

**Committee Name and Date of Committee Meeting**

Cabinet – 10 June 2024

**Report Title**

Review of the Housing Allocation Policy

**Is this a Key Decision and has it been included on the Forward Plan?**

No, but it has been included on the Forward Plan

**Strategic Director Approving Submission of the Report**

Ian Spicer, Strategic Director of Adult Care, Housing and Public Health

**Report Author(s)**

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**Ward(s) Affected.**

Borough-Wide

**Report Summary**

This report requests Cabinet approval to commence a full review of the Council's Housing Allocation Policy and sets out the proposed process for doing so. Agreement of a new Policy will be subject to Cabinet approval and recommendation to Council.

**Recommendations**

That Cabinet:

1. Approves the proposal to commence a full review of the Council's Housing Allocation Policy.
2. Notes the proposed approach to undertaking the review.
3. Notes that a new Policy will be presented to Cabinet for their approval and recommendation to Council.

## **List of Appendices Included**

- Appendix 1 Housing Allocation Policy
- Appendix 2 Strategic Tenancy Policy
- Appendix 3 Initial Equality Screening Assessment - Part A
- Appendix 4 Carbon Impact Assessment

## **Background Papers**

Allocations Code of Guidance

## **Council Approval Required**

Yes

## **Exempt from the Press and Public**

No

## **Review of the Housing Allocation Policy**

### **1. Background**

- 1.1 The Council is committed to continuing to provide a high-quality Housing Options service that enables residents in housing need to access social housing. It is a statutory requirement to have a Housing Allocation Policy. This provides the framework for ensuring this function is carried out fairly, consistently and in line with local and national policy and legislation.
- 1.2 The Housing Act 1996 VI requires that each Housing Authority shall have a policy for the allocation of accommodation. The Act specifies groups of people who must be given reasonable preference in the scheme. Subject to these provisions being met, the Council can decide the principles on which the scheme is to be framed.
- 1.3 The Council's current Housing Allocation Policy was adopted in 2014. Since then, it has undergone periodic revisions and additions. The most recent update was in November 2023, which strengthened the Council's commitment to the Armed Forces Covenant. Prior to this the last partial review was in April 2021, which focused on the impact of the Homelessness Reduction Act 2017.
- 1.4 The scale and profile of housing need in Rotherham has changed significantly since 2014, whilst the Council is continuing its commitment to housing growth, the number of available social housing lettings has reduced overall across the sector. From, 1980, when the Right to Buy was introduced, the Council has sold approximately 17,700 homes.
- 1.5 The purpose of this report is to seek Cabinet support to undertake a full review of the Housing Allocation Policy with a view to the Council adopting a brand-new Policy during 2025 which reflects these changed circumstances. The overarching aim of the review is to ensure the Council's Policy responds to demand and helps those in greatest housing need.

### **2. Key Issues**

- 2.1 The Allocation Policy determines how the Council makes any allocation of accommodation. The term "allocation of accommodation" is when the Council selects a person to be either:
  - A secure or introductory tenant of accommodation held by the authority.
  - Nominates a person to be a secure or introductory tenant of accommodation held by another housing authority.
  - Nominates a person to be an assured tenant of accommodation held by a Private Registered Provider.
- 2.2 The intention is to continue to rank priorities taking in to account the Housing Act 1996, which requires that Allocation Policies must give reasonable preference to the following groups:

- People who are homeless as defined in Part 7 of the Housing Act 1996.
- People owed certain other homelessness duties in the following sections:
  - 190 (2), eligible for assistance, homeless, in priority need and intentionally homeless
  - 193 (2), eligible for assistance, homeless, in priority need and not intentionally homeless
  - 195 (2), duty in cases of threatened homelessness (the prevention duty).
- People occupying unsanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions.
- People who need to move on medical or welfare grounds (including any grounds relating to a disability).
- People who need to move to a locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

2.3 The Department for Levelling Up, Housing and Communities (DLUHC) recently launched a consultation on proposals to amend social housing allocation rules. The consultation proposes that allocation schemes should seek to prioritise those who have a strong connection to the UK and the local area, and those that do not disrupt communities through anti-social behaviour or terrorism offences. The consultation opened on 30 January 2024 and closed 26 March 2024. Reviewing the Housing Allocation Policy will provide an opportunity to embed any changes to legislation that might arise from the consultation.

