



**Report to Lead Member for
Housing and Welfare Reform**

20 July 2021

**Report from the Strategic Director
of Community Wellbeing**

Review of Housing Allocations Scheme

Wards Affected:	ALL
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	None
Background Papers:	None
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1.0 Summary

- 1.1 The Council must have an Allocation Scheme for determining priorities and the procedure to be followed in allocating housing accommodation. The last review of the Allocation Scheme occurred in 2018, and amendments were applied to the Scheme in June 2019.
- 1.2 As a result of recommendations from the Stock Maximisation Report which will be submitted to Cabinet for consideration in August 2021, and to ensure the scheme is fully compliant with legislation, a further review and subsequent amendments to the Allocation Scheme are now required. The current scheme has also been reviewed to prepare for the implementation of the Domestic Abuse Act 2021 (the DAA 2021). However, having had regard to the new regulations being introduced by the DDA 2021, officers are satisfied that no amendments are required to comply with the DDA 2021, because the requirements are already met under the current scheme. A full explanation is provided in section 3.2 to 3.4 below.
- 1.3 There is a statutory requirement that any significant amendments made to the Council's Allocation Scheme involving a major change of policy can only be applied following consultation. It is considered that a 10 week consultation period should be sufficient in the current circumstances, based on the proposed

changes set out below and the time of year for the consultation period which includes the summer holiday months.

- 1.4 The consultation process will include holding focus groups with key stakeholders and working with the corporate consultation team about the wording of the consultation, and to guard against any attempts to undermine the consultation process. Whilst the proposed changes are not significant, we are committed to ensuring a robust consultation.
- 1.5 The timetable below sets out the sequence of events that will need to take place to facilitate the new Allocation Scheme being operational.

Timetable for implementation of revised Allocation Scheme

Paper	CMT/PCG/Cabinet	Date
Authority to consult on proposed changes	CMT	8 July
	PCG and thereafter, the Lead Member	15 July
Consultation Period – 10 weeks		
Review comments from consultation – 4 weeks		
Final report to authorise changes to the scheme	CMT	October
	PCG	October
	Cabinet	November

- 1.6 The purpose of this report is seek the approval of the Lead Member for Housing and Welfare Reform, in consultation with the Leader of the Council, to commence the process of statutory consultation in relation to the proposed changes to the Council’s allocations scheme as set out in section 4 of this report. After the consultation process, the responses will be considered and thereafter, proposals to amend the Council’s allocation scheme will be submitted in November 2021 to Cabinet for consideration and approval

2.0 Recommendations

- 2.1 That the Lead Member for Housing and Welfare Reform, following consultation with the Leader of the Council, approve the commencement of the statutory consultation process on the proposed amendments to the Council’s allocations scheme as set out in section 4 of this report.

3.0 Background

- 3.1 The Housing Act 1996 Part VI (“the 1996 Act”) provides the following: The scheme must be framed so as to give reasonable preference to any applicant who falls within the statutory reasonable preference categories as set out in the 1996 Act over those who do not. There is no requirement to give equal weight to each of the reasonable preference categories, but local authorities will need to demonstrate that overall, reasonable preferences has been given to all of them. Local housing authorities may frame their scheme so as to give additional preference to particular descriptions of people who fall within the reasonable preference categories and who have urgent housing needs.

3.2 The Domestic Abuse Act 2021

The Domestic Abuse Bill received Royal Assent on 29 April 2021, and is now an Act of Parliament (law). Some of the provisions (mainly criminal and administrative) came into effect when the Act came into force on 29 April 2021, however the provisions concerning housing and homelessness, will come into force in July and November 2021.

