

***Building a Housing Ladder of  
Opportunity***

**Hammersmith & Fulham Council**

**Draft Housing Allocation  
Scheme**

## **Why the Council is consulting on this document**

This consultation document is the Council's proposed Housing Allocation Scheme, replacing the current *Housing Allocation Scheme (July 2009) Second Edition*.

Every local housing authority is required to have a Housing Allocation Scheme (a 'scheme'), which is also known as the authority's Allocations Policy. This document is a statutory requirement as set out in s 167 of the 1996 Housing Act.

This is an important document. The Council is proposing to radically change the way it prioritises applicants for accommodation, whether in affordable accommodation, or in the private rented sector. All eligible applicants will need to qualify against one of the 'reasonable preference' housing need criteria. The Council intends to give greater priority to applicants who make a community contribution, e.g., working households, ex armed services personnel. The Council also intends to give greater priority to applicants who have a local connection. In administering these changes, the Council intends to adopt an 'Assisted Choice' allocations approach, modifying the current choice based lettings approach.

The Council also intends to adopt a more flexible approach to local lettings, particularly where 'red tape' has obstructed imaginative lettings approaches with other landlords to enable local people to move home, freeing up large accommodation, but staying in their neighbourhood. The Council also intends to adopt Local Lettings Plans to achieve more mixed, balanced, sustainable communities.

This document is one of four Building a Housing Ladder of Opportunity documents and should be read in conjunction with the other three: the draft housing strategy; the draft tenancy strategy; and, the draft homelessness strategy.

The consultation period starts on **22 May 2012** and will end on **18 July 2012**.

To submit your response, email [xx@lbhf.gov.uk](mailto:xx@lbhf.gov.uk)  
Contact [xx@lbhf.gov.uk](mailto:xx@lbhf.gov.uk) for further information on this process.

The Council intends to adopt the final Housing Allocation Scheme in the Autumn of 2012 with full implementation beginning in April 2013.

Note: The draft scheme has been drafted on the basis that sections 145 to 147 of the Localism Act will be in force when the scheme is adopted by Members. At present the provisions are only in force to the extent of enabling local housing authorities to draft and consult on allocation schemes and to confer power on the Secretary of State to make regulations.

Acknowledgement – The Council is pleased to acknowledge the advice, support and work of the London Borough of Barnet in informing the development of this Draft Housing Allocation Scheme. Responsibility for the contents of this document rests with the London Borough of Hammersmith & Fulham.

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## **1. INTRODUCTION**

- 1.1 Affordable housing is a valuable but limited resource in Hammersmith & Fulham. The Council's new approach to allocating affordable housing will be fairer, simpler and more realistic. In its strategic role as the local housing authority for the borough (i.e., not in its landlord role), the Council intends to ensure that meeting housing need and aspiration correlates more closely with current and future availability of affordable housing. The Council also intends to ensure that future occupants of affordable housing make a greater contribution to the community and the economy. The 2011 Localism Act and associated guidance gives greater flexibility to local housing authorities to frame their Housing Allocation Scheme to meet its homelessness obligations and meet Hammersmith & Fulham's 'borough of opportunity' objectives.
- 1.2 As part of its wider approach to affordable housing, this Housing Allocation Scheme should be read in conjunction with other housing documents, specifically the Council's Homelessness Strategy; Housing Strategy; and Tenancy Strategy. Each of these documents reflect the themes of a housing approach based on personal responsibility that is fair, realistic and affordable as does this document. By personal responsibility is meant that housing applicants take greater responsibility for their own actions and their future. By fair, is meant an accessible approach that does not discriminate against particular need or equality group; by realistic, an approach that is based on the 'real world' housing choices that are available to people; and, by affordable, a housing approach that is both affordable for the Council to provide and for customers to pay for.
- 1.3 Specific objectives the Council wants to achieve following the adoption of this document and its broader approach are as follows:
- Meets its statutory homelessness obligations
  - Adopting a Housing Allocation Scheme that realistically reflects housing options available to applicants
  - Introduces a 'Assisted Choice', modifying a system which has allowed the registration of applicants who have no realistic prospect of successfully bidding for affordable rented housing
  - Increases the use of the private rented sector both in the borough and outside its boundaries in order for the Council to meet its housing obligations
  - Gives additional preference to former Armed Forces Personnel
  - Introduces a more rigorous approach to registrations, ensuring that the Housing Register is up to date; that registration information is verified at the earliest stage ensuring all applications are *bona fide*; and, applicants being required to personally update their applications on an annual basis

- 1.4 The Council also needs to take account of the Government's welfare reform proposals which will place a ceiling on the amount of cash benefits a single household will be able to receive. The Council will need to take account of a household's current and future ability to meet the rent and associated costs of running a home in Hammersmith & Fulham when allocating a home.
- 1.5 The Council only intends to register eligible applicants who qualify for the reasonable preference criteria. In addition, the Council intends to ensure that greater priority through 'additional preference' is given to applicants who are making a 'community contribution' such as working households and ex armed service personnel who may not be in 'urgent' need of housing, but nonetheless meet one or more of the 'reasonable preference' criteria. A fuller list of those meeting the community contribution category is set out in Annex 3.
- 1.6 In addition, the Council will continue to use the private rented sector both within the borough and outside it to meet its statutory housing obligations. The large majority of Council offers of accommodation will be on fixed term tenancies (See the Council's Tenancy Strategy) to both of the above sectors. It will also use the private rented sector to discharge its homelessness duty, ending any expectation that a long stay in temporary accommodation is a prelude to a social housing lifetime (or fixed term) tenancy.
- 1.7 Where the Council believes that potential applicants are able to access market housing, i.e., private rented or low cost or market home ownership, then the Council will provide advice as necessary.
- 1.8 The Council in its Homelessness Strategy sets out its preventative approach to alleviating the causes of homelessness, which is intended to reduce the pressure on applications to join the Council's Housing Register.

## **2. PRIORITIES FOR THE ALLOCATION OF ACCOMMODATION**

- 2.1 The key documents that govern local authorities' Housing Allocation Scheme approaches are as follows:-
  - 1996 Housing Act (as amended by the 2002 Homelessness Act); 2004 Housing Act; and 2011 Localism Act (Parts 6 and 7)
  - Allocation of accommodation: (CLG) guidance for local housing authorities in England – Consultation (Dec 2011)
  - 2004 Housing Act - s223 Allocation of housing accommodation by local authorities
- 2.2 The Council in assembling the Housing Allocation Scheme intends to only register 'reasonable preference' groups. However, the Council intends to give 'additional preference' to those households who have made/are making a community contribution and have a local connection. This will include giving

additional preference to former Armed Services personnel and working households.

2.3 Central to any Housing Allocation Scheme is ensuring that ‘reasonable preference’ is given to people with high levels of assessed housing need. These groups are defined as follows:

- All homeless people as defined in Part VII of the 1996 Housing Act including people who are intentionally homeless and those who are not in priority need
- People who are owed a duty by an housing authority under section 190(2), 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any housing authority under s192(3)
- People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
- People who need to move on medical or welfare grounds, including grounds relating to disability
- People who need to move to a particular locality in the housing authority area, whose failure to meet that need would cause hardship (to themselves or others)

2.4 In framing this Housing Allocation Scheme the Council intends to give effect to s.166A(3) of the 1996 Housing Act (as amended), housing authorities should have regard to the following considerations:

- The scheme must be framed so as to give reasonable preference to applicants who fall within the categories set out in s.166A(3), over those who do not
- Although there is no requirement to give equal weight to each of the reasonable preference categories, housing authorities will need to demonstrate that, overall reasonable preference has been given to all the reasonable preference categories
- There is no requirement for housing authorities to frame their scheme to afford greater priority to applicants who fall within more than one reasonable preference category (cumulative preference) over those who have reasonable preference on a single non-urgent basis

2.5 In respect of Hammersmith & Fulham’s new Housing Allocation Scheme, the Council intends to ensure that all successful applicants have reasonable preference. But it will give ‘additional preference’ to applicants who are making a community contribution and have a local connection.

2.6 These are the only categories of people that the Council will consider for housing, except where the Council adopts a Local Lettings Plan (See Sections

4.18 – 4.21) for an individual scheme and/or area where special circumstances apply. For example, these may include new and existing accommodation in its five regeneration opportunity areas where specific outcomes are sought, such as mixed, balanced sustainable communities. Local Lettings Plans will be adopted to achieve this specific objective which may include offering accommodation to working households on the Council's HomeBuy Register on short fixed term tenancies (e.g., two years) who may be waiting for a home ownership option that is right for them, but are content to live in an alternative interim rented housing option.

### **Sustaining a Tenancy**

2.7 The Council intends to scrutinise more closely the ability of applicants to sustain the tenancy that is being sought for two reasons. There needs to be some certainty that the applicant is able to take on the responsibilities associated with a new tenancy and that there is no history of anti-social and/or criminal behaviour associated with a previous tenancy. In tandem, the Council also needs to be mindful of the Government's welfare reform proposals, specifically in respect to the Universal Credit reforms which will 'cap' the amount of benefits a single household can receive. This is likely to be particularly relevant to households in large family accommodation (three bedrooms or more) where a significant proportion of this house type is both expensive and in short supply.