### **The Current Policy**

2.4 In addition to the statutory reasonable preference categories, the Council has chosen through its existing Policy to give preference to:

- Care leavers.
- Households unable to return home from hospital, as their current property does not meet their medical needs and temporary accommodation would be inappropriate or they require immediate rehousing preventing an admission to hospital or institution.
- Ex Service Personnel and their families who are leaving the Armed Forces, and Former Members of the Reserve Forces, who have no accommodation to return to.
- Households leaving temporary or supported accommodation schemes.
- Households that are subject to adult or child safeguarding issues.
- Housing association and Council tenants that are under occupying their current property and wish to downsize.

2.5 The Council utilises a common housing register model which means that all available properties, including those provided by other housing providers, are advertised and let in the same way. The Council operates a banding system

and a choice-based lettings scheme. This means applicants are placed in one of five bands dependent upon their housing circumstances and level of housing need, and then given an opportunity to place 'bids' for available properties. Shortlists are determined according to the level of priority applicants receive under the Allocations Policy. The register is 'open' which means those with no housing need can join so long as they meet minimum eligibility criteria, which in Rotherham includes a local connection test.

- 2.6 Band 1 is the urgent rehousing band. Applicants placed in Band 1 will always be placed highest on a shortlist as they are in greatest need. For Bands 2 and 3 and the Transfer Band, a quota is in place to ensure there are always some properties available. The current quota is to advertise 60% of properties to Band 2, 30% to Band 3, and 10% to a Transfer Band. Applicants in Band 4 have no housing need and therefore no preference is given, and no quota is in place.
- 2.7 As of 12 March 2024, the total number of applicants on the Council's Housing Register was 7,200. The equivalent figure in 2015 was 5,333. The table below breaks the 7,200 households down into the five bands:

<b>Banding</b>	<b>Number in each band</b>
Band 1	235
Band 2	1621
Band 3	2525
Band 4	1864
Transfer Band	955
<b>Total</b>	<b>7200</b>

- 2.8 In contrast, the total number of allocations of council accommodation made over the last three years was:
- 2020/2021 = 1057
  - 2021/2022 = 1027
  - 2022/2023 = 1399
- 2.9 Lettings were lower during 2020/21 and 2021/22 due to Covid. It is expected that the long-term trend will be further reductions in lettings in line with national trends, largely due to the continued impact of the Right to Buy. From 1980, when the Right to Buy was introduced, the Council has sold approximately 17,700 homes. The overall picture is therefore one of increasing demand for fewer properties.

### **Aims of the review**

- 2.10 The overall aim of the review is to ensure that the Council's Allocation Policy continues to help people in greatest housing need to gain access to suitable and appropriate accommodation, as well as supporting mixed and balanced communities and, where possible, providing choice.

- 2.11 The review will seek to ensure that the Policy reflects national and sub-regional good practice, assists with the growing homelessness pressures the Council faces, and responds to the changing profile of demand for housing. It will also seek to ensure that the operation and administration of the Policy and the Housing Register remains efficient, transparent, and fair.
- 2.12 While the entire Policy is in scope of the review, several specific aspects have been identified as priority areas for consideration. These fall into four themes: eligibility, bandings and quotas, best use of stock, and direct lets.
- 2.13 The review will be undertaken using the following methods:
- Widespread consultation and engagement including capturing feedback from members of the public (see Consultation section).
  - Review of best practice, updated guidance and equivalent policies of other local authorities including the other three South Yorkshire policies.
  - Analysis of data of the housing register and number of lettings completed.
  - Engagement of legal services and a specialist housing allocations consultant to ensure the proposed Policy is compliant and meets the proposed aims and objectives.