3.3 The Act will:

- a. Place a duty on local authorities in England to assess or make arrangements for the assessment of the need for accommodation based support in their area for victims of domestic abuse and publish a strategy for the provision of such accommodation in their area. (section 57 of the DAA 2021) The aim of this duty is to place clearer accountability on local areas to ensure the needs of victims within refuges and other forms of domestic abuse safe accommodation are met in a consistent way across England.
- b. Provide that all eligible applicants who are homeless as a result of being a victim of domestic abuse automatic 'priority need' for homelessness assistance (section 78 of the DAA 2021 adds domestic abuse to the priority need categories under section 189 of the Housing Act 1996)
- c. Ensure that where a local authority, for reasons connected with domestic abuse, grants a new secure tenancy to a social tenant who had or has a secure lifetime or assured tenancy (other than an assured shorthold tenancy) this must be a secure lifetime tenancy (section 79 of the DDA 2021, inserts a new section 81ZA into the Housing Act 1985, granting secure tenancies in cases of domestic abuse)

3.4 Only point c above concerns the allocation of social housing, and therefore potentially could affect the Council's Allocation Scheme. However, as the Council only awards secure lifetime tenancies, as of 18 June 2020, no amendment to the scheme is necessary to comply with the DDA 2021. This is because under the current scheme, irrespective of the new Act, all new social housing allocations, including those made to domestic abuse victims, are lifetime tenancies.

3.5 A proposal was considered regarding Council tenants, who are fleeing their property due to Domestic Abuse. It was considered whether the application should be dealt with under homelessness legislation, and if the main duty was accepted, to guarantee the tenant a direct offer of an alternative Council property, on the basis that the tenant would be required to relinquish their existing Council tenancy while they wait for the new offer of accommodation.

3.6 However, after discussion with the Lead Member for Housing and Welfare Reform, it was decided not to pursue this proposal, as it is very problematic from both a private law perspective and a public law perspective to force a tenant to relinquish their tenancy. It was also possible that the tenant may lose their social housing if they refused the direct offer after moving out of their

council accommodation and the Council ended the main duty under homelessness legislation (this main duty is set out in paragraph 4.3 below). It was felt that inclusion of this proposal risked looking like a disproportionately robust policy change, affecting a group whose numbers are small and whose circumstances are likely to be complex and very particular.

- 3.7 It was agreed instead that the Domestic Abuse Team in the Council's Housing Needs service would assess Council Tenants who are fleeing their current property due to Domestic Abuse. If it was determined that the tenant is unable to remain in their current accommodation, they will be awarded priority banding for an emergency transfer. While they are waiting for an offer of alternative accommodation, they will be asked whether they would agree to relinquishing their former tenancy, to allow it to be let to another household. It is felt that this balances the council's responsibility to maximise our stock with the flexibility to ensure that victims of domestic abuse have the greatest sense of security possible.

4.0 Proposed Amendments to the Current Allocation Scheme

- 4.1 A recent legal challenge regarding when homeless households are given reasonable preference on the Council's Allocation Scheme has determined the timing of this review of the scheme (see 4.3 below). However, officers have used this opportunity to include other procedural revisions to the scheme, as well as making revisions that clarify the wording of the scheme.

- 4.2 There are seven proposed amendments, that are detailed below. The first six are procedural amendments, and the final two are points of clarification. The section below sets out the practical change and the likely impact for each proposed change. Overall these changes support the Council's strategic objectives, protecting people who come to us for support, whilst still making the best use of the Council's housing stock.

- 4.3 **1) Give reasonable preference to homeless Households in the Relief Duty**
The first proposed amendment is in relation to a recent legal challenge received by the Council in April 2021. Homeless households are included in the statutory reasonable preference categories as set out in the 1996 Act. Currently, all homeless households are given reasonable preference, by being placed in Priority Band C, once the main duty to provide temporary accommodation to the homelessness applicant has been accepted under homelessness legislation (Part VII of the 1996 Act). However, under the 1996 Act the Council is also required to give reasonable preference to all homeless households, irrespective of whether the main duty has been accepted. This cohort includes those households who are owed a 56 day relief duty under the Homelessness Reduction Act 2017, households who do not have a priority need, or are intentionally homeless; as defined by homelessness legislation, or have refused an offer of suitable accommodation. It is therefore proposed that all homeless households, as specified above, are placed into Priority Band C, but on a lower priority within Band C than those homeless households to whom the main duty has been accepted.