### **Accessing Affordable Market Housing**

2.8 The Council will continue to promote affordable home ownership and private rented options to those who are able to afford it. Where household income is over the level which the Council considers eligible for registration on the HomeBuy Register, the Council will not be minded to consider applications to the housing register for affordable rent purposes, unless there are exceptional circumstances which will be considered by a Panel of Senior Housing Officers. However, the Council will consider such households for affordable home ownership or direct them to private rented housing options. More information on income and savings thresholds is set out in section 6.7 – 6.9 of this Housing Allocations Scheme.

### **Flexible Tenancies**

2.9 The Council intends to take full advantage of the freedoms and flexibilities afforded by the 2011 Localism Act. In tandem with this document, the Council is publishing for consultation a Draft Tenancy Strategy which sets out the Council's approach to flexible tenancies. In summary, the Council intends to issue five year fixed term tenancies (and in some instances, two year tenancies) in the future, although with some exceptions where secure and assured tenancies will still be

granted. Fuller reference to the Localism Act and existing Homelessness legislation is made in Annex 1.

### **Investigation of Fraud: Offences related to information given or withheld by applicants**

- 2.10 The Council recognises its duty to protect the public resources it administers. Detailed enquiries about applications will therefore be made in order to guard against misrepresentation and fraud. Such enquiries will be made in all cases where applicants appear to have sufficient priority for an offer for re-housing, and in other cases as resources allow and may be made at any time either at the time of application or subsequently including after any grant of tenancy. Applications will be suspended if there is evidence of misrepresentation or fraud until enquiries are completed.
- 2.11 Any applicant seeking to obtain accommodation by making a false or misleading statement or by withholding relevant information or by failing to inform the Council of any material change in circumstances is liable to have his/her application cancelled. Prosecution will be considered where it appears to the Council that a criminal offence has been committed. Proceedings for possession will be taken to recover any tenancy granted in consequence of a fraudulent application for housing.
- 2.12 For the reasons set above, the Council is keen to ensure that information submitted to support a housing registration application is truthful and accurate.

Section 171 makes it an offence for anyone seeking assistance from a housing authority under Part 6 of the 1996 Act to:

- Knowingly or recklessly give false information, or
- Knowingly withhold information which the housing authority has reasonably required the applicant to give

It is for individual housing authorities to determine when these provisions apply and when to institute criminal proceedings. However, the circumstances in which an offence is committed could include:

- Any false information given on an application form for social housing
- Any false information given in response to subsequent review letters
- Any false information given or submitted by applicants during the proceedings of a review

Ground 5 in Schedule 23 of the Housing Act 1985 (as amended by s 146 of the 1996 Act) enables a housing authority to seek possession of a tenancy granted as a result of a false statement by the tenants or a person acting as the tenant's instigation.

- 2.13 Hammersmith & Fulham Council will use all civil and criminal sanctions at its disposal to encourage applicants not to give false information or withhold information when seeking support from the Council at any point in the application process.
- 2.14 Any tenancy fraud that may occur after the grant of a tenancy (e.g., tenancy passed on to a third party such as subletting of a tenancy) will be approached in a similar fashion. New powers to be granted to local authorities to pursue such cases through the criminal rather than the civil courts will be used by Hammersmith & Fulham.
- 2.15 In both instances - at application stage and tenancy stage – the Council will support and work with all Registered Providers to reduce and eliminate tenancy fraud.

### **3. WHO WILL RECEIVE ALLOCATED ACCOMMODATION**

#### **Eligibility and Qualification**

- 3.1 Any person can approach the Council's Housing Options Division for housing advice and assistance. However, the amount of accommodation in Hammersmith & Fulham is very limited, and the Council will not maintain an 'open' system that any person can be registered with. Instead, the Council will operate a 'managed register' with standard checks for eligibility undertaken, but with a tighter approach as to who will qualify to be on the managed register, i.e., registering only those who meet the reasonable preference criteria. Where the Council is unable to give support to applicants through registration, it will be able to provide housing options advice and support.
- 3.2 In considering applications, the local housing authority needs to consider two issues:
- the applicant's eligibility for an allocation of accommodation
  - Whether the applicant qualifies for an allocation of accommodation
- 3.3 In terms of **eligibility**, any person who does not fall into one of the categories below will be a person subject to immigration control and will be ineligible for an allocation of accommodation.
- (i) British citizens
  - (ii) certain Commonwealth citizens with a right of abode in the UK

- (iii) citizens of an European Economic Area (EEA) country ('EEA nationals'<sup>1</sup>) and their family members who have a right to reside in the UK that derives from EU law. The question of whether an EEA national (or family member) has a particular right to reside in the UK (or in another Member State) will depend on the circumstances, particularly the economic status of the EEA national (e.g., whether he or she is a worker, self-employed, a student, or economically inactive)
  - (iv) persons who are exempt from immigration control under the Immigration Acts, including diplomats and their family members based in the UK and some military personnel.
- 3.4 This means that people subject to immigration control and certain other people from abroad (outside the categories identified above) will not usually be eligible for accommodation arranged by the Council.
- 3.5 More generally, the council will decide in each case as to whether the people included in the application by the applicant will be considered as a part of the household if allocated accommodation. The council will generally not consider the following as members of a household: people who are subject to immigration control (as set out above), non-dependent adult children, other adult relatives, non-relatives, lodgers, live in help. Furthermore due to a shortage of properties with 4 bedrooms or more the council will discuss with large households whether they can be divided into two or more smaller households.
- 3.6 The statutory provisions regarding eligibility and qualification are set out in s 160ZA of the 1996 Housing Act as amended by the 2011 Localism Act (See Annex 1).
- 3.7 In terms of **qualification**, the Council in this Housing Allocation Scheme is adopting an approach whereby the applicant must meet at least one of the statutory 'reasonable preference' criteria. Where an applicant meets the 'reasonable preference' criteria but does not have a local connection with the borough, it is highly unlikely that that applicant will be allocated an affordable rented home. Where an applicant(s) income (or combined income) are greater than £40,200 and may have assets and/or savings that are sufficient to access low cost home ownership or other intermediate housing options, then an applicant(s) will generally not be eligible to access the Housing Register and will be offered advice on other housing options including joining the Council's HomeBuy Register. See Sections 6.7 – 6.9 for more information.

### **Classes of Person that do not Qualify**

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<sup>1</sup> EEA nationals are nationals of any EU member state (except the UK) and nationals of Iceland, Norway, Liechtenstein and Switzerland)

- 3.8 The Council will only register eligible applicants who qualify to meet at least one of the reasonable preference criteria set out in Section 2.3 of this document. The guiding principles to this Housing Allocation Scheme is that it is fair, realistic and affordable and that applicants take greater personal responsibility for their own actions and their future. Whilst the Council is giving clear preference to applicants with a local connection and making a community contribution, it is also keen to have qualifying criteria which better fits the supply of accommodation that the Council can reasonably have access to.
- 3.9 Having considered the changes to made to the Housing Act Part VI in the Localism Act, the following classes of person will not normally qualify for registration. There is discretion to waive these classes in exceptional circumstances as approved by the Director Housing Options, Skills and Economic Development or delegated officer who shall be a Head of Service:
- a. Applicants who are overcrowded by only 1 bedroom and this is their only housing need
  - b. Applicants who have been convicted of housing or welfare benefits related fraud where that conviction is unspent under the Rehabilitation Offenders Act 1974. Any person caught by this may re-apply once this conviction is spent
  - c. Homeless applicants to whom the main homelessness duty has been ended due to refusal of a suitable offer
  - d. Homeless applicants placed in long term suitable temporary accommodation under the main homelessness duty (unless the property does not meet the needs of the household or is about to be ended through no fault of the applicant)
  - e. Applicants with lawfully recoverable significant arrears or other housing related debt which have been unreasonably incurred by the applicant
  - f. Applicants whose income, savings and assets exceeds the limits set by the Council  
(as these limits will change the Officers will use guidance to apply this test)
  - g. Applicants who owe arrears of rent or other accommodation charges to the Council in respect of the current tenancy or former accommodation, unless an appropriate agreement has been reached and sustained for a reasonable period. In assessing the application for registration, the Council will take into account the size of the debt, the means to pay and the degree of the household's need
  - h. Applicants in breach of another condition of their Tenancy Agreement and this is accepted by both parties.
  - j. Applicants who have been guilty of unacceptable behaviour which makes them unsuitable to be a tenant. Examples of such unacceptable behaviour include: persistent failure to pay rent and/or service charges; anti social behaviour which has caused a nuisance by the applicant or a member of his or her household; illegal or immoral behaviour; threats of and/or actual violence; racial harassment; obtaining a tenancy by deception and/or an attempt at tenancy fraud

3.10 The Council recognises that there may be exceptional circumstances where the only way an exceptional housing need can be resolved is through the use of discretion. In the interests of fairness to all these applicants these circumstances are kept to a minimum. Examples of exceptional circumstances include, but are not limited to:

- Threat to life in the area in which they are residing
- Emergency cases whose homes are damaged by fire, flood or other disaster may be provided with other accommodation if it is not possible to repair the existing home, or if any work to repair is to take such a long period of time that there will be serious disruption to family life.
- Households who, on police advice, must be moved immediately due to serious threats to a one or more members of the household, or whose continuing occupation would pose a threat to the community.
- Cases nominated under the Police Witness Protection Scheme or other similar schemes that the council has agreed to be part of.
- An applicant who has an exceptional need that is not covered in the Allocations Scheme. For example, where child or public protection issues require re-housing or for severe domestic abuse where all other options to remain in the home have been considered.

