

# Housing Allocation Policy

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## **Background**

### **1 Social Housing in the Rochford District**

- 1.1 Rochford District Council carried out a stock transfer of its Housing Stock in 2007 to Sanctuary Housing, There are very low levels of Social Housing in the Rochford with less than 7% of the total housing stock in the district being Social/Affordable Housing for rent.
- 1.2 All these properties are managed and owned by various Housing Providers within the District. This means that there are very limited vacancies each year and almost half of all vacancies being for over 55 accommodation.
- 1.3 The Council believes that social/affordable housing should be targeted for those in Housing need and do not have the resources to resolve their housing needs and have a local connection to the Rochford District area

## **Overview**

### **2 Introduction**

- 2.1 Rochford District Council does not own or manage any housing accommodation, nevertheless, there is a legal requirement for the local authority to publish a policy for the allocation of social housing.
- 2.2 Rochford District Council housing allocations duties are regulated by the Local Government and Social Care Ombudsman.
- 2.3 This Policy explains how people can register for an allocation of social housing accommodation, how Rochford District Council will allocate social housing accommodation, and the extent of choice of social housing accommodation applicants will be offered.

### **3 Purpose of this Policy**

- 3.1 The Housing & Regeneration Act 2008 defines social housing as homes for rent and sale to people whose housing needs cannot be met the general housing market. This Policy shall demonstrate how Rochford District Council will allocate social housing accommodation to persons applying to become a social housing tenant, as well as secure tenants seeking to move to another dwelling house ('transfer applicants'), let under secure tenancies. Rochford District Council intends to let homes in a fair, transparent and effective way that is lawful and makes best use of the homes available.
- 3.2 This Policy explains the rules for determining priority between applicants and the procedures for governing the allocation of homes owned by Private Registered Providers of social housing, which have social housing accommodation in the Rochford local authority area. A summary of the rules explained in this Policy is also available. A copy of this Policy has been sent to the Local Government & Social Care Ombudsman.

3.3 This Policy has been framed with consideration to the housing requirements of current tenants and future potential tenants. Applicants will be afforded choice in the letting offered to them and address any issues of overcrowding and under-occupation.

## 4 Principles of this Policy

4.1 This Policy has been formulated having had regard to the law and regulatory requirements, including:

- Housing Act 1996, Part 6.
- Homelessness Act 2002
- Localism Act 2011
- Asylum and Immigration Act 1996.
- Data Protection Act 1998.
- Disability Discrimination Act 2005.
- Equality Act 2010.
- The regulatory framework for Private Registered Providers of social housing in England published by the Homes and Communities Agency, in particular the Tenancy Standard, published April 2012.

4.2 This Policy has been formulated having had regard to case law judgments made in the UK Courts.

4.3 This Policy is specific only to the allocation of social housing accommodation in the Rochford local authority area.

4.4 For the purpose of this Policy an allocation is defined as occurring when Rochford District Council makes an offer of housing accommodation, via nomination to a Private Registered Provider of social housing.

4.5 Actual entry by the applicant into the tenancy agreement for a particular property is beyond the scope of this Policy. Regulations instruct Private Registered Providers of social housing to adopt a policy that explains how lettings will be agreed with a tenant. Furthermore, exceptions to the position set out above in 3.4 will apply in the situations detailed below. In none of these cases will there have been an allocation as defined by this Policy, *separate policies* exist and should be referenced for further details:

- Forming a tenancy without security of tenure (e.g. a 'family intervention tenancy').
- Granting a tenancy to a person who is currently and lawfully occupying a property held on a family intervention tenancy.
- The vesting of succession of an assured shorthold or assured tenancy on the death of a current tenant.

- The devolution of an assured shorthold or assured tenancy on the death of a tenant.
- The assignment of an assured shorthold or assured tenancy as part of a mutual exchange.
- The assignment of an assured shorthold or assured tenancy to a person who would have been qualified to succeed to the tenancy on a tenant's death.
- The vesting or disposal of a assured shorthold or assured tenancy pursuant to a court order made under the following specified provisions family law statute:
  - Section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
  - Section 71 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce),
  - Paragraph 1 of schedule 1 of the Children Act 1989 (orders for financial relief against parents),
  - Schedule 7, Part 2 of the Family law Act 1996 (orders for moving a tenancy from an existing tenant to a new tenant).
- An order made under Part 2 of schedule 5, or paragraph 9(2) or (3) of schedule 7, to the Civil Partnership Act 2004 in relation to an assured shorthold or assured tenancy.
- A transfer initiated by a Private Registered Provider of social housing of an assured shorthold or assured tenancy (i.e. not initiated by the making of an application for a transfer by the tenant).
- A tenancy being granted as part of a surrender and re-grant procedure available where two social housing tenants in England wish to exchange their homes and one tenant holds a flexible tenancy or an assured shorthold tenancy.
- Where a tenant has been displaced from his or her previous accommodation and has been provided with suitable alternative accommodation under the Land Compensation Act 1973

4.6 When drawing up this Policy, Rochford District Council has consulted with other local housing authorities, public authorities, voluntary organisations, Private Registered Providers of social housing and other persons, plus previous, current and future potential tenants. Regard was had to:

- Rochford District Council Homelessness Strategy 2016 - 2021
- Rochford District Council Tenancy Strategy 2012

4.7 Rochford District Council will take such steps as it considers reasonable, within a reasonable period of time, to bring any alterations made by the policy to the attention of those likely to be affected by it, of any subsequent alteration to this Policy that

would affect the relative priority of a large number of applicants, or any significant alteration to procedures.

