

## **HOMES & COMMUNITIES COMMITTEE**

**25 NOVEMBER 2019**

### **HOUSING ALLOCATION SCHEME – PARENTAL RESPONSIBILITY CRITERIA**

#### **1.0 Purpose of Report**

1.1 To provide an overview of the suitability/parental responsibility criteria contained within the Council's Housing Allocations Scheme and seek approval for some minor amends to this aspect of the Scheme.

#### **2.0 Background**

2.1 An annual update report on the application of the Council's Housing Allocations Scheme was presented to the Committee on 10 June 2019 and it was agreed that:

- (a) the contents of the report be noted;
- (b) the proposed minor amendments and draft Scheme be approved; and
- (c) delegated authority be given to the Director – Communities & Environment, following consultation with the Chairman and Vice-Chairman of the Homes & Communities Committee, to approve any further minor amendments required, that do not require formal consultation, to ensure the Scheme continues to adhere to statutory requirements.

2.2 The development, implementation and review of the Council's Housing Allocations Scheme falls within the remit of this Committee and Members may recall adding an item to the forward plan to take a closer look at the parental responsibility criteria contained within the current Scheme, which is what this reports sets out to achieve.

2.3 There is also a cross Council/Company Officer Project Group that meets on a quarterly basis to monitor and propose amends to the Scheme to ensure it remains fit for purpose, complies with our legal responsibilities and to ensure that the Scheme does not unfairly reward or penalise any particular group of applicants.

#### **3.0 Current Suitability Criteria**

3.1 Attached at **Appendix A** is an extract from the Council's Housing Allocations Scheme regarding suitability criteria.

3.2 In the day to day application of the Scheme, there is some tension between the wording of point No. 6 (see below) and legislation requirements.

*6. Households who have contact with their children but with whom the children do not reside on a permanent basis must be able to show that they do have established contact. Households who have contact with their children cannot normally be considered for properties larger than two bedrooms irrespective of the number of children they have contact with.*

### Housing Act 1996

- 3.3 Under the Housing Act 1996 there is no legal requirement to accommodate children twice and research has found that very few local housing authorities across the country provide a second home for children with separated parents. There are no local housing authorities in Nottinghamshire who provide accommodation in excess of the individual's needs when a child already has a settled home with one parent and this is irrespective of that parent's gender. With housing in short supply, research has found that local housing authorities often set their policies to address their local needs and legal requirements as set out in the Housing Act 1996.
- 3.4 As part of the 1996 Act there is a requirement for local housing authorities to support and discharge homelessness duties as described in the Homelessness Reduction Act 2017. When constructing the allocation scheme previously the Council has always included the required discharge mechanism for homeless households.

### Homelessness Reduction Act 2017

- 3.5 Conversely, the Homelessness Reduction Act 2017 requires local housing authorities to give consideration to a multitude of elements when discharging its statutory homeless duties. These include affordability, location, physical aspects of a property as well as household need. This Act also states that a housing authority is to give due consideration to a separated family and their access arrangements.
- 3.6 Section 8 of the Code of Guidance issued to local housing authorities in February 2018 states 'that for an applicant to be considered to have dependent child/ren there must be actual residence with some degree of permanency or regularity, rather than a temporary arrangement whereby the child/ren are merely staying with the applicant for a limited period.
- 3.7 It also states that 'In circumstances where there is joint or shared custody but the children have a settled home with one parent, there is no automatic requirement for the Council to house the second parent in accommodation suitably sized to house the children for a second time'.
- 3.8 Having considered the legislation and given that the existing suitability criteria within the Scheme facilitates separated parents with access to have a minimum of 2 bedroomed property (dependent upon their other family circumstances/make-up) further minor amendments to the Scheme are proposed. This is to ensure there is a consistent and equitable approach regardless of an applicant's route to access social housing (ie general application and homeless application).