### **Eligibility criteria**

- 2.14 Eligibility for social housing allocations is largely determined by national policy. However, there is some scope to set local eligibility criteria including whether households can join a housing register or not.
- 2.15 The review will consider the local connection criteria and the evidence required from applicants to prove criteria are met. This will include the family connection criteria.
- 2.16 The review will also consider the eligibility of applicants who have been re-housed in social housing and wish to re-join the register. The current Policy allows applicants to re-join the housing register in the Transfer Band after 12 months of securing a tenancy, providing they have no tenancy breaches. In light of the demand on the housing register, the Council could consider extending the exclusion period for those who have recently been re-housed and are not in housing need.
- 2.17 The Council will also review the eligibility of applicants with tenancy related debts. Under the current Policy, applicants are ineligible to join the housing register if they have a tenancy related debt exceeding £800. This level was set in 2014 and is not a large amount in the context of housing costs in 2024. The restriction excludes many applicants from the register, including some who are homeless and occupying temporary accommodation.

## Bandings and quotas

- 2.18 The table below sets out lettings by Band during 2022/23 compared with the quotas in the current policy. The large number of applicants in Band 1 has the effect of squeezing the lettings available to the other bands, which means there is a significant gap between the advertising quotas and actual lettings for Bands 2 and 3 and the Transfer Band.

<b>Lettings by band 22/23</b>		<b>Percentage of lettings</b>	<b>Current advertising quota</b>
Band 1	414	29.6%	
Band 2	640	45.7%	60%
Band 3	225	16.1%	30%
Band 4	46	3.3%	
Transfer Band	74	5.3%	10%
<b>Total</b>	<b>1399</b>		

- 2.19 There is a high number of housing need categories within the bands, many added through partial reviews since 2014. This has created a complex policy that can be difficult for applicants to understand and for professionals to use. Through a full review of all categories, in all bands, there is an opportunity to simplify the policy and improve its effectiveness.
- 2.20 Band 1 is the highest priority and designed to provide urgent re-housing for those in most housing need and at risk. Band 1 is time limited to three months to ensure that applicants are actively bidding for properties and receive one offer within this timescale. There are currently fourteen categories that allow applicants to be placed in Band 1. The review will consider if the operation of Band 1 is serving its stated purpose to give the highest level of priority to those in the greatest housing need.
- 2.21 The Transfer Band is for current tenants who have no housing need. The current policy includes a 10% quota for this band which has the effect of giving them additional priority compared with other residents who have no housing need (in Band 4). Some local authorities do not operate a separate Transfer Band and applicants are instead placed in a no housing need category.
- 2.22 The review of bandings will also consider how the Policy can assist the Council to address homelessness pressures. The current Policy awards Band 1 to applicants who are owed a main homelessness duty and Band 2 to those owed a prevention or relief homelessness duty. The Policy does not consider whether those owed a homelessness duty are also in priority need under homelessness legislation. This means that some homeless applicants living in temporary accommodation are awarded the same level of priority in the Policy as homeless applicants to whom the Council does not need to provide temporary accommodation. Reviewing bands and reducing the level of priority

for those not in priority need should help to reduce the number of households in temporary accommodation.

### **Making best use of stock**

- 2.23 In order to create sustainable tenancies and balanced communities, consideration should be given to the eligibility for the different types of properties within the Council's stock. Eligibility for accommodation types has not been reviewed since the Policy was introduced in 2014. The Policy is relatively generous in that it can allow significant levels of under-occupation, even in some of the Council's most popular housing types. For example, under the current Policy a three bedroomed bungalow could be allocated to a couple with no dependent children. This is despite a shortage of this type of accommodation, and a large caseload of families who require large accommodation on one level.
- 2.24 The review will also consider eligibility for two and three bedroomed houses. Currently couples without children are eligible for two bedroomed houses. Applicants with children including adult children are also eligible for family accommodation of 2 and 3 bedroomed houses, meaning that potentially two adults (e.g., a single parent and their adult child) could be re-housed to a three bedroomed house.
- 2.25 The review will consider how homes delivered through the Council's Housing Development Programme are allocated. Currently new build properties are advertised to the Transfer Band, giving preference to council tenants with no tenancy breaches. Council tenants who are not in the Transfer Band can make a request but will come lower down on the shortlist. Other applicants who may be in higher housing need are excluded from making a request unless opportunities to let to Transfer Band applicants has been exhausted.
- 2.26 The review will consider whether any modifications to the Council's Strategic Tenancy Policy should be made in tandem with modifications to the Allocations Policy. The Tenancy Policy currently allows for the granting of fixed term tenancies in some limited circumstances.