- 4.8 Elected Councillors of Rochford District Council, are prohibited from taking part in any individual allocation pertaining to a person who is, or wishes to be, resident in their electoral ward area. Elected Councillors can seek to obtain general information about the allocation of housing, plus participate in making decisions about the overall content of this Policy.
- 4.9 Copies of this Policy are made available to any person who requests one. People will be informed about their rights to information, advice and assistance concerning the partnerships allocations scheme. For further information see section 4 to 7 of this Policy.
- 4.10 People will be excluded from joining the Rochford District Council's Housing Register if they are either not eligible for social housing, or not of a class of matching the disqualification criterion, set out in this Policy. For further information see section 8 to 12 of this Policy.
- 4.11 Applicants will be prioritised for an allocation of social housing accommodation by housing need and then the date they joined the Rochford District Council's Housing Register. For further information see section 13 to 17 of this Policy.
- 4.12 Applicants will be allowed to express a preference of the homes available to let. This will be subject to certain limitations that apply relating to location and/or type and/or number of bedrooms, and/or rental charge of some properties. Applicants will be penalised for refusing reasonable offers. For further information see section 18 to 20 of this Policy.

## **Information, Applications and Decision-Making**

### **5 Information**

- 5.1 A summary of this Policy will be provided free to any person who asks for one. The whole of this Policy will be kept available for inspection by any person at the principle offices of Rochford District Council, a copy will be provided to anyone who asks for one. This Policy will also be published on the website of Rochford District Council. Additionally, information will also be provided about:
- The procedures associated with initial consideration of an applicant's application and also the treatment of any offer made by the Council for specific accommodation, via a nomination to a Private Registered Provider of social housing
  - Potential stock availability.
  - Eligibility, qualification and prioritisation criterion for joining the housing register and being offered an allocation of housing accommodation.
- 5.2 General information will be provided, profiling the social housing stock the Rochford local authority area. For any given dwelling, the following information will be provided:

- Type (e.g. house, flat, bungalow, etc.), size (e.g. number of bedrooms, bathrooms, etc) and location (e.g. by electoral ward) of the home.
- Whether it is accessible or could be adapted.
- Whether there is access to a shared or private garden.
- How old it is.
- An indication of how frequently it is likely to become available

- 5.3 Information will be provided in translated and alternative formats (e.g. Braille, large print, audio etc) as needed and/or upon request. The special needs of specific groups of prospective applicants (e.g. prisoners, gypsies and travellers, adults with learning Disabilities) will be taken into account of when making arrangements for access to information and advice. Information will be made available using a variety of media including printed hard copy form, on the Rochford District Council website, via the telephone and where necessary the policy will be explained in person by an officer, if it is not accessible in one of the offered written formats.
- 5.4 Every person will be provided with information and advice about their rights to make an application for an allocation of housing accommodation, furthermore assistance will be provided by Rochford District Council free of charge to any person who is likely to have difficulty in making an application.
- 5.5 Every applicant will be provided with the following general information, accompanied by a copy of a free published summary of this Policy:
- How their application is likely to be treated.
  - Whether or not they have been accepted as eligible for an allocation of housing accommodation.
  - Whether or not they qualify for an allocation of housing accommodation.
  - The type of property they are likely to be allocated.
  - The method that will be used in assessing their needs.
  - The number of other applicants with equal or greater priority.
  - An assessment of the likely time that will have to wait receive an offer by reference to average waiting time or the number of allocations of similar properties in the previous year and/or quarter.
  - Any facts taken into account when making a decision as to whether to make an allocation of housing accommodation.
  - The right to request a review of any decision that they are not eligible and/or do not qualify to join the housing register, or for an offer of an allocation of housing accommodation.



- The review decision, along with the grounds for that review decision in a written acknowledgement.
- The right to seek an appeal in court on any point of law this Policy (or the administration of it) is irrational, illegal, or fails to follow public law procedural requirements.

5.6 Rochford District Council is subject to the information disclosure requirements of the General Data Protection Regulations, which are a set of protection rules that were brought into UK law as the Data Protection Act 2018. The administration of this Policy will ensure compliance with this legislation. For further information please reference Rochford District Council *Data Protection Policy*. Applicants will be advised of their right to make a complaint to the Office of the Information Commissioner (IOC) if they believe Rochford District Council has failed to fulfil its obligations and concerns can be reported by telephoning the IOC's helpline on 0303 123 1113 or online at <https://ico.org.uk/concerns/>

5.7 All persons making an application to join Rochford District Council's Housing Register have the right to confidentiality. An application will not be divulged to any other party without an applicant's consent. Where consent is given, this only extends to those (e.g. employees of health, social care, criminal justice, social housing organisations, etc) who can provide evidence that can help to determine an application. Exempt from this policy position is an application that gives rise to a safeguarding concern. For further information please reference *Rochford District Council Information Sharing Protocol*.

## **6 Applications**

6.1 All applications must be made using the prescribed form published by Rochford District Council, copies can be downloaded from the Local Authority's website or be requested (in person, by phone, or in writing) at any of the main office of Rochford District Council. Applicants can only be made by a sole individual. Anyone who might usually reside with an applicant, or who might reasonably be expected to reside with an applicant can feature as part of the application. A usual household member will constitute as a person who primarily (that is for at least 50% of the time) or exclusively lives with an applicant, or they usually live with the applicant but are temporarily absent due to circumstances beyond their control. Separate guidance exists to aid the completion of an application, for further information please reference *Guidance for Making an Application for Social Housing to Rochford District Council*.

6.2 In addition to the application, the following documents must be submitted as evidence to verify the information provided by the main applicant, plus any other person who might reside with the applicant:

- Passport to help determine eligibility to rent social housing in England.
- Birth certificate to help determine qualification to join Rochford District Council's Housing Register.
- Details of any relevant unspent convictions to help determine qualification to join Rochford District Council's Housing Register.