3.11 Other exceptional circumstances, including management transfers, authorised by the Director Housing Options, Skills and Economic Development.

### **Assessment of Need**

3.12 The council has developed a housing banding system to determine who will be prioritised for housing in the borough. The housing bands are summarised below and full details of what the characteristics of individual cases will be are set out in Annex 4:

**Band 1: Urgent Need to Move due to Reasonable Preference PLUS additional priority AND a local connection**

**Band 2 Need to move – Reasonable Preference AND a Local Connection AND a Community Contribution**

**Band 3 : Need to move – Reasonable Preference AND a Local Connection BUT No Community Contribution**

**Band 4: Reduced Priority: Need to Move - Reasonable Preference but with Reduced Priority**

## **Local Connection Definition**

- 3.13 Demonstrating a local connection is a central tenet of this Housing Allocation Scheme. **Local connection** within the terms of this scheme will normally mean that an applicant has lived in this borough, through their own choice, for a **minimum of 5 years** up to and including the date of their application, or the date on which a decision is made on their application, whichever is later. Accepted homeless households placed by this authority in accommodation outside Hammersmith & Fulham will also have a local connection as long as they fulfil the five year residential qualification (i.e., time spent placed by Hammersmith & Fulham in temporary accommodation outside the borough will count towards time spent in Hammersmith & Fulham). A local connection may also be awarded to people who need to move to a particular locality in the borough, where failure to meet that need would cause exceptional hardship to themselves or to others. Those without a local connection will not be eligible to be placed in bands 1,2 or 3 until this condition is satisfied. Where households are allocated Band 4 status, the Council is only likely to be offered private rented options which may be outside Hammersmith & Fulham.
- 3.14 People in the following categories will **not** normally be considered as having a local connection:
- Those placed in the borough of Hammersmith & Fulham in temporary accommodation by another local housing authority
  - Those placed in the borough of Hammersmith & Fulham in residential or supported housing by another borough
  - Secure or flexible tenants of other boroughs
- 3.15 Applicants who have been placed in long term temporary accommodation by the Council will not be placed in a housing needs band and they will be removed from the Housing Register. This will be reviewed if the arrangement is due to expire within the next 3 months or there is a change in circumstances that may increase their priority under this scheme. Long term temporary accommodation can include private sector homes let via the council or a housing association under a leasing arrangement, and non-secure tenancies on regeneration estates.
- 3.16 Applications for housing will be assessed by Housing Options Officers using information supplied by the applicant and as a result of further necessary enquiries. The Housing Options Officer will decide whether the applicant falls within the Council's housing banding system and if so, which band will apply.
- 3.17 Applicants who are assessed as not qualifying for one of the Council's Housing Bands will be offered housing advice and assistance as necessary.

- 3.18 Medical priority will be awarded according to the extent to which the health or welfare of one or more members of the applicant's household is affected by their housing conditions and the expected benefits of providing suitable alternative settled housing. Applicants who are assessed as having an overriding medical or welfare housing need will be placed in Band 1; the circumstances that justify this are detailed in Annex 4. Such priority will be approved by a panel of senior housing officers.
- 3.19 Housing Options Officers will work together with social services and other agencies looking at supply and demand to identify clients currently in supported housing who are ready for independent living. Subject to these discussions and agreement that the client's housing needs cannot be met outside of social housing. In consultation with other officers of the Council, these clients will be placed in Band 2, unless there is an urgent need to move in line with the Band 1 criteria.
- 3.20 Where a young person is identified by Children's Services as ready to relocate in to 'move on' accommodation, the young person will be placed in Band 2 or 3, subject to a community contribution award. The Housing Options Officer concerned may in consultation with the Director Housing Options, Skills and Economic Development waive this requirement in exceptional circumstances.

### **Condition and Size of Accommodation**

- 3.21 All accommodation offered will be habitable, in reasonable repair and fit for letting.
- 3.22 The size of accommodation for which each applicant will be considered will depend upon the size and composition of the applicant's household. The requirements for each size of household are set out at Annex 2
- 3.23 Larger accommodation than specified in Annex 2 may be considered in exceptional circumstances on the recommendation of the Housing Options Officer and approved by a Panel of Senior Housing Officers. The Council may draw on specialist advice, for example the Council's Medical Adviser, Occupational Therapy Service, or senior social worker.
- 3.24 In calculating the number of bedrooms available within properties the Council will treat every habitable room as a bedroom except kitchens, bathrooms and kitchen/dining rooms. The Council will normally consider additional rooms in homes for use as bedrooms in accordance with Housing Benefit regulations.
- 3.25 Cases of existing secure Council tenants agreed as Management Transfers will be offered homes on a 'case by case' basis.

## **Council Tenants**

- 3.26 Council tenants wishing to move from their existing home will be assessed in the same way as other applicants applying for housing advice and assistance under this scheme and will need to meet the qualifying criteria set out in this Housing Allocations Scheme.
- 3.27 Applications for transfer may be made jointly by separate tenants of the Council who wish to apply for housing together, on the condition that both tenancies will be relinquished if the Council makes an acceptable offer of a transfer to a third property.
- 3.28 On occasion it may be necessary for a council tenant to move out of their existing home to allow major works to be carried out or because their home is due to be demolished. In these circumstances, the Council will use its discretion to prioritise a move to a suitable alternative home by placing the tenant in Band 1 at an appropriate time.
- 3.29 Council tenants who have to move because major works are required to their home will have the option of moving back to their original home once the works have been completed,
- 3.30 The Council is undertaking a number of regeneration schemes. Under these schemes a large number of existing council homes may be demolished and replaced with new homes owned and managed by the council or housing associations. Under this allocations policy, existing secure tenants whose homes are due to be demolished will have priority for the new replacement homes being provided on their estate in accordance with the provisions agreed for each estate, before they are made available to any other applicants. Existing re-housing commitments to residents are set out in the Council's Core Strategy and Tenancy Strategy.
- 3.31 Where a council tenant is imprisoned for a period of more than 12 months, they will be expected to voluntarily give up their tenancy. On release from prison, they will be entitled to apply to the Council for accommodation based on the policies set out in this Housing Allocation Scheme.
- 3.32 Council tenants will be able to access affordable housing elsewhere in London through the Pan London Mobility Scheme. More information on this scheme is set out in section 4.28 of this document.

## **Private Registered Provider (PRP) Tenants**

- 3.33 PRP (principally housing association) tenants will be assessed in the same way as other applicants applying for housing advice and assistance under this scheme.

## **Mutual Exchanges**

- 3.34 Secure tenants have certain rights in relation to exchanging their tenancies with other secure tenants and in relation to the circumstances in which a member of their household can succeed to their tenancy. These do not fall within the scope of this allocations scheme, and full details for how these schemes operate can be obtained from Hammersmith & Fulham Council or their Landlord in the case of Private Registered Provider tenants.

## **Tenancy Succession**

- 3.35 The law on council tenancy succession has changed for secure tenants (and household members) where a tenancy was created before 1 April 2012 and those created after this date. The scenarios below are based on where a tenant or joint tenant dies and the remaining joint tenant (if applicable) and/or household members wish to remain in the property.
- 3.36 Where a **tenancy was created before 1 April 2012**, family members will retain their existing rights to succeed to the tenancy. This may be the tenant's spouse or registered civil partner or could be a co-habiting partner or another family member(s). Family members seeking to succeed the tenancy will need to have lived at the property for at least twelve months before the succession is sought. Where a joint tenant dies, the other joint tenant becomes the sole tenant ..
- 3.37 Where a **tenancy was created on or after 1 April 2012**, only a spouse, civil partner or a person who lives with the tenant as if they were a spouse or civil partner will have a statutory right to succession.

The statutory right only applies to the first time that a succession occurs, but beyond this, the council will use its discretion to allow a new flexible tenancy to be granted in the following circumstances:

- The person applying for succession has lived continuously in the property as their principal home for twelve months before the death of the tenant **and**
  - They are the spouse, civil partner, a close relative of the tenant, or someone who had to live with the tenant in order to provide them with care, without which the tenant could not have maintained their tenancy **and**
  - They would qualify for the property they have applied to succeed to under the council's allocations policy (i.e., this Housing Allocation Scheme) including being both an eligible and qualifying person(s).
- 3.38 This process will be triggered by a Housing Register Application which will be considered by Housing Options Officers in consultation with Housing

Management Officers responsible for the property and associated tenancy concerned.

- 3.39 Where a property is not suitable for the person applying to succeed, for example because it is too large, the council will assist them to find alternative accommodation if they qualify for help under this Housing Allocation Scheme, which could include an offer of accommodation in the private rented sector.
- 3.40 Where a new tenancy is granted as a result of a discretionary succession, the tenancy will be treated as a new tenancy under the Council's Tenancy Strategy. This means that in most cases a flexible tenancy, normally two or five years, will be granted. Failure to accept a suitable property offered or made available under this Housing Allocations Scheme will result in proceedings for possession of the home currently occupied. Each situation will be considered on its merits and tenancies will be granted at the discretion of the Council.
- 3.41 Tenancy succession rules for Private Registered Providers (normally housing associations) are governed by different legislation. Current and future housing association tenants should check with individual landlords what the rules are for succession for their respective tenancies.

### **Service Tenancies**

- 3.42 Employees of the Council who have a service tenancy associated with their employment may be re-housed by the council in pursuance of a contractual agreement that may be in place. This may be achieved outside of assisted choice through a direct nomination.