Impact

- 4.4 In reality most of these households will have their homelessness relieved through the work to prevent homelessness currently provided by the Housing service. The majority of households will be made private rented sector accommodation offers made during the prevention and relief duty and once housed, their places on the housing register will then be reassessed, taking into account that they are no longer homeless. When homelessness is not relieved, and the Council does not accept the main duty, the applicant will remain in Priority Band C. However, the Locata system that is used to manage the Housing Register already has built-in functionality that can be used to give this cohort of homeless households a lower priority than those households in Band C to whom the Council has accepted the main duty. This means there will not be an impact on homeless households to whom the Council has accepted the main duty, as they will continue have a higher priority.

2) Give priority to existing council tenants, who need a transfer, to bid for all new build properties

- 4.5 A tenant can apply for a transfer on the basis of housing need – for example that the household is overcrowded – and the application will be assessed on the basis of reasonable preference. However, the Council is also able to set its own transfer policies in relation to tenants who have asked for a transfer but do not meet the reasonable preference criteria. There are currently 240 Council Tenants who are registered for a transfer due to overcrowding, medical or other reason (including under-occupation, domestic abuse, urgent decant) and have been assessed in Bands A-C. This is included in the reasonable preference criteria
- 4.6 In the previous review of the Allocation Scheme, existing tenants who are registered for a transfer were given priority to bid for new units that become available on their estate, to enable them to remain on the estate and avoid having to relocate to another area. It is now proposed that existing Council tenants should be given priority to bid for all new build Council properties. Higher priority will be given to those tenants living in the regeneration area for new build properties compared with Council tenants living outside the relevant regeneration area.

Impact

- 4.7 The Council has been allocating 70% of all available social housing to accepted homeless households, to help reduce the number of families living in Temporary Accommodation. This has resulted in fewer properties being available for existing council tenants who are overcrowded, and require a larger property to live in. Families living in overcrowded housing was one of the main issues that came up in recent consultation meetings with the black community in Brent and through the work of the Poverty Commission. By giving existing Council tenants registered for a transfer priority to bid for all new build properties, they will be given priority to secure a transfer to suitable accommodation, over accepted homeless households, and home seekers living in the private sector.

4.8 The properties that the existing tenants move out of will then become available for accepted homeless households, and home seekers to bid for. A breakdown of the households who are currently registered for a transfer, showing what size of accommodation they require, is illustrated in table 1 below.

Table 1. Brent Council Tenants who are registered for a transfer Bands A-C on the Housing Register

Reason for Transfer	Number of households	Number of bed required
Overcrowded	1	2
	33	3
	34	4+
Medical	8	1
	15	2
	11	3
Other	5	4+
	72	1
	48	2
	13	3
Total	240	

4.9 There are currently 57 exiting tenants who require a 3 bedroom property, and 39 tenants who require a 4+ bedroom property. A review of the properties that these families are currently living in has confirmed that only one property has the possible potential to be extended to make it larger, as the majority of the properties are in blocks of flats. If these tenants are prioritised for an allocation to all new build properties, there will be fewer large properties available to allocate to larger accepted homeless families, currently living in Temporary Accommodation. It will therefore be essential that the significant increase in planned new development is targeted to meet the demand of larger families. This coupled with the initiatives proposed to make the best use of our housing stock, outlined in the Stock Maximisation paper also being presented at this meeting of PCG, will prevent larger homeless households having to wait longer for an allocation of social housing to end their homelessness. Table 2 below illustrates the number of accepted homeless households, broken down by bedroom size needed.