- All bank and or building society financial statements for the past three months to help determine qualification to join Rochford District Council's Housing Register.
  - A utility or Council Tax bill from the past three months to confirm current or last address.
  - Any other information that help to determine eligibility to rent social housing in England and/or qualification to join Rochford District Council's Housing Register.
- 6.3 Rochford District Council's will receive applications from any person, regardless of the location of where they presently reside, this extends to person of no fixed abode. All applicants will be required to renew their applications annually, on the anniversary of being accepted on to Rochford District Council's Housing Register. Failure to renew an application will result in an applicant being removed from the Rochford District Council's Housing Register. Applicants will be reminded 56 days prior to their renewal deadline of this requirement. This reminder, alongside with the consequences for not complying with this aspect of this Policy, will provided in the form of an email or letter.
- 6.4 Every applicant will be provided with an oral and written warning about offences in relation to applications prior to making an application. Applicants will be disqualified, plus might be prosecuted for fraud, if they deliberately withhold information, provide misleading information or do not notify Rochford District Council of any change in circumstances (e.g. change in income, change in household formation).
- 6.5 Every applicant will be provided information and advice about their rights to make an application for an allocation of accommodation, furthermore assistance will be provided free of charge to any person who is likely to have difficulty in making an application (e.g. due to mental or physical impairment, or because of any other special characteristic). This assistance will be extended to those whom might require help to express a preference for an available property to-let. Rochford District Council are subject to the Disability Equality Duty of the Disability Discrimination Act 2005, this statute has been duly considered when formulating this Policy (and any associated polices, procedures and processes). A separate Equality Impact Assessment has been completed, copies can be requested from any Rochford District Council, or downloaded from the local authority's website. To ensure compliance with public sector equality duties, the following arrangements will be considered for each individual applicant and property:
- Informing an applicant of a property's accessible features
  - A mechanism to identify the requirements of disabled applicants.
  - A mechanism to allow extra time for disabled applicants if they need it to accept an offer
  - A mechanism for providing support in making applications.
- 6.6 Processing applications will involve a preliminary assessment. First consideration will be given to whether the applicant is eligible for social housing under the terms of the statute and this Policy. The matter of qualification will then be decided. For further information on definition of eligibility and qualification see section 3 of this Policy.

Detailed scrutiny will take place when an applicant is due to be offered a particular property, this will determine whether the applicant:

- Is still eligible.
- Is still a qualifying person.
- Meets any specific lettings criteria for the particular property.
- Households' size matches any size criteria for the property.
- Can afford to pay the housing costs of the property.

6.7 Applications will be processed within a reasonable period of time. If progress is considered to be an unduly slow, an applicant will be entitled to make a complaint using Rochford District Council's complaint procedure. If this proves unsatisfactory, an applicant may seek the help of the Local Government & Social Care Ombudsman. Complaints can be made by:

- Telephone: 0300 111 3000
- Online: <http://www.housing-ombudsman.org.uk/resolve-a-complaint/getting-help-from-the-housing-ombudsman/#.Vp0WGDZ0rdk>

6.8 Applications from current tenants of social landlords for transfers (transfer applicants) to alternative social housing available in the Rochford local authority area, whether this be as an assured or assured shorthold or other type of tenancy, have the right to:

- Make applications
- Have their applications considered
- Be notified as to their rights to information and review
- Protection of the confidentiality of the fact of their application

6.9 Transfer applicants will be treated in the same way as all other applicants,. This because as current tenants of social housing are eligible for a further allocation of social housing accommodation regardless of their immigration or habitual residence status. Transfer applicants will be prioritised in the same way as new applicants (e.g. by housing need and then date of registration). Transfer applicants will not be offered an allocation that would result in them under-occupying the dwelling, being overcrowded or being unable to afford any possible rental or service charges. Transfer applicants will be required to satisfy the qualification criterion set out this Policy, this means transfer applicants who are not entitled to a reasonable preference for an allocation of housing accommodation, will not qualify to join Rochford Council's Housing Register.

6.10 Procedures for handling applications will be covered by provisions contained in this Policy. Any application where there is a reason to believe a person may be homeless or threatened with homelessness, will trigger a duty to refer the case to a local

housing authority (subject to securing permission from the applicant). Separate procedures have been published for the administering the following matters:

- Assessing new applications or amending an existing application for an allocation
- Processing applications for an allocation
- Dealing with applications for an allocation from overcrowded households
- Exercising discretion when making allocations decisions
- Reviewing allocations decisions

6.11 Decisions about whether an applicant is eligible and qualifies to join Rochford District Council's Housing Register will be made in strict accordance with the rules established in this policy and any associated procedures. Reviews will be carried-out in strict accordance with the rules established in this policy and any associated procedures. The power to award discretion to an applicant is limited to the Housing Options Team Leader of Rochford District Council. The aforementioned senior employee will be responsible for taking action to minimise the risk of employee fraud and errors, including the vetting of junior employees and randomly checking and validating decisions on applications. Consideration of an application will be based on the information provided on the application form and any evidence supplied by an applicant (e.g. proofs of identity, etc) or information gained from other relevant persons (e.g. employees of adult social care services, children services, health services, etc).

6.12 Unsuccessful applicants, who have been declared not eligible or disqualified, can make a further application whenever they believe there has been a material change to their circumstances.

## **7 Decision-Making**

7.1 Decisions on applications will be notified in writing (either in the form of an email, or a letter when the applicant has not supplied an email address), regardless of whether they are adverse or successful. Where the notification is signaling a successful decision, applicants will also be told when realistically they might be selected for the offer of an allocation of housing accommodation.