### **Direct lets**

- 2.27 The use of direct lets is detailed in the current Policy under Section 5 Housing Management Lettings. The Policy states "there are certain circumstances when vacant properties may not be advertised in the Key Choices letting scheme, and on some occasions, properties may have been advertised but the accommodation is required for a management letting for Rotherham residents. These will normally apply to the following situations where the Council and its partner landlords may need to use vacant properties for specific management purposes in urgent circumstances."
- 2.28 Due to the increasing demand on the homelessness service and temporary accommodation there was an increase in the use of direct lets over the past twelve months. The review will seek to strengthen the approach in the Policy



in order to give the Council more flexibility to make a single, direct offer of appropriate accommodation in order to fulfil a statutory homelessness duty. This could mainly apply to applicants who are homeless and in temporary accommodation and owed a section 189B(2) relief duty or 193(2) main duty. This will support the Homelessness Prevention and Rough Sleeper Strategy 2023-2026 by helping to reduce the use of temporary accommodation.

2.29 Direct lets are also utilised for current council tenants in need of urgent re-housing. The floods in October 2023 led to many council tenants displaced from their homes. Due to the level of damage caused by the floods, and timescales for repairs, many residents are seeking permanent re-housing. As a landlord, the Council has discretion to make management moves for its own tenants and this is detailed in a separate decant procedure.

### **3. Options considered and recommended proposal**

#### **3.1 Option 1 – Do nothing.**

This is not recommended due to the factors outlined in section 2. Failing to update the policy in light of altered circumstances risks leading to poor outcomes for residents.

#### **3.2 Option 2 – A light touch review.**

2014 is the last time a full review was undertaken, with light touch reviews completed periodically. The benefit of this option is chiefly its speed. However, taking in to account the factors outlined in section 2, a more fundamental review of the Housing Allocation Policy is recommended.

#### **3.3 Option 3 – A full review (recommended).**

This would encompass a top to bottom review of the policy. It will take longer to deliver than option two but will provide the Council with a stronger policy.

### **4. Consultation on proposal**

4.1 It is important that a new policy is developed to reflect the changing policy environment and best practice and that it is shaped by the experience of service users. Prior to making any decision regarding the options for the future policy, engagement with a wide range of stakeholders and customers will take place.

4.2 A 12-week public consultation, including telephone and online surveys with current and former applicants, will form the heart of the Council's consultation and engagement plan for the review. To supplement this, working with the Cabinet Member for Housing, officers will engage widely with Elected Members, partner organisations including housing associations, and tenant and resident involvement forums such as the Housing Improvement Panel. Relevant statutory agencies and Council departments will also be involved.

4.3 A consultation report will be written and shared with Cabinet alongside the proposed new Policy.

4.4 The Allocations Policy is utilised by Council officers and by housing associations, who provide lettings to the Council that are then allocated to in line with the Policy. Once the consultation has concluded and a draft Policy is available, it will be shared with local housing associations giving a further two weeks to review the content and propose wording changes to ensure the Policy can be operated. At this stage no substantive changes to the Policy can be made.

## **5. Timetable and Accountability for Implementing this Decision**

5.1 The proposed approach to the Housing Allocation Policy review is presented to Cabinet for approval.

5.2 The consultation and engagement to establish the views and needs of people, including engagement with a range of stakeholders will be conducted throughout 2024 and early 2025.

5.3 The Council will receive a further report in Summer 2025 detailing the findings of the consultation and a proposed refreshed policy.

5.4 The Head of Housing Options will have responsibility for implementing the Policy. It is proposed that the new Policy is introduced in the Autumn of 2025, which provides sufficient time following a Council decision to deliver an implementation plan. The implementation plan will support the launch of the new Policy to ensure that the Policy is communicated with professionals and customers. A briefing paper summarising the amendments will be distributed to Elected Members.

## **6. Financial and Procurement Advice and Implications**

6.1 There are no direct procurement implications arising from the recommendations detailed in this report.

6.2 There are no direct financial implications arising from the recommendations within this report. Relevant activity will be funded from within existing budgets.