Table 2 the number of accepted homeless households, broken down by bedroom size needed

Bedroom Size Required	Number of Households
1	138
2	423
3	748
4	298
5	49
6	6
Total	1662

3) Emergency Management Transfers

- 4.10 Brent Council tenants and tenants of Registered Providers where the Council has nomination rights, may be provided with an emergency management transfer. This will occur when the Allocations Panel has determined that a transfer to alternative social housing is essential to ensure the personal safety of the tenant, members of their household and/or the local community.
- 4.11 Where the Allocations Panel approves the transfer, the household will be placed in Priority Band A and may be made a 'direct offer' of alternative accommodation on a like-for-like basis in terms of the number of bedrooms in the new property. Where the household has already been awarded medical priority, the home that they are offered will reflect their assessed needs.
- 4.12 However, where the household is overcrowded in their existing property, and there are no significant health issues, they are currently transferred to a property of the same size, and therefore the transfer does not address the issue of the overcrowding. This is because the reason the household has been awarded an emergency management transfer is to address the issue of personal safety, often related to domestic abuse, gang related violence, hate crime or threats to life.
- 4.13 It is proposed that the scheme should be amended so that households who are transferred due to an emergency, are moved to the appropriate size accommodation to meet all of their housing needs, including overcrowding.

Impact

- 4.14 This change will have a positive impact on those households who, through no fault of their own, need to transfer to another property to ensure their personal safety and the safety of their family. It will mean that all of their housing needs are met, as overcrowded households will transfer to larger properties avoiding the need to move twice. It will, however result in fewer large properties being available for accepted homeless families living in Temporary Accommodation.
- 4.15 However, the number of households who receive an emergency management transfer is low. In the last 12 months only 15 households were transferred for this reason, and some of these were actually moved to larger accommodation, due to underlying medical issues.

4) Transfers due to Overcrowding

- 4.16 In common with most London boroughs, families living in overcrowded accommodation is a serious problem in Brent. Prior to the review of the allocation scheme in 2014, there were over 20,000 households with priority banding for social housing on the Housing Register. Approximately 16,000 of these households had been awarded priority due to being overcrowded, and needing one additional bedroom.
- 4.17 The Allocation Scheme was therefore amended to target those in the greatest need, by only giving priority banding to those families who were most severely overcrowded, lacking two bedrooms or more. Families living in overcrowded accommodation can be divided into three cohorts, Council Tenants, Housing Association Tenants, and Private Rented Sector Tenants (PRS). Families living in the PRS, who are lacking more than two bedrooms or are statutory overcrowded (as defined by Part 10 of the Housing Act 1985), are dealt with under homelessness legislation, whilst the other two are dealt with through the Allocations Scheme.

The current Allocation Scheme is framed to give priority banding to social housing tenants as follows;

Council Tenants

- Lacking one bedroom no priority
- Lacking two bedrooms – Priority Band C
- Statutory Overcrowded – Priority Band B

Housing Association Tenants

- If their Housing Association are members of Locata, the family must approach them for a transfer as they are responsible for dealing with their overcrowding in line with their housing allocation scheme.
- If the Housing Association are not members of Locata, or the family are severely overcrowded, the family have the option to apply to the Council as homeless.

- 4.18 It is proposed to amend the scheme to award priority band B to all Council tenants who are lacking three bedrooms or more.

Impact

- 4.19 This is largely a technical change and it is highly likely that the majority of Council tenants who lack three bedrooms, would meet the definition of statutory overcrowded, and would therefore have been awarded priority band B anyway. The impact of this change is therefore not considered significant. However, there may be some families who would not meet the definition (due to the age, sex of their children, or room measurements) who will benefit from this change.
- 4.20 A benefit of this change is that it will be a lot clearer for tenants to know that if they are lacking 3 bedrooms or more, they will automatically be awarded Band B priority, rather than have to worry about whether they meet the definition of

being statutory overcrowded. This clearer explanation of how the Council is acknowledging and addressing the housing needs of overcrowded families is in direct response to the consultation with the black community in Brent.