## **4. HOW THE COUNCIL ALLOCATES PROPERTIES**

### **THE PROPERTY POOL AND ASSISTED CHOICE**

- 4.1 Hammersmith & Fulham Council will operate a 'property pool' and assisted choice lettings system. In essence, this means that the council will maintain a list of properties that are available to let to housing applicants who fall into one of the housing bands described in section 3.12 and detailed with examples in Annex 4. Successful applicants will need to annually update their registration. This comprises properties available from the council (a registered provider); housing associations (private registered providers); landlords from the private rented sector; and other agencies. Properties available from the property pool will be matched to applicants' preferences and offers made by housing options officers. In effect the officers concerned undertake the bidding process based on the applicants' expressed preferences. All applicants, whether homeless, transfer cases, sheltered housing applicants will be treated the same way under this system. **The Council will seek to make at least two offers to applicants, with discretion to make a third offer. In the event that homeless applicants turn**

**down the offers made by the Council, they will be removed from the register. Where other applicants turn down offers made by the Council, they will be demoted a band for twelve months.**

### **How will it work in practice?**

4.2 In sequence, the key characteristics of this service will be as follows:

1. Applicants will discuss with the Housing Options Officer eligibility and qualification criteria to enter the Council's Housing Register. This will include a discussion on all housing options, including obtaining accommodation outside the housing registration route (e.g., private rented sector, low cost home ownership, etc)
2. If the Housing Options Officer considers that a Housing Register Application is likely to be successful, applicants will be assessed for their eligibility and qualification to register with the Council for accommodation. If registered, allocated a Band from 1 (the highest priority) to 4 (the lowest priority). It will be explained at this stage that allocation to Band 4 status is highly unlikely to lead to the allocation of an affordable home for rent let by a Registered Provider (i.e. principally the Council in its landlord role and housing association landlords). In the case of a homeless applicant who successfully registers, the Council is likely to discharge its duty into the private rented sector.
3. Over time, Housing Options Officers will assess available homes from the 'property pool' as they become available and match them with applicants' accommodation needs and invite them to consider offers as and when they arise. Clearly, where there is a more affordable housing in that area of the borough, such housing choices are more likely to be met. Similarly, where there is more private market housing in that area of the borough, such housing choices are less likely to be met.
4. The urgency with which offers are made to housing applicants will depend on the supply of available accommodation in the property pool and their Band status, with Band 1 having the greatest urgency. The Council will expect applicants in urgent housing need to take up reasonable housing offers quickly. In the event that housing offers to Band 1 applicants have been exhausted, housing offers will be made to Band 2, and then Band 3. The approach will vary where Local Lettings Plans are in place (See Section 4.19 – 4.24).
5. The property pool will comprise homes from the Council in its Registered Provider landlord role; Private Registered Providers (principally housing associations); and the private rented sector. This will include accommodation for Supported Housing purposes and the elderly. Some homes in the property pool will be located outside the borough due to the shortage of affordable

- accommodation, particularly large family accommodation, in Hammersmith & Fulham.
6. The large majority of housing allocated will be available on fixed term tenancies (also called flexible tenancies). More detail on this can be found in the Council's Tenancy Strategy.
  7. Where applicants are made a second final offer that may be in the private rented sector which will meet the applicant's need and that offer is turned down, then that applicant will be demoted a band for a year. Where the Council owes a homelessness duty and a second offer has been turned down, then the Council will have met its duty towards that applicants. The Council reserves the right to make a third offer if special circumstances apply.
  8. On making that final offer, the Council will have met its duty towards homeless applicants, which will meet the applicant's requirements and/or the Council's homelessness duty towards that household. At this point, the applicant will be removed from the register. In respect of other housing applicants (e.g., transfer cases), where a second offer has been turned down, the applicant will be moved down a band for twelve months.
- 4.3 Priority for accommodation will be determined by housing band, with those applicants in Band 1 having a greater priority than those in bands 2-4, and those in band 2 having a greater priority than those in bands 3-4, and so on. Within bands, priority will be determined by date order (Note: Date order means that date that an applicant was placed in the housing band)
  - 4.4 In considering priority for re-housing between applicants with a similar priority under the banding scheme, the Council will also take account of the immediacy of need of each applicant. This means, for example, that where two applicants in the same band are interested in the same property, preference may be given where one of the applicants is facing a more immediate loss of their existing home than the other.
  - 4.5 To avoid the loss of properties available to the Council, properties in the private rented sector will normally be made available on a first come first served basis to applicants across bands 1-4. Where more than one applicant is being considered for a private sector property, priority will be determined by band and date in band.
  - 4.6 Applicants will be asked to choose a property or properties to view from a selection of those that are available and meet their needs, and will be asked to accept one of these as their offer of re-housing.

- 4.7 If no suitable properties are available, the applicant's case will remain open until a property becomes available and their Housing Options Officer will be proactive in working with them to secure a suitable offer of accommodation.

## **EXCEPTIONS TO ASSISTED CHOICE**

- 4.8 Available properties which are adapted or which are suitable for adaptation and Extra Care and Sheltered Housing or which are otherwise potentially suitable for applicants with a substantial disability or other special or support needs may be allocated outside strict banding and date order priority.
- 4.9 An allocation may also be made outside banding priority in the case of a Council tenant who is willing to transfer from a property which s/he does not require, i.e., under-occupiers, and which is particularly suitable for an applicant with special or support needs.
- 4.10 Applicants who have a special need for adapted property or other particular type of accommodation which is in very short supply may be invited to consider suitable property which becomes available outside of the areas preferred by the applicants concerned.
- 4.11 The Council reserves the right to restrict the operation of the property pool to certain groups of applicants or to make direct offers of accommodation to households waiting for re-housing in order to fulfil its housing management and financial duties and responsibilities, including achieving a balance of lettings as set out in the Council's Annual Lettings Plan and delivering value for money.
- 4.12 In addition to the Annual Lettings Plan, special allocation arrangements, i.e., through Local Lettings Plans, may apply in respect of properties available for letting on new-build developments and/or areas that the Council considers necessary for an alternative approach to deliver its 'borough of opportunity' agenda. Local Lettings Plans will be subject to consultation by residents and agencies likely to be affected by the proposed changes (See Section 4.19 - 4.24).
- 4.13 Decisions to allocate properties outside of the property pool and assisted choice will be authorised by the Director Housing Options, Skills and Economic Development, or delegated officer who shall be a Head of Service.
- 4.14 The Council is keen to facilitate 'chain lettings' approaches with other local housing authorities and private registered providers (principally housing associations) in order to maximise the use of affordable housing accommodation both locally and in other areas. A 'chain letting' is similar to a chain of prospective

house purchasers who are dependent on others in order to move home. This approach is an ideal way of helping to ensure that people who wish to stay in their localities can do so, moving to homes that reflect their housing needs. Where the Council is able to ensure that there is a sufficiently positive impact for one or more of its residents by making a direct nomination (or through influencing other allocations of other Registered Providers), then the Director of Housing Options, Skills and Economic Development shall have discretion to make any necessary decision to achieve a chain letting.

- 4.15 This flexible approach will help facilitate greater choice for applicants who wish to move in their immediate locality, remaining close to family and friend networks. The Director Housing Options, Skills and Economic Development or delegated officer, will have the authority to allocate accommodation through either the Assisted Choice process or through a direct nomination to facilitate a successful chain letting.

## **TYPES OF PROPERTY**

- 4.16 Some properties or blocks of properties are designated for allocation only to applicants sharing a common characteristic or need, for example:
- Properties in sheltered housing developments for people over a specified age,
  - Properties in supported housing schemes offering special services,
  - Individual properties which are adapted or otherwise particularly suitable for applicants who use a wheelchair

## **SELECTION OF PROPERTIES**

- 4.17 In selecting properties from the property pool for applicants to consider, the Council will normally take into account the following factors:
- The number of bedrooms required (see Annex 2)
  - Any essential requirement concerning the type or location of re-housing
  - The housing band into which the applicant's case falls
- 4.18 The Council will not normally take into account:
- Non-essential preferences concerning the location or type of re-housing requested by the applicant.
  - An applicant's preference as between an allocation of a Council property **or** a nomination to a Private Registered Provider (normally a housing association) **or** an allocation to the private rented sector.
  - The standard, type or location of the applicant's current accommodation (except where this is related to the assessment of their need)

## **Local Lettings Plans**

- 4.19 From time to time, the Council will adopt Local Lettings Plans for new schemes and/or areas of the borough where it wishes to deliver the broad objective of mixed, balanced sustainable communities. The Council is unconvinced that allocating all affordable housing to applicants from reasonable preference categories is conducive to the broader objective of mixed, balanced sustainable communities. By allocating homes to low to medium income households on short fixed term tenancies who are not necessarily from reasonable preference groups will help deliver that objective.
- 4.20 Section 167(2E) of the Housing Act 1996 enables local housing authorities to allocate particular accommodation to people of a particular description whether or not they fall within the reasonable preference categories. This section enables the Council to set aside homes on a particular estate, or certain types of properties across the stock, for applicants who meet a certain criteria.
- 4.21 The simplest approach to delivering this objective would be through using the Council's HomeBuy Register, which includes applicants who wish to rent at sub market levels. Some of these households may be seeking to save money for a deposit to enter low cost home ownership which the Council is keen to encourage. This will give such households the experience of managing a household budget and also provide an opportunity for such households to save money towards a deposit for a low cost home ownership option.
- 4.22 The Council's broad approach will be to prioritise households from the HomeBuy Register for Affordable Rent accommodation available from Private Registered providers (principally housing associations). Where the Council wishes to prioritise applicants who meet criteria associated with a Council-approved scheme which helps deliver housing options for one or more of the community contribution groups identified in Annex 3, these applicants may be prioritised for Council rented accommodation.
- 4.23 The Council will monitor the impacts of this approach on both its Housing Register and Homebuy Register. It will need to ensure that any the number of households drawn from the Homebuy Register do not exceed the number drawn from the Housing Register. It will also seek to ensure that the rules governing each of the approaches are broadly aligned.
- 4.24 Before introducing a local lettings plan, the Council will consult with those who are likely to be affected, which shall include the residents of the scheme/area impacted by the plan and local social landlords. A copy of the final policy will be published on the Council's website.