7.2 Notifying decisions that an applicant is ineligible or disqualified to join Rochford District Council's Housing Register will be made in writing. Applicants will be given reasons for the decision based on the relevant facts of the case. Additional arrangements will be made for applicants who might have difficulty understanding the implications of the decision to be informed orally (e.g. via a telephone call or in person). Copies of all adverse decisions will be made available for a reasonable period of time for collection by the applicants, or by someone on their behalf, at the main offices of Rochford District Council when an applicant does not receive the decision notice

## **8 Reviews**

8.1 Applicants will be informed of their right to request a review of any of the decisions shown below:

- That an applicant is not eligible for an allocation of housing accommodation
  - That an applicant is not within a class of persons qualifying for an allocation of housing accommodation
  - Concerning the facts of their case which are likely to be, or have been, taken into account whether to allocate an offer of housing accommodation
  - The type of property for which an applicant will be considered
  - The extent of an applicants' household
- 8.2 The review will be a re-consideration of all the relevant facts of statute at the date the review is carried-out. The review will be carried-out by an Assistant Director of Rochford District Council, whom was not previously involved in making the original decision. A separate document details the procedures on an internal review, please reference *Reviewing Allocations Decisions made by Rochford District Council*
- 8.3 Notification of an internal review decisions will in writing by email or letter.
- 8.4 Applicants will be informed of their right to pursue an appeal to the court, where they believe there is evidence that a decision is irrational, illegal or fails to follow public law procedural requirements. This includes a refusal to take an application to join Rochford District Council's Housing Register. If applicants are dissatisfied with how their application has been handled they will be informed of their right to make a claim of maladministration to the Local Government & Social Care Ombudsman (see 5.7).

## **Eligibility and Qualification**

### **9 Eligibility**

- 9.1 The following classes of persons will be eligible to join the Rochford District Council's Housing Register:
- British citizens (England, Scotland and Wales)
  - Commonwealth citizens with a right of abode in the UK immediately before 01 January 1983 (excluding citizens from Pakistan and South Africa, but inclusive of citizens from Gambia and Zimbabwe)
  - Irish citizens (Northern Ireland and Republic of Ireland)
  - Isle of Man citizens
  - Channel Islands citizens
  - EEA nationals with extended rights of residence:
    - Jobseekers
    - Workers

- Self-employed persons
- Self-sufficient persons
- Students
- Family members of persons referred to above
- EEA nationals with permanent rights of residence:
  - EEA nationals in UK for a continuous period of 5 years
  - Family members of persons referred to above
  - Workers or self-employed persons who have ceased activity
  - Family members of persons referred to above
  - Persons who were a family member of persons referred to above who has died and resided with them
- Persons exempt from immigration control (e.g. diplomats and their family members based in the UK, some military personnel)
- Persons granted refugee status by the UK Government
- Persons granted exceptional leave to enter or remain in the UK with condition that they and any dependents have resource to public funds (e.g humanitarian or compassionate circumstances)
- Persons with current leave to enter or remain in the UK with no condition or limitation, and who is habitually resident in the Common Travel Area (a person whose maintenance and accommodation is being sponsored, must be resident in the Common Travel Area for five years since date of entry or date of sponsorship, unless the sponsor has died)
- Persons who has humanitarian protection granted under the Immigration Rules (e.g. a person who asylum application has failed but they face real risks of harm if they returned to their state of origin)
- Persons who are Afghan citizen with limited leave to enter or remain United Kingdom, who are habitually resident in the Common Travel Area

9.2 The following cases of person will not be eligible to join Rochford District Council's Housing Register:

- Croatian nationals (until 30 June 2018) (some exemptions apply presently)
- Persons not habitually resident in the Common Travel Area, which consists of:
  - United Kingdom of Great Britain & Northern Ireland

- Republic of Ireland
  - Isle of Mann
  - Channel Islands (Guernsey & Jersey)
  - EEA nationals (job seekers or their family members) with who have only an:
    - Initial right of residence for 3 months
    - Derivative right of residence because the person is the primary a carer of a British citizen
    - Right to reside as a result of the persons deportation, expulsion or other removal by compulsion of law from another country to the UK (including EEA nationals exercising EU Treaty rights, who were previously settled in the UK prior to deportation)
  - Persons whose only right to reside in the UK is an initial right to for no more than three months, including those who would become an unreasonable burden on the social assistance system of the UK
- 9.3 The granting of a tenancy agreement will be determined by each Private Registered Provider of social housing, in accordance with their respective lettings policy. Notwithstanding this, a joint tenancy cannot be granted to two or more people if any one of them is not eligible for an allocation of housing accommodation let by a Private Registered Provider of social housing. If one person is eligible, a tenancy may be granted to the eligible person.
- 9.4 Eligibility provisions do not apply to applicants who are already secure, or introductory, or assured tenants of a Private Registered Provider of social housing seeking to transfer. Confirmation of immigration status of an applicant from abroad will be obtained, where necessary, from the Home Office by emailing **EvidenceandEnquiry@homeoffice.gsi.gov.uk**
- 9.5 Only persons who are habitually resident will be eligible for an allocation of housing accommodation. The following tests will be carried out to confirm if an applicant is habitually resident:
- The degree of permanence in the persons residence in the United Kingdom of Great Britain & Northern Ireland, Republic of Ireland, Isle of Mann, Channel Islands (Guernsey & Jersey)
  - The association between a person and the place of residence
  - Whether a person has accumulated a continuous period of residence prior to making their application
  - Visits abroad for holidays or visit relatives and other temporary periods of absence will be disregard

- Exemptions from the habitual residence test include EEA national and their family members who are workers or self-employed, or have certain permanent rights of residence, or have been removed from another country to the UK