5) Award Priority Band A to Special Guardians

- 4.21 The current Allocation Scheme recognises the contribution that Brent foster carers and adopters make towards ensuring that children that are under the Council's care have appropriate housing. Priority Band A is awarded on a case by case basis, working closely with the Council's Children and Young People Service to ensure the households' re-housing requirements are prioritised within the scheme.
- 4.22 However, the scheme does not currently cover Special Guardianships, where an order has been made by the Family Court that places a child or young person to live with someone other than their parent(s) on a long-term basis. It is therefore proposed that the current scheme should be amended to include giving priority for cases involving Special Guardianships.

Impact

- 4.23 It is anticipated that the impact of this proposal will be relatively low, as the number of cases involving Special Guardianships is small. It will also not be mandatory that all households with a Special Guardianship arrangement will be awarded priority, but only those cases supported by Brent's Children and Young People Services. However, it does mean that the allocation scheme will be explicit in supporting a household who require alternative housing to enable a child to reside with them, under a Special Guardianship arrangement, and will therefore have a positive impact.

6) Residency Criteria

- 4.24 In common with most Allocation Schemes in areas of high demand for social housing, Brent has a residential criteria for eligibility to join the Housing Register. The wording of the current scheme states that all applicants must currently be living in the London Borough of Brent and have continuously lived here for the period of 5 years or more prior to joining the housing register. Applicants who do not meet this criterion will not be eligible to join Brent's Housing Register, subject to certain exceptions as defined in the scheme, which includes homeless households victims of Domestic Abuse, care leavers and former members of the armed forces.
- 4.25 The residence rule was introduced during a previous review of the scheme in 2013, as a result of the Localism Act giving councils more flexibility about how their allocation schemes are framed to meet local need. In common with most London councils, due to the acute shortage of social housing that is available, Brent introduced a 5 year residence rule, to ensure that only people who currently reside and have *settled* in the borough are eligible to join the Housing Register. This is to prevent non-residents, and people who have only recently moved into the borough from joining.

- 4.26 There has been a case where an applicant who met the residence criteria at the time they joined the register, and subsequently moved out of the borough for a period, without notifying us of their change of address, before moving back into the borough. They were then shortlisted for an allocation of social housing, but failed at the point of verification, as they had not been continuously resident in the borough. The applicant argued that the Council's current scheme was not explicit about the need to be resident (and have continually been resident in the borough) and that at present, there is only a requirement to have lived for five years in the borough at the point of joining the register.
- 4.27 It is proposed to amend the wording to say that all applicants must be currently living in the London Borough of Brent; and continuously lived here for the period of 5 years or more prior to joining the housing register; up until the time they are allocated social housing. If an applicant moves to an address outside of Brent, they will be removed from the register from the date that they leave the borough. Applicants who do not meet this criterion will not be eligible to either join or remain on Brent's Housing Register, save for certain exceptions as defined in the scheme. This will not affect those homeless applicants who are housed in temporary accommodation by the Council outside the borough.

Impact

- 4.28 This will ensure that social housing is only allocated to current residents of the borough, who have been continuously resident in Brent for at least 5 years, prior to the allocation of housing and those individuals with a reasonable preference, such as domestic abuse victims, care leavers and former members of the armed forces who are exempt from resident criteria.

7) Decant moves for essential repair

- 4.29 It is sometimes necessary for a property to be vacant, to enable the Council to complete major repairs. Moves will usually be temporary but in some circumstances consideration will be given to permanent moves arising from a decant. The Allocations Panel will also consider whether or not, for technical or safety reasons, it is feasible for the applicant to remain in their home while the works are carried out around them. For the tenant to be awarded decant priority, the Allocations Panel will need to be satisfied that the work is so disruptive that it cannot be completed with the tenants remaining in occupation and either:
- The work is likely to take more than 3 months to complete; or
 - The health of the tenant or a member of their household will be severely affected if they have to leave their home and then move back again at a later date
- 4.30 In most instances where essential repairs are required officers are able to give a good indication of how long works should take, and therefore whether the work is likely to take more than 3 months and trigger a permanent transfer. However, sometimes the Council might not be able to complete works in three months because the works have become more complex than initially diagnosed or because of circumstances beyond our control.