## **7. Legal Advice and Implications**

7.1 It is a statutory requirement to have an allocation scheme in place which determines housing priorities and a clear procedure to be followed when allocating accommodation. The procedure must be set out clearly within the scheme in order to ensure that allocation decisions are lawful, it is therefore essential that the scheme is fully reviewed to ensure that the scheme is fully up to date and legally sound.

7.2 Chapter 5 of the Allocation of Accommodation Statutory Guidance addresses Allocation Scheme Management. The relevant legislation in respect of information about allocation schemes is contained within Section 168 of the Housing Act 1996 and Section 106 of the Housing Act 1985. Housing

Authorities must publish a summary of their allocation scheme and, if requested, provide a free copy of it. The full scheme must also be available for inspection.

- 7.3 When an alteration is made to an allocation scheme which reflects a major change of Policy, an Authority must ensure that those likely to be affected by the change have the effect brought to their attention within a reasonable time frame, this is usually done by way of consultation. A full scheme review, with the areas suggested within the body of the report being considered for change, would clearly warrant a major change and therefore consultation is required, the 8-week consultation period suggested would be deemed reasonable.
- 7.4 There was a light touch review in November 2023 but the last review prior to that was in April 2021, 3 years ago. In adopting the recommendation at Option 3 the Council will ensure compliance with the law and give the opportunity to fully review the scheme, thus reducing the risk of legal challenge in respect of the scheme itself and any allocation decisions made in accordance with the scheme.

## **8. Human Resources Advice and Implications**

- 8.1 There are no direct HR implications arising from this report.

## **9. Implications for Children and Young People and Vulnerable Adults**

- 9.1 Children and Young Peoples Services welcome the opportunity to be part of the consultations and to have input into the new Housing Allocation Policy. There are close links to the Council's Children's Pathway to Care Policy where specific housing accommodation requirements need to be taken into consideration to provide funding for additional living/bedroom space. This enables the child to be discharged from care and prevents a child becoming a looked after child.

## **10. Equalities and Human Rights Advice and Implications**

- 10.1 An initial Equality Impact Assessment Screening (EIA) for the Policy review has been completed to ensure that no adverse impact and a positive impact on people with disabilities, but the outcome of the formal EIA assessment will be finalised as the policy review is completed and will include the approach taken to consult with stakeholders and customers.

## **11. Implications for CO2 Emissions and Climate Change**

- 11.1 Climate change poses a significant threat to environments, individuals, communities, and economies on local, national, and international scales. In recognition of this the Council has aimed to be net carbon neutral as an organisation by 2030, and for Rotherham as a whole to achieve the same position by 2040.

11.2 A Carbon Impact Assessment will be completed as part of the policy review.

## 12. Implications for Partners

12.1 There will be wider engagement with partners and a range of local and regional stakeholders as part of the policy review.

## 13. Risks and Mitigation

13.1 The key risks associated with the review are summarised in the table below.

<b>Risk</b>	<b>Mitigation</b>
Potential legal challenge against any aspect of the policy by an individual or organisation.	Engagement of legal services and a specialist housing allocations consultant to ensure the proposed Policy is compliant and meets the proposed aims and objectives.  A robust consultation reduces the risk of challenge but there is no guarantee that a challenge will not be made. As accommodation becomes scarcer, the potential for challenge increases.
Reputational risk arising from opposition to proposed changes due to reviewing categories in all bands and the level of priority awarded, potentially leading to the removal of some categories.	Early and regular consultation with Elected Members and the public to provide information on the review and explain the rationale.  Recommendations based on evidence and data.
Internal staff capacity to deliver the review and implement the final Policy – Housing, Legal etc.	The review will take place over the course of around 12 months which will ensure adequate staff capacity is available.  An implementation and training plan will support the launch of the new Policy to ensure that it is communicated with professionals and customers.

## 14. Accountable Officers

James Clark, Assistant Director of Housing

Approvals obtained on behalf of Statutory Officers: -

	<b>Named Officer</b>	<b>Date</b>
Chief Executive	Sharon Kemp	22/05/24
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	16/05/24
Assistant Director, Legal Services (Monitoring Officer)	Phil Horsfield	16/05/24

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