## **10 Qualification**

10.1 The following rules apply only to new applicants, transferring tenants are exempt.

10.2 The following arrangements explain those applicants who are disqualified under the terms of this Policy from the joining the Rochford District Council Housing register:

- Persons incapable of hold a tenancy agreement:
  - Persons defined as a child in UK law (anyone aged 0 - 18 years of age)
  - Persons defined as a child in need as a result of a s17 Children Act 1989 statutory assessment.
- Persons (be it the applicant or anyone usually lives with them or might reasonably be expected to live with them) who are guilty of unacceptable behaviour that makes them unsuitable to be a tenant, behaviour which if they had or were a tenant, a landlord would or could be able to secure an outright possession order. This is defined as:
  - Been given an order made in a civil court that is linked to a property or the locality of a property
  - Perpetrators of domestic violence who are subject to a non-molestation order, an injunction order, an occupation order or a restraining order
  - Having an unspent criminal conviction committed in, or in the locality of a property
  - Having committed an act of fraud, withheld, falsified or misrepresented any information pertaining to access to public funds and/or services
  - Having displayed threatening, violent or otherwise abusive behaviour towards an employee or contractor of Rochford District Council.
- Persons (be it the applicant or anyone usually lives with them or might reasonably be expected to live with them) who have former tenant arrears exceeding 4 weeks net rent, owed to any landlord of social or private rented housing (including the local authority) , or have been evicted for any other breach of tenancy conditions, regardless of tenure. This is defined as:
  - Sub-letting some or the whole of their property without permission
  - Failing to report repairs
  - Failing to allow contractors to enter their property to carryout maintenance



- Running a business from their property without permission from the landlord
- Allowing their property to be used for illegal or immoral purposes.
- Persons who do not have a minimum of three years continuous connection, to Rochford District Council local authority area due to any of the following factors (please refer to section 10.6)
  - Residence
  - Employment
  - Family associations
  - Other special reason.
- Persons (be it the applicant or anyone usually lives with them or might reasonably be expected to live with them) who are homeowners, encompassing anyone who has a mortgage for the whole or part of their home and people who own their home outright who are not in negative equity.
- Persons (be it the applicant or anyone usually lives with them or might reasonably be expected to live with them) with financial resources consistent with the UK Government's upper limit for savings set out in the common rules of the DWP Benefit and Pension Rates

10.3 Consideration as to whether an applicant qualifies to join the Rochford District Council's Housing Register will be taken at both the time of the initial application and then again when an offer of an allocation is made. A decision that an applicant is disqualified will be notified in writing with the grounds for that decision. Applicants will be notified of their right to request a review of such a decision and to be notified in writing of the grounds for any review decision. Following the conclusion of a review, applicants will be notified of their right to make an appeal to the Courts. Applicants will be notified of their right to make a complaint using Rochford District Council's standard procedures, plus ask the Local Government & Social Care Ombudsman to investigate claims of maladministration.

10.4 An applicant who is a child aged 16 or 17 years of age, that has an adult who will act as a trustee and hold a legal tenancy until the legal incapacity to hold a tenancy ends, will be able to qualify to join the Rochford District Council Housing Register.

10.5 For the purpose this Policy a hypothetical approach will be taken to decide if an applicant is guilty of unacceptable behaviour. Only behaviour that is serious enough to entitle Rochford District Council to obtain an outright possession order, had the applicant been a tenant of the Local Authority at the time the unacceptable behaviour was carried-out, will be considered as unacceptable behaviour. The meaning of unacceptable behaviour for the purpose of this policy will encompass a past action or activity on the part of an applicant but will also include an omission, failure to act, passivity or inactivity. This extends to any person who is presently living or likely to be living with the applicant, including persons from the past who may live with the

applicant again in the future. Rochford District Council will only consider an applicant unsuitable to be a tenant if there has no improvement in their behaviour since when the unsuitable behaviour occurred to when the date a decision is made about their application and/or allocation of social housing accommodation.

- 10.6 For the purpose this Policy, decisions made about local connection will be based on an applicant (or any person who lives with them or might be expected to) only or main place of residence being within the Rochford District Council local authority area for a minimum period of three years. A connection established by employment will be limited to the usual place of work and they must have been employed for at six months prior to an application. . A connection established by family relationships will be limited to immediate blood relatives (e.g. parents, adult sibling, adult children), and they have been residence within Rochford District Council local authority area for a minimum period of five years.
- 10.7 Applicants who are victims of domestic abuse or threats of domestic abuse, or escaping domestic abuse, will be exempt from requiring a local connection.
- 10.8 Applicants who need to move to take-up an offer of employment, which they could reasonably not take-up otherwise without moving in to the Rochford District Council local authority area, will be exempt from requiring a local connection. Applicants will need to demonstrate proof of an offer of employment. Furthermore, proof will be required that the offer of employment could not be taken-up unless the applicant was able to move into the Rochford District Council local authority area.
- 10.9 Applicants who can prove they have a continuing caring responsibility for someone who is resident in the Rochford District Council local authority area, will be exempt from requiring a local connection.
- 10.10 Applicants who can prove they are presently, or are due to, undertake training or higher or further education within the Rochford District Council local authority area, which they could not take-up otherwise without moving in to the Rochford District Council local authority area, will be exempt from requiring a local connection.
- 10.11 Applicants who have been looked after, accommodated or fostered by a children services authority in the Rochford District local authority area will be exempt from requiring a local connection. This exemption will only apply when a children services authority confirms a person is preparing with their consent to leave the care arrangements.
- 10.12 Applicants (or their bereaved spouse or civil partners, who are leaving military accommodation where the death of the spouse can be partially or wholly attributed to the Armed Forces) who are who are, or were formerly, serving in, the Armed Forces or the Reserve Forces, who are either employed or resident in the district will be able to establish a local connection with Rochford District local authority area. When considering applications from serving or former members of the Armed Forces, who are not currently employed or resident in the Rochford District local authority area, the Local Authority will consider whether they have a local connection through previous residence in the district as a result of a former posting in the area while serving in the Armed Forces. Any compensation for an injury or disability sustained on active service with the Armed Forces will be disregarded when calculating financial resources.