- 4.31 The current wording of the scheme regarding decant moves for essential repairs to Council properties does not provide any flexibility for the Council to apply discretion. This is because the current wording states “If the work is estimated to take less than three months but then runs on for longer, the tenant will be awarded decant priority”. It is therefore proposed to amend the wording to read ‘If the works to the property are estimated to take three months but this timescale is not achieved, the tenant may be awarded decant priority’.

Impact

- 4.32 This amendment will give officers discretion to determine whether a household should receive a priority for a transfer, where the repairs to their current accommodation have over-run due to unforeseen circumstances, which are beyond the control of the Council. However, their property will be suitable for them to continue to occupy, once the repairs are finalised. The amendment will not be used to unnecessarily prolong any repair which is necessary.

5.0 Financial Implications

- 5.1 The proposed changes to the allocations scheme may impact the rate at which households can be moved out of Temporary Accommodation, potentially leading to increased costs and increased numbers of people living in TA for longer periods of time.
- 5.2 A particular risk is around people being unable to move from properties managed under the Housing Association Lettings Scheme (HALS). The rental charges for these properties are covered by Housing Benefit, but with the Council paying an additional £60/week in management fees and £10/week in nomination fees.
- 5.3 Under the existing allocation scheme, these households could be prioritised for social housing and moved out of Temporary Accommodation. The HALS properties vacated would in turn become available to families in more expensive "nightly rated" forms of Temporary Accommodation, such as Annexes or B&B's.
- 5.4 The housing benefit available for these “nightly rated” properties is capped, to incentivise Councils to move households into more stable forms of accommodation. As such, the net costs to the Council from these properties are higher.
- 5.5 If fewer properties are available to move people out of Temporary Accommodation, then the overall numbers of households in Temporary Accommodation may increase, further increasing the financial pressures within the Housing General Fund.
- 5.6 There are other changes which may help to mitigate the impact of this measure. Anansi House is due to be completed in October 2021, providing 92 rooms of Council owned Temporary Accommodation. This should reduce demand for Temporary Accommodation from external providers. The Council has also entered into a contract with The Stay Club in Harlesden to provide a further 30

rooms of Temporary Accommodation at a lower cost than existing forms of "nightly rated" accommodation, further reducing costs. In addition, the Council's ambitious new build programme aims to deliver more affordable homes in the borough to help meet demand.

6.0 Legal Implications

Allocations Scheme

- 6.1 The requirements regarding allocations schemes are set out in section 166A of the Housing Act 1996 ("the 1996 Act"), which has been inserted by section 147 of the Localism Act 2011.
- 6.2 Under section 166A(1) of the 1996 Act, every local housing authority (which includes Brent Council) shall have a scheme for determining priorities and as to the procedure to be followed in allocating housing accommodation. The allocations scheme must also include the authority's statement on offering choice of accommodation or how people are offered the opportunity to express their choice.
- 6.3 Under section 166A(14) of the 1996 Act, a local housing authority shall not allocate social housing accommodation except in accordance with their allocation scheme. In other words, if a Council pursues allocation policies that are outside its scheme, then it will be deemed to be unlawful.
- 6.4 Under section 166A(12) of the 1996 Act, a local housing authority must, in preparing or modifying their allocation scheme, have regard to: (a) its current homelessness strategy under section 1 of the Homelessness Act 2002, (b) its current tenancy strategy under section 150 of the Localism Act 2011, and (c) as Brent Council is a London Borough, the London housing strategy prepared by the Mayor of London.
- 6.5 Section 166A(13) of the 1996 Act states that before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, the Council must -
- (a) send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements (see section 159(4)), and
 - (b) afford those persons a reasonable opportunity to comment on the proposals.
- 6.6 Section 166A(3) outlines priorities to which the scheme must give reasonable preference. These categories are outlined in detail within the scheme, but in summary they are;
- Homeless households
 - Homeless households in temporary accommodation
 - People living in overcrowded or unsatisfactory housing
 - People who need to move on medical or welfare grounds (including any ground relating to a disability)

- People who need to move to a particular locality within the district where to not move them would cause hardship (to themselves or others).