## **Transfers**

- 4.24 All transfer applicants will be considered in the same way as set out in Section 4.2 of this document. The Council expects existing tenants to maintain their homes in a reasonable condition and similarly expect tenants of other Registered Providers to do the same. If the existing home has been either significantly damaged and/or kept in a poor condition by the sitting tenant, the Council will not be minded to permit a transfer. The Council will expect other Registered Providers (normally housing associations) to adopt the same approach.

### **Homeswap**

- 4.25 Homeswap enables existing tenants, principally in the registered provider affordable rented sector (i.e., tenants of councils and housing associations) the opportunity to swap their home with another, often called ‘mutual exchanges’. Such schemes help tenants to be closer to new places of work and/or friends and family. The Council supports the Government’s ‘Homes Swap Direct’ initiative, bringing together the range of mutual exchange regimes that exist. The Council will make available facilities at its principal office to enable applicants wishing to review housing options using the ‘homeswap’ mechanism as well as promoting the initiative more widely.

### **Sub Regional Nominations**

- 4.26 As part of the West London Housing Partnership, the Council participates in a sub regional nomination arrangement which accesses the Council to sub regional lettings as well as enabling its West London partners to nomination opportunities in the borough. The Council intends to continue this arrangement as it enables some flexibility to facilitate sub regional moves for the same reason described in the Homeswap section above.

### **Accessible Housing Register**

- 4.27 The Council will seek to ensure accommodation opportunities for housing register applicants who require accessible housing are maximised. Where Housing Options Officers are fully appraised of applicants’ housing needs, all reasonable efforts will be used to ensure that offers are made to applicants in line with the Banding priority using the Assisted Choice approach.

### **Pan London Mobility**

- 4.28 Hammersmith & Fulham currently participates with the Mayor of London’s pan-London Mobility scheme, also known as *London Moves*. Details of the Mayor’s scheme can be found at [www.london.gov.uk](http://www.london.gov.uk) . Tenants wishing to move using the Pan London Mobility scheme can apply direct. Housing Options Officers can provide assistance to tenants wishing to move home using the Pan London Mobility Scheme.

### **Suitability of Housing Offers**

- 4.29 Where accommodation is offered through the assisted choice process described above, an applicant will normally be expected to accept an offer of a property that meets their specified needs. Suitable offers are those that are deemed as suitable and appropriate to meet the housing and medical needs of the household concerned.
- 4.30 The Council will seek to take into account applicants' particular or special needs but it will not always be possible to ensure that these needs are met. In considering what is reasonable, the Council will have regard to the overall supply of Council accommodation and the demands placed upon it by all priority groups.
- 4.31 As a guideline and subject to the individual circumstances of each application, the Council will normally consider that a property is suitable if:
- It is located close to an area which the applicant has selected or an area that the Council considers to be reasonable.
  - It is sized in accordance with the criteria in Annex 2.
  - It complies with any recommendation made by a Medical or other relevant advisor.
- 4.32 An offer of accommodation which is arranged by way of a nomination to a private registered provider will be considered to be as reasonable as an offer of a council tenancy.
- 4.33 If a housing applicant refuses two reasonable offers of accommodation through the assisted choice scheme or a direct allocation, their priority under this allocation scheme will be reduced by a Band for twelve months. This will not necessarily mean no further offers will be made, but will reduce their priority.
- 4.34 An applicant whose housing priority has been reduced to Band 4 under 4.33 will not be entitled to be placed in a higher band under this housing allocations scheme again for a period of 12 months from the date that the Council notified them of its decision, except where there has been a material change in circumstances such that the offer of re-housing would no longer be suitable, for example because of an enlargement in the applicant's household or a deterioration in ill health. In the event that the applicant is not eligible to be moved up to Band 3, then they will be removed from the Housing Register altogether.

### **Annual Lettings Plan**

- 4.35 The Council will adopt an Annual Lettings Plan for the April – March year which will forecast the number of affordable lettings the Council expects for the relevant year and estimate the proportions of lettings that will be allocated to certain need groups. This will include adopting quotas for specific priority groups, e.g., those requiring supported housing; care home leavers; working households; ex armed services personnel, etc.

## **5. PROCEDURE FOR APPEALS AND REVIEWS**

- 5.1 All applicants have the right to request general information about their application, including whether they are entitled to any preference for housing and whether and when suitable accommodation will be offered to them.
- 5.2 An unsuccessful applicant(s) to the Housing Register will be informed in writing of any decision regarding their eligibility and/or qualifying status. The notification will give clear grounds for the decision which will be firmly based on the relevant facts of the case. The applicant(s) will be informed of their right to request a review of the decision.
- 5.3 Applicants who are unhappy with a decision made under this policy should in the first instance contact the housing officer who has dealt with their case and explain why they think that the decision is not reasonable. The applicant will be notified whether the decision still stands and the reasons for this usually within 48 hours
- 5.4 If an applicant wishes to take the matter further, they can make a request for a formal review of the decision within 21 days. In these cases the applicant will be invited to make a written submission stating the reasons for their request for a review and the Council will seek any further information it requires, including advice from medical and other specialist advisors. Formal reviews will be conducted by a team leader or manager within the Council's Housing Service with no previous involvement in the case who will notify the applicant of the outcome of the review including the reasons for their decision within 56 working days.
- 5.5 Where an applicant wishes to appeal the suitability of an offer of accommodation under 5.1 of this policy, the property will be held available whilst the appeal is considered where this is not likely to lead to an unreasonable delay in letting the property.
- 5.6 Where an applicant requests a formal review concerning the suitability of accommodation under 5.3 of this policy, the property will not normally be held available whilst the appeal is considered. This formal review will be considered by the Review & Complaints Officer.

### **Right of Review – Homeless Applicants**

- 5.7 A homeless applicant has the right to a S202 (of the 1996 Housing Act) review of the suitability of an offer of accommodation. In addition they have a s204 (of the 2002 Act) right of appeal to the County Court. Whilst seeking a review and appeal, the applicant may still move into the property in question, without prejudicing the outcome of a review and appeal case, if either is sought.

## **6. GENERAL RULES AND CONDITIONS**

### **Decisions**

- 6.1 All decisions taken under this policy will be by fully trained officers in the Housing Options Division of the Council's Housing and Regeneration Directorate unless otherwise specified. Housing Options Officers are supported by Team leaders and receive ad hoc advice from other officers of the Council as required. Where the applicant (and any eligible household members/dependents) have specific needs which have been reported to, or recorded by, other departments of the Council, the applicant should highlight any such reports to the Housing Options Officer concerned.

### **Requests for Assistance**

- 6.2 Requests for housing assistance must be made to the Housing Options Service. The Council aims to notify applicants of the result of the assessment of their priority under the Housing Banding System within 14 days. However, in cases where a medical assessment or other special assessment is required, it may take longer to notify the result.

### **Persons Eligible for Assistance**

- 6.3 Persons entitled to assistance must be members of the applicant's immediate family who normally reside with the applicant. Any other person or persons will only be considered as entitled if the Council is satisfied that it is reasonable for that person to reside with the applicant. This will normally exclude lodgers or anyone sub letting from the applicant.
- 6.4 The Council will also refuse to consider an application for assistance or someone's inclusion on an application if the person concerned (i.e. other than the applicant) has made a separate housing application.

### **Evidence of Identity and Housing Circumstances**

- 6.5 All applicants must provide satisfactory evidence of identity and past and current residences for themselves and all household members. The Council will request documentary evidence from each applicant and will conduct such further enquiries as are reasonable in the circumstances. An application will be cancelled if the applicant has failed to provide documentary evidence or other information reasonably required by the Council in order to validate the application.
- 6.6 The Council will normally carry out a visit to each applicant's residence if their priority is sufficient for an allocation of housing under this scheme. Visits conducted will include an inspection of the accommodation and facilities and are normally but not necessarily arranged by appointment.