## **11 Determining Eligibility and Qualification**

- 11.1 An applicants' eligibility and qualification to join the Rochford District Council Housing Register will be considered when they initially apply, plus (assuming satisfaction of the tests at that stage) again when an allocation of a specific property is made. This will allow Rochford District Council to be aware of any changed circumstances that might have occurred subsequent to the initial application, which might render an applicant not eligible or disqualified for an allocation of social housing accommodation.

## **12 Notification of Decisions and Right to a Review**

- 12.1 All applicants found to be not eligible or disqualified will be provided written notification and the grounds for the decision (see section 6). Information will also be provided on any rights they have to request an internal review. (see section 7).

## **13 Renewed Applications**

- 13.1 Applicants may at any-time make a further application to join Rochford District Council Housing Register, if they have cause to believe they should no longer be treated as ineligible or disqualified, because their circumstances or behaviour has changed. There is no limit on the number or frequency of renewed applications a person makes. No person can be excluded from making an application.

## **Allocations**

### **14 Adopting This Policy**

- 14.1 This Policy has been subject to an impact assessment required under equalities legislation, carried-out in accordance with Rochford District Council's own equalities policies and procedures. Local housing authorities, public authorities, voluntary organisations, Private Registered Providers of social housing and other persons were afforded a reasonable opportunity to comment on a draft version of this Policy. Prior to adopting this Policy, views were elicited from former, current and future potential applicants.
- 14.2 Rochford District Council will review this Policy at least every five years, however amendments will be made as result of any significant change in legislation and/or regulations. Any major change to this Policy will subject to further consultation.
- 14.3 All applicants registered under any previous allocations scheme administered by Rochford District Council will be required to re-register to be considered for an allocation of social housing accommodation under the rules of this Policy.
- 14.4 A six-monthly report will be published on the RDC Website about the allocations made as result of this policy. The report will consider matters such as the quantity of allocations made (e.g. by property type, by bedroom number, by cost), the number of applicants newly registered (including those who are transfer applicants) and those who did not re-register or who were determined to be not eligible or disqualified, the number of the number of allocations refused, the number of successful offers made, the number of nominations accepted and rejected by Private Registered Providers of social housing, along with any other matter deemed to be relevant. This report will

inform whether the administration of discharging this policy, the purpose and principles set-out in section one of this Policy are being accomplished.

- 14.5 All employees involved with the operation of this Policy will receive training on how to administer the Policy prior to its introduction, or within six months of being appointed into post. This training will be revisited at least annually.

## **15 Determining Priority for an Allocation on Housing**

- 15.1 Applicants will be prioritised for an allocation of social housing accommodation according to (i) their need to be re-housed, (ii) then by date they joined the Rochford District Council Housing Register, (iii) then by whether they are making a community contribution.

- 15.2 Allocations for social housing accommodation will be prioritised strictly as set-out below:

- Applicants whom statute allows to be awarded an additional preference, in addition the requirement to afford a reasonable preference for an allocation of social housing accommodation, in the order set-out in section 15.3 of this Policy
- Applicants whom statute stipulates must be afforded a reasonable preference for an allocation of social housing accommodation, in the order set-out in section 15.4 of this Policy

- 15.3 Band A will consist of applicants which will be awarded additional preference, in addition to being entitled to a reasonable preference for an allocation of social housing accommodation, are defined for the purpose of this Policy as persons whom are:

- Victims of domestic abuse
- Victims of racial harassment amounting to violence or threats of violence
- Same sex couples who victims of harassment amounting to violence or threats of violence
- Witnesses of crime, or victims of crime, who would be at risk of intimidation amounting to violence or threats of violence if they remained in their current homes
- Those who need to move because of urgent medical reasons
- Those who need to move urgently because of a life-threatening illness or sudden disability
- Families in severe overcrowding which poses a serious health hazard
- Those escaping serious anti-social behaviour
- Existing Homeless applicant accepted under a duty by Rochford District Council prior to 3 April 2018.

- Homeless as defined by the Housing Act 1996, Part 7, including those owed the section 189(B)(2) duty
- Members of the Armed and Reserve Forces, such as:
  - Former members of the Armed Forces, whom have been discharged from active service within the past five years.
  - Serving members of the Armed Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service
  - Bereaved spouses and civil partners or members of the Armed Forces leaving Services Family Accommodation following the death of their spouse or partner
  - Serving or former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service

15.4 Band B will consist of applicants entitled to a reasonable preference for an allocation of social housing accommodation, are defined for the purpose of this Policy as persons whom are:

- Owed a duty under Housing Act 1996, Part 7, specifically, those who are:
  - intentionally homeless and have a priority need for accommodation, owed the section 190(2) duty
  - Not intentionally homeless and have a priority need for accommodation, owed the s.193(2) duty
  - Threatened with homelessness, owed the s.195(2) duty
- Occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions, such as:
  - Lacking a bathroom or kitchen
  - Lacking inside WC
  - Lacking cold or hot water supplies, electricity, gas, or adequate heating
  - Lack of access to a garden for children
  - Overcrowding, the following persons are entitled to a bedroom each
    - i. married or cohabiting couple
    - ii. Adult aged 18 years or more
    - iii. Pair of adolescents aged 10-17 years of the same gender