## **4.0 Proposed Amendments**

- 4.1 The Project Group propose that the following minor amendments to the Scheme be approved in relation to suitability/parental responsibility:

Policy Page Number	Existing Policy Text	Replacement Policy Text
15	<p>Suitability Criteria – No 6</p> <p>Households who have contact with their children but with whom the children do not reside on a permanent basis must be able to show that they do have established contact. Households who have contact with their children cannot normally be considered for properties larger than two bedrooms irrespective of the number of children they have contact with.</p>	<p>If you have a shared residence order or staying access for children, you are not automatically entitled to additional bedrooms for your children. As long as a child/ren have one home of an adequate size, we (The Council) will not normally provide a second home for child/ren.</p>
New Addition	<p>Further to amending the wording of No 6 it is also suggested that the following point be added for clarification:</p> <p>7) In determining the size of accommodation required for a household, children will only be counted as part of a household where it can be evidenced that you have the main responsibility for those children and this is where the children will reside as their main home i.e. they are your dependents. In determining this we will take into consideration the individual merits of each case taking into account:</p> <ul style="list-style-type: none"> <li>• The dependency rules as set out in HMRC Child Tax Credit or its equivalent under Universal Credits;</li> <li>• Court Orders, legally binding consent order or relevant supporting documentation from a solicitor;</li> <li>• Percentage of time spent caring for the children, where the Dependent is staying overnight;</li> <li>• The regularity and permanence of the arrangement;</li> <li>• Affordability; and</li> <li>• Any exceptional circumstances which mean that it is especially necessary for a child to have a home with both parents e.g. for medical or special care needs.</li> </ul>	
15	<p>Suitability Criteria No 8:</p> <p>A woman with a pregnancy confirmed by an appropriate medical practitioner, will be counted as a household with a child after 36 weeks of pregnancy and therefore qualify for a bedroom each. If she already has one child, the unborn baby will be treated as if it were the same sex.</p>	<p>A woman with a pregnancy confirmed by an appropriate medical practitioner, will be counted as a household with a child after 36 weeks of pregnancy and therefore qualify for a bedroom each. If she already has one child, the unborn baby will be treated as if it were the same sex. If she has two or more dependent children residing with her, consideration for additional bedroom eligibility may be applied to the application following the birth of the child.</p>

New Addition	<p>Insert an additional category following on from criteria in No 5 cover larger families and the shortage of larger properties:          If you have a large family that may have little or no prospect of finding a property, which is large enough for your needs, we may permit bids for properties smaller than you need.</p> <p>In such circumstances, before any amendments are made to your bedroom eligibility; applicant approval will be sought to consent to considering smaller property types. Applicants should note that the Council will not consider offers of accommodation that would make your household statutorily overcrowded and applicants are not required to accept smaller properties although they may face significant wait times for alternative accommodation.</p>
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4.2 In summary, the main reason these proposed amends are being put forward is due to:

- Homelessness legislation, which does not accommodate children twice;
- There is greater demand for 2 bedroom properties (for those who need and fully occupy them);
- Welfare reform does not award rent on two properties to accommodate children twice;
- Case law states main benefits should not be used to top up housing payments;
- The remainder of the suitability criteria being set based on need and the Council should be consistent and equitable to all applicants.

4.3 The rationale for proposing an additional category covering larger families is due to:

- A limited number of larger properties with 4 or more bedrooms;
- Availability/turnover is limited;
- Unfairly extending the length of time an applicant waits for accommodation due to very limited supply;
- Making full use of larger 3 bedroom properties with higher permitted numbers without making households statutorily overcrowded;
- Applicants would have choice to register for a smaller property but again without creating statutory overcrowding;
- No financial implications for the household as they would fully occupy the accommodation.