### **Income and Savings**

- 6.7 All prospective new tenants will be required to supply evidence of their financial income and resources. Where applicants are not able to show current entitlement to Income Support, Housing Benefit, Council Tax Benefit (and successor Universal Credit), verification of income and savings will be required prior to applicants being offered accommodation. Where applicants have resources considered sufficient to provide a deposit to access low cost home ownership, the applicant will normally only be offered advice or assistance, or placed in Band 4, as they are considered to have the income (see below) and/or wealth to meet their own housing requirements. Advice on home ownership; sub market renting; and private sector renting options will also be offered including opportunities to join the Council's HomeBuy Register.
- 6.8 Based on the Council's current Homebuy Register income range of £19,000 to £61,400 is required for low cost home ownership, the Council will discuss with the applicant (or joint applicants where applicable) market housing options. Where an applicant(s) income (or combined income) are greater than £40,200 and may have assets and/or savings that are sufficient to access low cost home ownership or other intermediate housing options, then an applicant(s) will generally not be eligible to access the Housing Register and will offered advice on other housing options including joining the Council's HomeBuy Register. These income ranges will be reviewed annually and will be adjusted to reflect the size of household. Such households will be provided with advice and assistance which is likely to include private sector renting and low cost home ownership opportunities. Where applicants successfully access the HomeBuy Register, they may succeed in qualifying for an affordable rented opportunity under a Local Lettings Plan.
- 6.9 When considering the allocation of accommodation, Housing Options Officers will review applicants' income and expenditure in order to assess their ability to sustain a proposed tenancy. The implementation of the Universal Credit regime

will cash limit eligible annual household benefits. If housing costs are considered to be a disproportionate amount of eligible benefits, then the Housing Options Officer will consider appropriate options for the household concerned. In all instances, the Council will not be minded to allocate accommodation that is too small for applicants' needs (as set out in Annex 2)

### **Changes of Circumstances**

- 6.10 Once placed in a priority band, applicants should notify the Council in writing of any material change in their circumstances that will affect their priority for housing , for example:
- a change of address, for themselves or any other person on the application.
  - any additions to the family or any other person joining the application
  - any member of the family or any other person on the application who has left the accommodation.
  - any change in income and/or savings.
  - Any medical or mobility need which will affect the type of accommodation being offered deemed suitable
- 6.11 Applications may be temporarily suspended while the Council assesses the information provided by the applicant and completes further enquiries that may be necessary. The Council will carry out an assessment of each applicant's entitlement to and priority for re-housing on the basis of information which has been provided by the applicant or otherwise received in connection with the applicant. Where the Council believes that information about the applicant's personal circumstances have been deliberately withheld or misleadingly presented, then the Council will reserve the right to withdraw any offer of accommodation or not renew a tenancy where one has been granted.

### **Members of the Council, Staff Members and their Relations**

- 6.12 In order to ensure that the Council is seen to be treating all applicants fairly, any application for housing or re-housing from members of the Council, employees of the Council or associated persons must be disclosed. These applications will be assessed in the normal way but any allocation of housing will require specific approval by the Director Housing Options, Skills and Economic Development.

### **Equal Opportunities and Monitoring**

- 6.13 The Council is committed to the principle of equal opportunities in the delivery of all its services. Applicants will be invited to indicate if they wish to make use of the Council's translation and interpretation services, or if they require other

special services as a result of visual impairment, hearing difficulties or other disability.

- 6.14 Confidential interview facilities are provided at all housing offices. There is full access to the Housing Options Office for people who use a wheelchair. Home interview services are available for applicants who are elderly or who experience mobility difficulties.
- 6.15 The Council will seek to ensure that its allocation policies are being operated in a manner that is fair to all sections of the community regardless of nationality, ethnic origin, marital status, age, gender, sexual orientation or disability. The information provided will be kept confidential and treated with respect. The council believes it is important to understand the different communities who apply for housing and it is only by asking these questions can the Council check that it is operating a fair system.
- 6.16 All applicants for housing or re-housing will be asked to provide details of ethnic origin, sexuality, disability and other equalities information. Provision of this information will not be obligatory and not a requirement for acceptance of an application. However, such information will help monitor the number and types of equality groups seeking support and therefore applicants will be strongly advised to complete the relevant information. Equalities records will be kept and monitored on a regular and systematic basis to ensure properties are being offered and allocated fairly.
- 6.17 Allocation policies and any changes to them will be reviewed regularly to ensure they do not operate in ways that discriminate against or disadvantage any particular group.

### **Confidentiality**

- 6.18 The Council will take disciplinary action against any employee who makes use of any information obtained in the course of their employment for personal gain or benefit, or who passes it to others who might use it in such a way. A report to the police will be made if it appears that a criminal offence has been committed.
- 6.19 The disclosure of information about any housing application to a third party is prohibited except on a “need to know” basis in the following circumstances:
- to plan and provide assistance jointly with health and social services agencies in appropriate cases.
  - for the purpose of fraud detection, the prevention of crime, and the promotion of community safety.
  - to enable efficient administration of offers of re-housing, lettings, housing association nominations, and rent and benefit accountancy etc.
  - where disclosure is a legal requirement.

### **Access to Personal Files**

- 6.20 Housing applicants' rights to see what information is held on them on non computerised records is governed by the Data Protection Act 1998.
- 6.21 Under the Freedom of Information Act 2000 such requests must be made in writing, must state the applicants name and address for a response, and must describe the information requested.
- 6.22 Requests for access to records must be made in writing to the Director Housing Options, Skills and Economic Development. Subject to the above exceptions, applicants will be informed if any information is held and given the option to either view the records or have a copy provided within 40 days of the application. Photocopying costs will be charged at the Council's discretion.
- 6.23 Applicants have the right to challenge the information held on them and may request the correction of records which they believe to be inaccurate. If the Director Housing Options, Skills and Economic Development does not agree that the information is inaccurate or refuses access to the information, the applicant may request the matter to be reviewed by the Council. The request must be made within 28 days. The decision of the Council is final.

### **Data Protection**

- 6.24 Computer records are covered by the Data Protection Act 1998. This controls the use of computers in the collection, storage, processing and distribution of personal data.
- 6.25 The Act also gives rights to all individuals about whom information is recorded. These rights include the rights of access to the information and the right to challenge the accuracy of that information. The provisions and exceptions are similar to those for access to information held on personal files as set out above.
- 6.26 Requests for access to data must be made in writing to the Director Housing Options, Skills and Economic Development. Information will be provided within 40 days of the application. No fee is charged for this service.

## **Annexes 1 – Legal Framework**

### **1. 2011 Localism Act (Parts 6 and 7) s 145 Allocation of Accommodation**

<http://www.legislation.gov.uk/ukpga/2011/20/part/7/chapter/1/enacted>

s 146 Allocation only to eligible and qualifying persons: England

(1) In the Housing Act 1996 before section 160A insert—

“160ZA Allocation only to eligible and qualifying persons: England

(1) A local housing authority in England shall not allocate housing accommodation—

(a) to a person from abroad who is ineligible for an allocation of housing accommodation by virtue of subsection (2) or (4), or

(b) to two or more persons jointly if any of them is a person mentioned in paragraph (a).

(2) A person subject to immigration control within the meaning of the Asylum and Immigration Act 1996 is ineligible for an allocation of housing accommodation by a local housing authority in England unless he is of a class prescribed by regulations made by the Secretary of State.

(3) No person who is excluded from entitlement to housing benefit by section 115 of the Immigration and Asylum Act 1999 (exclusion from benefits) shall be included in any class prescribed under subsection (2).

(4) The Secretary of State may by regulations prescribe other classes of persons from abroad who are ineligible to be allocated housing accommodation by local housing authorities in England.

(5) Nothing in subsection (2) or (4) affects the eligibility of a person who falls within section 159(4B).

(6) Except as provided by subsection (1), a person may be allocated housing accommodation by a local housing authority in England (whether on his application or otherwise) if that person—

(a) is a qualifying person within the meaning of subsection (7), or

(b) is one of two or more persons who apply for accommodation jointly, and one or more of the other persons is a qualifying person within the meaning of subsection (7).

(7) Subject to subsections (2) and (4) and any regulations under subsection (8), a local housing authority may decide what classes of persons are, or are not, qualifying persons.

(8) The Secretary of State may by regulations—

(a) prescribe classes of persons who are, or are not, to be treated as qualifying persons by local housing authorities in England, and

(b) prescribe criteria that may not be used by local housing authorities in England in deciding what classes of persons are not qualifying persons.

(9) If a local housing authority in England decide that an applicant for housing accommodation—

(a) is ineligible for an allocation by them by virtue of subsection (2) or (4), or

(b) is not a qualifying person,

they shall notify the applicant of their decision and the grounds for it.

(10) That notice shall be given in writing and, if not received by the applicant, shall be treated as having been given if it is made available at the authority's office for a reasonable period for collection by him or on his behalf.

(11) A person who is not being treated as a qualifying person may (if he considers that he should be treated as a qualifying person) make a fresh application to the authority for an allocation of housing accommodation by them."

## **2. 1996 Housing Act (as amended by the 2002 Homelessness Act)**

1996 Housing Act <http://www.legislation.gov.uk/ukpga/1996/52/contents>

2002 Homelessness Act <http://www.legislation.gov.uk/ukpga/2002/7/contents>

## **3. Allocation of accommodation: (CLG) guidance for local housing authorities in England – Consultation (Dec 2011)**

<http://www.communities.gov.uk/publications/housing/allocationofaccommodation>

See Chapter 3 on Eligibility and Qualification.

**4. 2004 Housing Act - s223 Allocation of housing accommodation by local authorities**

In section 167(2)(d) of the Housing Act 1996 (c. 52) (people to whom preference is to be given in allocating housing accommodation) after “medical or welfare grounds” insert “(including grounds relating to a disability)”.