- iv. Pair of children aged under 10 years regardless of gender
  - Sharing a living room, kitchen, bathroom/WC
  - Property in disrepair
  - Property unfit
  - Poor internal or external arrangements
  - Under-occupation
- Needing to move on medical or welfare grounds (including grounds relating to a disability), such as:
  - A mental illness
  - A physical or learning disability
  - Chronic or progressive medical conditions (e.g. MS, HIV/AIDS)
  - Infirmary due to old age
  - The need to give or receive care
  - The need to recover from the effects of violence (including racial attacks) or threats of violence, or physical, emotional or sexual abuse
  - Ability to fend for self, restricted for other reasons
  - Young people at risk
  - People with behavioural difficulties
  - Need for adapted housing and/or extra facilities, bedroom or bathroom
  - Need improved heating (on medical grounds)
  - Need sheltered housing (on medical grounds)
  - Need to move-on from supported housing commissioned by Essex County Council.
  - Need ground floor accommodation (on medical grounds)
  - Need to be near friends/relatives or medical facilities on medical grounds
  - Need to move following hospitalisation or long-term care on medical grounds
  - Leaving care of children services

- Moving on from drug or alcohol recovery programme
  - Foster carers and those approved to adopt, who need to move to a larger home in order to look after a child under the care of a children services local authority
  - Needing to move to a particular locality in the district of the authority, where failure to meet this need would cause hardship (to themselves or others), in order to:
    - Give or receive care
    - Access specialised medical treatment
    - Take-up a particular employment, education or training opportunity
- 15.5 For the purposes of this policy applicants being involved or participating in a community is defined as:
- Engaged in paid or unpaid employment for a minimum of 16 hours per week for a minimum of 6 months
  - Engaged in further or higher education, either part-time or full-time, for a minimum of one term.
- 15.6 Those applicants who are unable to be involved or participating in their community due to an illness, disability, age or other characteristic, will also be treated with the same favour as those who are actively involved or participating in their community.
- 15.7 Applicants whose circumstances change once they've been accepted on the Rochford District Council Housing Register must notify the Local Authority. A failure to do so could result in an applicant become disqualified and facing prosecution for fraud. If as result of a change in circumstances, an applicant gains a higher preference for re-housing, their registration date will be amended to reflect the date of the change. If as result of a change in circumstances an applicant is assed as having the same preference, the original registration date will remain in force. If as result of a change in circumstances an applicant is assed has having less preference, their registration date will be amended to reflect the date of the change. If as result of a change in circumstances an applicant becomes ineligible or disqualified, then they will be removed from the housing register.

## **16 Avoiding Discrimination and Enhancing Equality of Opportunity**

- 16.1 An equality duty is imposed on Rochford District Council by the Equality Act 2010, section 149. Regard has been made to this public-sector equality duty when formulating this Policy, furthermore it will inform decision-making on in individual cases. Allocations will be monitored to determine whether equal opportunities obligations are being met.
- 16.2 This Policy intends to ensure that at all times non-discriminatory decisions will be made about the allocation of homes.

- 16.3 When formulating this Policy, an equality impact assessment was undertaken to avoid discrimination and be able to demonstrate compliance with the public-sector equality duty. Any substantial variation to this Policy will also be subject to an equality impact assessment. For further information please see *Equality Impact Assessment* published by Rochford District Council.
- 16.4 Rochford District Council will provide regular, accurate and generalised information on how the Housing Register is managed to actively dispel any myths and misconceptions arising about allocation of social housing accommodation and migration.

## **17 Discretion**

- 17.1 Discretion about qualification or allocations of social housing accommodation will be exercised only by senior officers. A separate document details the procedures for exercising discretion, *Exercising discretion when making allocations decisions*.

## **18 Challenges about this Policy**

- 18.1 Applicants will be informed of their right to pursue judicial review challenges about this Policy. Applicants will be entitled to make a complaint using Rochford District Council's own complaint procedures. If this proves unsatisfactory an applicant may seek the help of the Local Government & Social Care Ombudsman Service (see 5.7).

## **Being Allocated a Property**

### **19 Choice**

- 19.1 Applicants will be informed of their right to choose the location and type of property in which they are rehoused.
- 19.2 Applicants who may have difficulty in understanding the system will be identified and supported.
- 19.3 Applicants will be able to choose from the following locations:
- Barling Magna
  - Canewdon
  - Great Wakering
  - Hockley/Hawkwell
  - Hullbridge
  - Rawreth
  - Rayleigh
  - Rochford/Ashingdon
  - Stambridge/Paglesham



- 19.4 Some applicants will not be afforded any choice, these being those who:
- Have been awarded additional preference (encompassing all applicants in Band A)
  - Owed a duty under Housing Act 1996, Part 7, specifically, those who are:
    - intentionally homeless and have a priority need for accommodation, owed the section 190(2) duty
    - Not intentionally homeless and have a priority need for accommodation, owed the s.193(2) duty
    - Threatened with homelessness, owed the s.195(2) duty
- 19.5 Applicants described in section 18.4 will be made one offer of suitable accommodation.
- 19.6 Applicants right to-choice does not extend to any social housing accommodation that is subject to, intended specifically for persons with specific characteristic, e.g. older persons.
- 19.7 When an applicant has refused three reasonable allocations of social housing accommodation, they will be given reduced preference for a period of 12 months.
- 19.8 Applicants will be informed if their right to seek a review that the allocation they refused was reasonable offer, that the final offered refused was a suitable offer. Following review, an applicant will be informed of their right to seek appeal in the courts on any point of law.

## **20 Direct Lets**

- 20.1 This Policy only applies to direct lets of social housing accommodation.

