in which an offence is committed could include:

- d) Any false information given on an application form for housing/accommodation (including transfer applications).
- e) Any false information given in response to subsequent correspondence.

In addition, making a fraudulent application for housing may constitute an offence under the Theft Act 1968 and/or the Fraud Act 2006.

In many cases, applicants will have provided incorrect or inadequate information on their application form, but the assessment concludes that there was no deliberate intention.

It will be for the assessing officer in the first instance to decide if any errors contained in an application were deliberately made or not. If the officer is satisfied that the errors were not deliberate, or that it had no impact on the application, then no action will be taken though the applicant may be warned about the need to provide accurate information and the consequences for not doing so.

However, if the assessing officer has concerns, these will be discussed with their Manager who will decide if they:

- 1) Are satisfied that there is insufficient evidence to disqualify the application on these grounds.
- 2) Want more information to be gathered before a decision can be made.
- 3) Feel that there is insufficient evidence at the moment but want a more detailed investigation.
- 4) Are satisfied that the applicant has provided fraudulent information or withheld important information.

In serious cases the Council will notify the Police.

If the decision is that applicant has given false information or withheld information they will not qualify for the register, or where information emerges after they have been placed on the register, they will be disqualified. In these circumstances a letter will be sent to the applicant to notify them of the decision and they will have a right to seek a review of that decision