**R v Newham LBC 2009**

<http://www.publications.parliament.uk/pa/ld200809/ldjudgmt/jd090304/newh-1.htm>

## **Annex 2 - Sizes of Homes**

This annex sets out the size of a property a household successfully applying for home can expect. The Council will not offer a home that is larger or smaller than the identified need. In detail:

- The number of bedrooms you need depends upon the size of your family
- The chart shows the size of home that we consider you need
- A single parent is counted as a couple and an unborn baby beyond the first trimester is counted as a child
- Single people without children will usually be offered a studio/bedsit
- Two children of the opposite sex under ten will be expected to share a bedroom
- Council or Private Registered Provider (PRP) tenants 'trading down' from properties with three or more bedrooms may choose a property with one bedroom more than they need
- Some PRPs may have policies that vary from the bedroom requirements set out below.

| <b>Size Category</b> | <b>Size of Household</b>  | <b>Size of Property</b> |
|----------------------|---|-------------------------|
| 1                    | Single Person   | Studio / Bedsit         |
| 2                    | A couple without children   | 1 Bedroom               |
| 3                    | Two adults of the same sex and generation* for example, flat sharers, or two siblings                             | 2 Bedrooms              |
| 4                    | A couple expecting a child or with a child, including an adult son or daughter                                    | 2 Bedrooms              |
| 5                    | A couple with two children of the same sex  | 2 Bedrooms              |
| 6                    | Two adults of opposite sex who do not live as a couple, for example, brother and sister                           | 2 Bedrooms              |
| 7                    | A couple with two children of opposite sex and both under ten   | 2 Bedrooms              |
| 8                    | A couple with two children of opposite sex one of whom is over ten  | 3 Bedrooms              |
| 9                    | A couple with three children  | 3 Bedrooms              |
| 10                   | A couple with four children (all of the same sex or two of each sex)  | 3 Bedrooms              |
| 11                   | A couple with two children of the opposite sex under ten and one dependent relative (for example, widowed mother) | 3 Bedrooms              |
| 12                   | A couple with four children (three of one sex and one of the opposite sex)  | 4 Bedrooms              |
| 13                   | A couple with more than four children **  | 4 Bedrooms              |
| 14                   | A couple with three children and one dependent relative   | 4 Bedrooms              |

\* Less than 20 years apart but does not apply to parents/children

\*\* Accommodation needs greater than 4 bedrooms will be considered by the Housing Options Officer concerned and options considered and offered to the household. The officer concerned may suggest that the household size is reduced through adult children and/or non dependents household members being required to make their housing arrangements elsewhere. This may enable the officer concerned to make an offer (or offers) that can help meet the household's needs. Such a decision would need to be endorsed by a panel of senior housing managers

## **Annex 3 – COMMUNITY CONTRIBUTION: HOW PRIORITY IS AWARDED**

### **Community Contribution**

The Council believes that people who make a community contribution should have greater priority for accommodation allocated by the Council than those who do not.

The Community Contribution priority scheme is a Hammersmith & Fulham Council policy which gives an applicant increased priority for housing. Increased priority will be awarded to applicants who qualify under the community contribution criteria who also have reasonable preference and they will be placed in Band 2 by virtue of this award.

### **Community Contribution Awards – How they work in practice**

Applicants must meet at least one of the reasonable preference criteria in order to be considered for a community contribution award. They will also need to demonstrate a local connection.

1. No on-going culpable involvement in anti-social behaviour or criminal activities
2. No breaches of tenancy within the last 3 years
3. No outstanding lawfully recoverable housing-related debt over £100
4. Not have an outstanding unspent conviction

Increased priority for housing is given to those applicants who demonstrate a commitment to contribute to the Borough's economic growth as working households or who make a contribution by their contribution within communities. Applicants can access increased priority for housing in eight ways:

#### **1. Working Households**

This policy aims to support the economic growth of Hammersmith & Fulham.

We want to encourage people who can, to work and want to raise levels of aspiration and ambition. We will offer increased priority to applicants who are working but are on a low income and will therefore find difficulty in accessing outright home ownership or low cost home ownership. Applicants who have reasonable preference can receive increased priority to Band 2 by virtue of their "working" status.

#### **Definition of Working Households**

Households where at least one adult household member is in employment. For the purposes of this Allocations Policy employment is described as having a permanent contract, working as a temporary member of staff or being self-employed. Applicants will only qualify if the worker has been employed for 9 out of the last 12 months. Verification will be sought at point of application as well as point of offer under the same terms. Applicants must provide payslips, P60, bank statements or a verifying letter on headed paper in order to qualify.

## **2. Volunteering**

Volunteers must have been volunteering for a continuous period of at least 6 months up to the point of application and the same at point of offer. Volunteering must be for a not-for profit organisation that is recognised by the Council, or a charity that is registered with the Charity Commission or is funded by the Council or another local authority. Tenants and Residents Associations which are constituted are classified as not-for-profit organisations. They must be registered with Hammersmith & Fulham Council or a Private Registered Provider to qualify. Volunteering must be for a minimum of 20 hours per month. This will link to the Council's broader 'slivers of time' approach whereby residents build up equity through volunteering.

### **Evidence Required for voluntary work**

A letter on the organisation's headed paper from the manager responsible for volunteers confirming the applicant's involvement in a minimum of 20 hours per month of voluntary work for at least 6 months. This person must not be related to the applicant in any way.

## **3. Training or Education**

We want to encourage people to move closer to gaining paid employment by gaining employability skills and becoming job ready. This may be achieved by attending higher or further education or by accessing a longer vocational course of study or engaging in a programme of work-related training courses. In all cases the course of study must lead to achieving accredited qualifications and / or certification by a registered awarding body.

Study or training may be undertaken at a range of recognised institutions and organisations such as: Further Education College; registered Private Training Provider; registered Voluntary Sector Organisation or University.

To be eligible for the vocational training award a person must initially access a recognised Information, Advice and Guidance (IAG) service, such as *Next Steps* for Adults or *Connexions* for young people up to age 19 years to develop an agreed employment action plan and to be signposted to relevant training providers. Candidates must be working towards gaining employment in a vocational occupation.

A person must have been studying or training against the eligible criteria and definition outlined, for a continuous period of at least 6 months up to the point of application and the same at point of offer. Applicants eligible for out-of-work related benefits must also be registered with Job Centre Plus and accessing mainstream job brokerage provision, thus actively seeking work (this may not apply to full time students dependent on the hours they are studying). Training must be in addition to, or supplementary to any mandatory training required and may be undertaken in conjunction with volunteering to gain further knowledge and experience. Training must be a minimum of 10 hours a month.

Some people undertaking training are not actively seeking work. Where the benefits Agency can confirm that the applicant is not required to actively seek work because of their circumstances, for example they have caring responsibilities, their training can be recognised in this policy.

### **Evidence required for Training element**

Further/higher education candidates must supply evidence of:

- letter from college or university confirming participation in course of study for period of 6 months

For vocational training award the following evidence must be provided:

- an agreed employment action plan developed through a recognised IAG service plus verification of steps taken towards achievement of action plan targets
- certificate or letter from a registered awarding body for the course or by a recognised training provider as evidence of gaining a recognised vocational qualification or successfully completing accredited work-related training (over a continuous period of at least 6 months)

### **4. Ex Armed Service Personnel**

Applicants who have served in the British Armed Forces and lived in Hammersmith & Fulham for at least 6 months immediately prior to enlisting, will qualify for a community contribution award automatically, with the exception of those who have been dishonourably discharged. This includes people who have served in the Royal Navy, Royal Air Force and British Army.

Service with the armed forces will be confirmed with the Royal British Legion.

The Council intends to work with one or more housing organisations with experience of ex-service personnel issues in order to develop criteria and maximise housing options opportunities for ex service personnel.

### **5. Registered Foster Carers and Adopters**

We recognise the contribution that Hammersmith & Fulham foster carers and adopters make towards ensuring that children in Hammersmith & Fulham's care receive a good service. In order to qualify for a community contribution award under this policy, applicants will require a letter from the council's Children's Service confirming that they have been approved as a Hammersmith & Fulham foster carer and/or adopter and that they are in a position to take one or more placements. Any re-housing requirements will be dealt with on a case by case basis.

## **6. Carers**

Applicants who undertake formal care of dependents are in receipt of Disability Living Allowance (DLA) higher rate or carers allowance or care element DLA will qualify for the community contribution award under this policy.

## **7. People with disabilities and older residents**

Whilst many older people and those with disabilities work or volunteer, there may be circumstances in which frailty or a disability prevents this, or means that the full eligibility criteria set out above can not be met. Housing Officers will consider such cases on an individual basis and use their discretion to award a community contribution where they consider this is appropriate.

## **8. Young People**

Generally young people (applicants aged 25 and under) will be required to meet the full community contribution criteria outlined above. However housing needs officers will have discretion with regard to the length of time a young person has been in employment. In addition where a young person is able to participate in volunteering and is not in employment or training the number of hours per month required is 20 hours.

### ***Young people referred by Children's Services***

In some circumstances a young person in supported housing may not have a full current positive residence history. Where the scheme manager is satisfied that the young person is not in breach of their tenancy agreement or licence and is complying with the conditions of the tenancy, Housing Officers will consider such cases on an individual basis and use their discretion to award a community contribution where they consider this is appropriate.