Additional preference may be given to any particular category where there is urgent housing need.

- 6.7 Subject to the content of section 166A(3) of the 1996 Act as set out in the previous paragraph, the allocations scheme may contain provision about the allocation of particular housing accommodation: (a) to a person who makes a specific application for that accommodation; (b) to persons of a particular description (whether or not they are within the categories set out in the previous paragraph). The Secretary of State has the power to make regulations to specify factors which a local housing authority in England must not take into account in allocating housing accommodation.
- 6.8 The allocations scheme must be framed so as to secure that an applicant for an allocation of housing accommodation has the right to request such general information as will enable him to assess— (i) how his application is likely to be treated under the scheme (including in particular whether he is likely to be regarded as a member of a group of people who are to be given a reasonable preference); and (ii) whether housing accommodation appropriate to his needs is likely to be made available to him and, if so, how long it is likely to be before such accommodation becomes available for allocation to him.
- 6.9 The allocations scheme must also be framed so that an applicant for a housing allocation has the right to request the Council to inform him of any decision about the facts of his case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to him and he also has the right to request a review of such a decision and to be informed of the decision on the review and the grounds for it. There is also the right to request a review against a decision of the Council by an applicant on grounds of being ineligible for an allocation and of not being a qualifying person to be allowed to be given an allocation of housing under section 160ZA(9) of the 1996 Act.
- 6.10 Section 160ZA of the 1996 Act sets out which classes of persons that local authorities shall not allocate housing accommodation under their allocations scheme and these are mainly on grounds of immigration status.
- 6.11 The Department for Communities and Local Government issued statutory guidance in June 2012 entitled: Allocation of accommodation: guidance for local housing authorities in England, this guidance was updated in January 2021. In addition, further statutory guidance was issued in November 2018, entitled Improving Access to Social Housing for Victims of Domestic Abuse in Refuges or Other Types of Temporary Accommodation. The Council has given regard to this statutory guidance when drafting and preparing proposed amendments to its allocations scheme.
- 6.12 When considering the proposed changes to the allocations scheme, consideration needs to be given to the impact on families and children under the right to respect for private and family life under Article 8 of the European Convention of Human Rights and section 11 of the Children Act 2004, the latter

of which places a duty on local authorities to make arrangements to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children. The Council is also required to have due regard to the Public Sector Equality Duty (PSED) as set out in section 149 of the Equality Act 2010 when drafting and amending its allocation scheme.

- 6.13 An Equality Impact Assessment (“EIA”) will need to be carried out in respect of the proposed changes to the Council’s allocations scheme and the results of the EIA will need to be considered by the Cabinet when it makes a final decision after the consultation process regarding whether to approve the proposed changes to the Council’s allocations scheme. This will assist the Cabinet in meeting its requirement to comply with the PSED when making a final decision on whether to approve the proposed changes to the Council’s allocations scheme. Carrying out an EIA will help to clarify whether any of the proposed changes to the Council’s allocations scheme adversely affect groups with “protected characteristics” under the Equalities Act 2010 and whether actions need to be carried out to mitigate any adverse impact.

7.0 Diversity Implications

- 7.1 A full Equality Impact Assessment will be carried out to determine the impact of the proposed changes on the Allocation Scheme and the EIA will be presented to Cabinet for consideration when the Cabinet makes a final decision regarding whether to approve the proposed changes to the Council’s allocations scheme.

Report sign off:

Phil Porter

Strategic Director of. Community
Wellbeing