## **21 Other General Points**

- 21.1 Following an allocation of housing accommodation by Rochford District Council, applicants will be given a reasonable period to consider whether to accept it. The actual letting will be handled by a Private Registered Provider of social housing, who will sign up the new tenant following the offer and acceptance of a tenancy agreement.
- 21.2 Refusal of two reasonable allocations will be capped. Upon refusal of a final allocation applicants will be reduced preference for a period of 12 months.
- 21.3 Applicants will not be offered a property that would result in them being statutorily overcrowded. Applicants will not be offered a property that would result in them under-occupying it. Applicants who receive support from a carer, who does not live with them, will have their need for a spare room taken into account whenever possible. Properties on the grounds floor, with an accessible bathroom or an additional bathroom or toilet will be offered to applicants who have a medical need for such a dwelling. The extent and circumstances of an applicant's household will be taken into

account whether they would be eligible or qualify in their own right or not. Bedrooms will be allocated to each:

- married or cohabiting couples
- adult aged 18 years or more
- children aged 10-17 years of the same gender
- pair of children aged under 10 years regardless of gender

- 21.4 Applicants will not be made an offer of a property in a locality in which he or she has previously been the perpetrator or victim of anti-social behaviour, hate crime, violence or domestic abuse.
- 21.5 The letting of a property, including whether a joint tenancy will be granted to beyond the scope of this Policy. Private Registered Providers of social housing will have their own letting policies that dictate how lettings will be agreed.
- 21.6 This Policy has been drawn up having had regard to Tenancy Strategy of the Rochford District Council, Tenancies will be offered by Private Registered Providers of social housing should be made in strict accordance with these documents.
- 21.7 Applicants will be informed by the relevant Private Registered Provider at the point of an allocation if the property will be furnished or unfurnished.
- 21.8 Applicants will be informed of the quality of accommodation and will be provided with an opportunity to view it prior to accepting or rejecting whatever is being offered. Applicants can expect for properties will be fit for occupation at the date of the letting, or that any repairing obligations imposed on a Private Registered Provider of social housing will be met within a reasonable time of commencement of the tenancy.
- 21.9 Transfer applicants will be made an offer that ensures they do not inadvertently lose accrued right. Arrears of rent outstanding on an old tenancy can be transferred to the new one, subject to agreement with the Registered Provider as to how those arrears will be cleared (compliance with the arrears agreement will be a term of the new agreement).
- 21.10 Applicants will not be offered a property whereby they cannot afford to pay all related potential rental and service charges. Applicant income, expenditure, debt, loans, and savings will be considered by Rochford District Council. Applicants will need to be able to demonstrate that they will be able to pay all applicable housing charges.
- 21.11 Homeless applicants will be assessed via the same processes as any other applicant to the Housing Register. Applicants will complete a Housing Register application at the same time of their homeless application, however if a homeless applicant is assessed and placed in Band A they will only be entitled to one offer of affordable and suitable accommodation. Those who do not qualify will have the prevention, relief or main housing (homelessness) duties discharged by other means such as a suitable offer of private rented accommodation, or return to family home.

21.12 Separate arrangements exist for existing tenants who wish to undergo a mutual exchange.

## **Other Arrangements**

### **22 Nominations**

22.1 Nominations agreements have been agreed between Rochford District Council and each Private Registered Providers of social housing that own and/or manage accommodation in the Local Authority area. Every agreement prescribes the portion of lettings that Private Registered Providers of social housing will make available to Rochford District Council. The agreements also have a criterion for how Private Registered Providers of social housing can accept or reject a nominee, plus describe how any disagreements will be resolved.

22.2 A system has been adopted to monitor the effectiveness of the nominations agreements, to allow Rochford District Council to satisfy itself the Local Authority is fulfilling its legal obligations to allocate social housing accommodation. An annual report on nominations agreements will be presented to elected councillors of Rochford District Council, plus be shared with Private Registered Providers of social housing

## Useful Addresses

<p><b>Housing Option Allocations Team</b></p> <p>Rochford District Council, South Street, Rochford, Essex SS4 1BW</p> <p>Phone: 01702 318030</p> <p>Email: <b>housingallocations@rochford.gov.uk</b> <b>HousingOptions@rochford.gov.uk</b></p>	<p><b>Housing Options team</b></p> <p>Rochford District Council South Street Rochford Essex SS4 1BW</p> <p>Phone: 01702 318158 / 318157 / 318054 / 318057</p> <p>Email: <b>HousingOptions @rochford.gov.uk</b></p>
<p><b>Rochford Citizens Advice Bureau</b></p> <p>Back Lane Rochford Essex SS4 1AY</p> <p>Phone: 0844 477 0808</p>	<p><b>Rayleigh Citizens Advice Bureau</b></p> <p>Civic Suite Hockley Road Rayleigh Essex SS6 8EB</p> <p>Phone: 0844 477 0808</p>
<p><b>Rayleigh &amp; Rochford Association of Voluntary Services</b></p> <p>105a High Street Rayleigh Essex SS6 7QA</p> <p>Phone: 01268 772796</p>	

**This document was created following consultation with the following organisations listed below , The consultaion was carried out between 23/2/ 2018 and 23/May 2018**

**Essex County Council Social Services**

**East England LGA**

**Rayleigh and Rochford Citizen Advice Bureau    Neil Moreland (Housing Consultant)**

**RAVVS**

**Basildon District Council**

**Castle Point District Council**

**Southend on Sea Borough Council**

**Thurrock Council**

**Chelmer Housing Partnership**

**Estuary Housing Association**

**Genesis Housing**

**Hannover Housing**

**Housing 21**

**London and Quadrant Housing Association**

**Moat Housing Association**

**Swan Housing Association**

**Sanctuary Housing Association**

**Castle Point and Rochford CCG**

**Essex Mental Health Partnership**

**Salvation Army**

**Essex Police**

**Essex Fire service**

**Family Mosaic**



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