Where a young person has been referred by Children's Services the following will qualify for community contribution award:

- Firm offer and proof of acceptance onto formal study or training as set out in paragraph 3 above
- In employment
- Volunteering for 20 hours per month. Volunteering defined in paragraph 2 above

| <b>ANNEX 4 – HAMMERSMITH &amp; FULHAM HOUSING BANDS Band 1: Urgent Need to Move due to Reasonable Preference PLUS additional priority AND a local connection</b> |   |
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| <b>Summary Guide of Criteria *</b>   |   |
| <p>Emergency medical or disability<br/>Reasonable preference category S.167(2)(d)</p>  | <ul style="list-style-type: none"> <li>• Where an applicant’s condition is expected to be terminal within a period of twelve months and re-housing is required to provide a basis for the provision of suitable care.</li> <li>• The condition is life threatening and the applicant’s existing accommodation is a major contributory factor.</li> <li>• The applicant’s health is so severely affected by the accommodation that it is likely to become life threatening.</li> <br/> <li>• The applicant is unable to mobilise adequately in their accommodation and requires re-housing into accommodation suitable for their use.</li> <li>• The applicant’s accommodation is directly contributing to the deterioration of the applicant’s health such as severe chest condition requiring intermittent hospitalisation as a result of chronic dampness in the accommodation and the condition of the property cannot be resolved within a reasonable period of time – usually 6 months.</li> <li>• Where overcrowding in the property leaves the applicant at risk of life threatening infection.</li> </ul> |
| <p>Exceptional Circumstances Welfare and Hardship Criteria<br/>Reasonable preference category S.167(2)(e)</p>  | <ul style="list-style-type: none"> <li>• Emergency need to move determined by the Council and authorised by the Director Housing Options, Skills and Economic Development or equivalent.</li> </ul>   |
| <p>Exceptional need to move<br/>Reasonable preference category S.167(2)(e)</p>   | <ul style="list-style-type: none"> <li>• Applicants who need to move due to domestic abuse, extreme violence or extreme harassment.</li> <li>• Extreme violence or harassment will be verified by the Police and/or other agencies as necessary. This may include where a move is necessary to protect a witness to criminal acts.</li> <li>• Agreed in exceptional circumstances due to significant problems associated with the tenant’s occupation of a dwelling in the social or private rented sector and there is a high risk to the tenant or their family’s safety if they remain in the dwelling/area. For social housing tenants transfers will be to properties of the same size or smaller if they are under-occupying and type where required, but locations or areas are likely to change.</li> </ul>   |
| <p>Disability need to move on hardship grounds<br/>Reasonable preference category S.167(2)(d)</p>  | <ul style="list-style-type: none"> <li>• This is any applicant who needs to move to suitable adapted accommodation because of a serious injury, medical condition or disability which he or she, or a member of their household, has sustained as a result of service in the Armed Forces</li> </ul>  |

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| <p>Release of adapted property<br/>Reasonable preference category S.167(2)(e)</p>   | <ul style="list-style-type: none"> <li>• Where a tenant is willing to transfer to a suitable non adapted property and is releasing an adapted house or designated older persons property.</li> </ul>  |
| <p>Statutory Overcrowded<br/>Reasonable preference category S.167(2)(c)</p>   | <ul style="list-style-type: none"> <li>• Tenants who are statutorily overcrowded and who require at least two additional bedrooms.</li> </ul>   |
| <p>Acute Overcrowding<br/>Reasonable preference category S.167(2)(c)</p>  | <ul style="list-style-type: none"> <li>• Where a household is 3 bedrooms short of the bedroom standard outlined in Annex 3.</li> </ul>  |
| <p>Private sector properties unsanitary or unfit.<br/>Those living in unsanitary conditions where the conditions pose an ongoing and serious threat to health;<br/>Reasonable preference category S.167(2)(c)</p> | <ul style="list-style-type: none"> <li>• Private sector tenants and residents of dwellings that the Council's Private Sector Housing Team has determined that the property poses a category 1 hazard under the Health and Safety fitness rating and the Council are satisfied that the problem cannot be resolved by the landlord within 6 months and as a result continuing to occupy the accommodation will pose a considerable risk to the applicant's health. This includes a property that has severe damp, major structural defects including subsidence, flooding, collapse of roof, or have living conditions which are a statutory nuisance, and there is no prospect of the problems being remedied within a 6 month time period.</li> <li>• A private sector property either owned or rented where a statutory notice has been issued by the environmental health department that an unfit property is to be demolished under the Housing Act 2004.</li> </ul> |
| <p>Under-occupation<br/>Reasonable preference category S.167(2)(e)</p>  | <ul style="list-style-type: none"> <li>• Where a Council tenant will release a home with two or more bedrooms by moving to a property with fewer bedrooms than they currently have.</li> <li>Where a Private Registered Provider (normally a housing association) tenant who will release a home with two or more bedrooms are eligible if their landlord agrees that the vacated property can be used for a nomination by the Council</li> </ul>   |
| <p>Major works or demolition<br/>Reasonable preference category S.167(2)(c)</p>   | <ul style="list-style-type: none"> <li>• Where a council tenant has to move either temporarily or permanently whilst major works are undertaken or where their home is due to be demolished</li> </ul>  |
| <p>Foster carers referred by the Council's Children's Service<br/>Reasonable preference category 167(2) (d) or (e)</p>  | <ul style="list-style-type: none"> <li>• Foster carers approved by the Council whose housing prevents them from being able to start, or continue, to provide foster care.</li> </ul>  |

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| <b>Band 2 Need to move – Reasonable Preference AND a Local Connection AND a Community Contribution</b>                        |  |
| <b>Summary of Criteria *</b>  |  |
| Homeless Households owed a full homeless duty under section 193(2) or 195(2).<br>Reasonable Preference categories s167(2) (b) | <ul style="list-style-type: none"> <li>• People who are owed a duty under section 193 (2) Or 195 (2) of the 1996 Act (or under section 65 (2) or 68(2) of the Housing Act 1985) - This means households who are homeless or threatened with homelessness, eligible and in priority need</li> <li>• Note for cases owed a full homeless duty by any other Council they will receive a reduced preference for not having a local connection to Hammersmith &amp; Fulham Council (until they acquire a local connection with the borough).</li> </ul>   |
| Overcrowded by the Bedroom standard.<br>Reasonable Preference category s167(2)(c)   | Where a household is 2 bedrooms short of the bedroom standard outlined in Annex 2.   |
| Applicants living in unsatisfactory housing lacking basic facilities.<br>Reasonable Preference category s167(2)(c)            | <p>Applicants without access at all to any of the following facilities. No access to:</p> <ul style="list-style-type: none"> <li>• a bathroom or kitchen</li> <li>• an inside WC</li> <li>• hot or cold water supplies, electricity, gas or adequate heating</li> </ul> <p>Applicants who occupy a private property which is in disrepair or is unfit for occupation and is subject to a Prohibition Order and recovery of the premises is required in order to comply with the Order as defined by Section 33 of the Housing Act 2004.</p> <p>Applicants who only have access to shared facilities in shared accommodation will not qualify under these criteria.</p> |
| Medical grounds<br>Reasonable Preference category s167(2)(d)  | Where an applicant's housing is unsuitable for severe medical reasons or due to their disability, but who are not housebound or whose life is not at risk due to their current housing, but whose housing conditions directly contribute to causing serious ill-health.  |

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| Hardship or welfare need to move for care or support<br>Reasonable Preference category s167(2) (c) and (d) | Those who need to move to give or receive care that is substantial and ongoing.<br>Those who need to access social services facilities, and are unable to travel across the Borough. |
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| Those who need to take up (or continue) employment, education or a training opportunity that is not available elsewhere and who do not live within reasonable commuting distance. |   |
| Housing need due to age<br>Reasonable Preference category s167(2)(d)  | Older or disabled applicants seeking Retirement or Extra Care or Sheltered housing  |
| Ready to move on from Council accredited supported care schemes<br>Reasonable Preference category s167(2)(c)  | An applicant is ready to move to independent settled housing on the recommendation of the support worker or equivalent.<br>The applicant is in need of medium to long term rather than short term ongoing tenancy support.<br>That support package has been assessed and is in place.   |
| Move on from Care<br>Reasonable Preference category s167(2)(c)  | A care leaver is ready to move to independent settled housing and is genuinely prepared for a move to independent living.<br>They possess the life skills to manage a tenancy including managing a rent account.<br>The care leaver is in need of either a long term or medium term tenancy support.<br>That support package has been assessed and is in place. |
| Discretionary Succession  | Where the Council has agreed to grant a tenancy under clause 3.24 of this policy.   |
| Existing Foster carers approved by the Council willing to provide care for an additional child<br>Reasonable preference category 167(2) (d) or (e)                                | Where a Foster carer already providing a home for at least one foster child offers to provide care for an additional foster child   |

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| <b>Band 3 : Need to move – Reasonable Preference AND a Local Connection BUT no Community Contribution</b>  |
| <b>Summary of Criteria *</b>   |
| Applicants in this Band will have the same element of housing need / Reasonable Preference as those applicants in Band 2 BUT will not have the Community Contribution Award given, enabling the applicant to be moved into Band 2. |

\* This summary guide of criteria does not represent an exhaustive list of all applicants entitled to reasonable preference

| <b>Band 4: Reduced Priority : Need to Move - Reasonable Preference but with Reduced Priority</b>   |  |
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| <b>Summary of Criteria *</b>   |  |
| <p>Applicants owed Reasonable Preference but who have been given reduced priority as they do not have a local connection but are owed, or are likely to be owed, the main homelessness duty under Housing Act 1996 Part VII 193(2)</p> | <p>Customers in this band have reduced preference and are extremely unlikely to be offered social housing but may be offered assistance to find a home in the private rented sector.</p> |

\* This summary guide of criteria does not represent an exhaustive list of all applicants entitled to reasonable preference