## 5.0 Equalities Implications

5.1 No equalities implications have been identified from the Equalities Impact Assessment carried out by Newark and Sherwood Homes which takes into account the specific needs of persons with protected characteristics to ensure the Council's responsibilities under the Equalities Act 2010 have been fully considered and met. However, the continuation of the scheme as it currently stands is not considered equitable, as households accessing assistance through the housing options/homeless service would be treated differently to general housing applications on the waiting list. There is also potential for financial/affordability implications for applicants who cannot cover their housing costs/access benefits.

**6.0 Financial Implications (FIN19-20/9475)**

6.1 It is not expected that any of these amendments should have any financial implication however if there are any associated costs with these proposals they will be contained within the Council's allocated revenue budgets.

**7.0 RECOMMENDATIONS that:**

- (a) Members note the contents of the report; and**
- (b) the proposed minor amendments to the Housing Allocations Scheme be approved.**

**Reason for Recommendations**

**To ensure the Council has a fit for purpose Housing Allocations Scheme which is a statutory requirement under the Housing Act 1996.**

**Background Papers**

Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) (EU Exit) Regulations 2019 – available from <http://www.legislation.gov.uk/uksi/2019/861/contents/made>

Homelessness Code of Guidance for local authorities – available from <https://www.gov.uk/guidance/homelessness-code-of-guidance-for-local-authorities>

For further information on the content of this report, please contact Maria Cook, Senior Housing Options Officer on ext. 5456 or Leanne Monger, Business Manager – Housing, Health & Community Relations on ext. 5545.

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## **8. SUITABILITY CRITERIA FOR PROPERTY TYPES**

Applicants should have regard to the criteria stipulated in the advertisement of available properties prior to placing a bid to ensure they meet the required criteria.

Before an offer of accommodation is made, NSH will take into account the suitability and size of the property in relation to the family/number of people seeking accommodation and the financial position.

The outcome of your financial assessment may affect the types of accommodation you/your household are eligible for.

Suitability criteria may be adapted from time to time to reflect the supply and demand of properties, management of stock and overall community housing needs.

To address issues of low demand certain properties have a designated age criteria, therefore the eligibility criteria may be different. Any such differences will be clearly identified when the properties are advertised.

The following will usually be applied:

1. Single applicants under 60 are considered to need bedsits/one bedroom.
2. An adult requesting to share with another adult (who is not a partner) will require one bedroom each.
3. Single/Couples over 60 are eligible for supported accommodation of one or two bedrooms. Applicants under 60 with proven medical need or disability may also be considered for supported one and two bedroom accommodation.
4. Married couples, same sex partners and persons' living as man and wife are considered to need one bedroom (unless the partner needs a separate bedroom on proven medical grounds).
5. Two dependent children of the same sex or two children under ten of the opposite sex will normally be expected to share a bedroom. Dependent children are defined as children less than 18 years who live with the applicant and where the applicant is the parent or guardian and in receipt of Child Benefit or the child is in higher education.
6. Households who have contact with their children but with whom the children do not reside on a permanent basis must be able to show that they do have established contact. Households who have contact with their children cannot normally be considered for properties larger than two bedrooms irrespective of the number of children they have contact with.
7. Foster carers or those adopting children who require additional bedrooms will be assessed on an individual basis in liaison and as confirmed in writing by relevant social care departments.
8. A woman with a pregnancy confirmed by an appropriate medical practitioner, will be counted as a household with a child after 36 weeks of pregnancy and therefore qualify for a bedroom each. If she already has one child, the unborn baby will be treated as if it were the same sex.

Applicants are suitable for accommodation designated as supported accommodation if:

1. The Applicant or partner are 60 years of age or over.

2. The Applicant or a member of the household is aged 60 years over. (Such applicants may be considered for some, but not all, supported accommodation).
3. The Applicant or a member of the household is under 60 years but has a proven mobility, medical or disability need. (Such applicants may be considered for some, but not all, supported accommodation).

In some circumstances medical authorities and/or evidence may be requested in addition to and in support of, a completed medical self-assessment questionnaire.