



# Housing Allocations Policy

2025 - 2030



**Lewes District Council**

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# 1. INTRODUCTION

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In Lewes, the demand for social housing is very much greater than the number of homes available. There are simply not enough social homes for everyone on the housing register. This Allocation Scheme describes how the council prioritises housing applicants to ensure those in greatest housing need, as described by the legal definition of Reasonable Preference, are given a head start to access available social housing

This document is the Housing Allocation Scheme for Lewes District Council.

This document describes the criteria and procedure that the Council use to prioritise housing applicants for the social housing that we allocate to, i.e., homes owned by Lewes Council, and a proportion of homes owned by Registered Providers (commonly called housing associations) in the District, to which we make nominations.

The Council's Allocation Scheme sets out in detail who is and who is not assisted under the Scheme and how this is decided. It also sets out how to apply for housing. The Scheme is designed to meet all legal requirements and to support and

contribute towards the council's wider objectives such as promoting mixed communities

Social housing properties in Lewes will be allocated through matching the property to the most suitable applicant. The system will be supported by a housing options approach, giving applicants realistic advice and promoting other housing options, such as low-cost home ownership options and private sector renting.

The key objectives of this Allocation Scheme are to:

- meet the legal requirements placed on the council to give appropriate priority to applicants who fall under the Housing Act "reasonable preference groups". This is to ensure that social rented housing is let to those in greatest need
- provide a fair and transparent system by which people are prioritised for social housing
- promote the development of sustainable mixed communities
- make efficient use of our resources and those of the private registered providers with social housing stock in the Lewes area.

# 2. LEGAL AND POLICY CONTEXT

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## 2.1 THE LEGAL FRAMEWORK

Lewes Council's Allocation Scheme sits within a legal framework that is summarised in this section. The 1996 Housing Act (as amended by the 2002 Homelessness Act) requires local authorities to make all allocations and nominations in accordance with an Allocation Scheme. A summary of the Allocation Scheme must be published and made available free of charge to any person who asks for a copy. This document is available on the council's web site:

<https://democracy.lewes-eastbourne.gov.uk/documents/s6277/housing%20allocations%20policy%20kd%20-%20appendix%20b.pdf>

The Housing Act 1996, (as amended) requires councils to give 'Reasonable Preference' in their Allocation Schemes to people with high levels of assessed housing need who are defined under the legislation as:

- all homeless people as defined in Part VII of the Housing Act 1996
- people who are owed a specific homeless duty under Sections 189B, 190 (2), 193 (2), or 195 of the Housing Act 1996 (or under Sections 65 (2) or 68(2) of the Housing Act 1985)
- People occupying insanitary, overcrowded or otherwise unsatisfactory housing
- people who need to move on medical or welfare grounds (including grounds relating to a disability)
- people who need to move to a particular locality within the district to avoid hardship to themselves or others
- people serving in the armed forces and suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service

- people who have formerly served in the armed forces, where the application is made within five years of discharge
- people who have recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner who has served in the armed forces and whose death was attributable (wholly or partly) to that service; or
- people serving or have served in the reserve forces and are suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service.

The Housing Act 1996 also requires councils to state within their Allocation Scheme their position on offering applicants a choice of housing accommodation or offering them the opportunity to express a preference about the housing accommodation to be allocated to them. Our policy on expressing preference when applying to the register is described in section 4.3 of this Scheme.

In developing the Scheme, regard has been had to the law and regulatory requirements, including:

- The Housing Act 1996, Part 6 as amended by Localism Act 2011 (England)
- The Housing Act 1996, Part 7 as amended by the Homelessness Reduction Act 2017
- Allocation of Accommodation: Guidance for Local housing Authorities in England (2012, DCLG) "the Code"
- Providing social housing for local people: Statutory guidance on social housing allocations for local authorities in England (DCLG, December 2013) "Supplementary Code"
- Allocation of Housing (Procedure) Regulations 1997, SI 1997/483 Allocation of Housing (England) Regulations 2002, SI 2002/3264

- Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006, SI 2006/1294 and all subsequent amendments
- Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012, SI 2012/1869
- Housing Act 1996 (Additional Preference for Armed Forces) (England) Regulations 2012, SI 2012/2989
- The Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015
- 'The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) (EU Exit) Regulations 2019 (SI 2019/861)'
- Equality Act 2010
- Data Protection Act 2018
- UK-GDPR (General Data Protection Regulation) 2021
- Care Act 2014
- Human Rights Act 1998
- Domestic Abuse Act 2021; and
- Children and Social Work Act 2017

In framing the Allocation Scheme, regard has also been had to the current Lewes Council Housing Strategy 2020-24 and the Homelessness and Rough Sleeping Strategy 2022-2027, the Tenancy Strategy 2021-2024, and relevant caselaw.

All references to statutory materials are by way of summary and are not used as substitutes for the details within the original.

The council will provide an electronic copy of this Scheme to anyone who asks for one. Copies in alternative formats will be considered on an individual basis. The whole of this Scheme is available for inspection by any person at the principal office of the council if someone is unable to access the Scheme online.

Any provision in this Scheme may be waived in exceptional circumstances at the discretion of the lead officer responsible for the housing services. The reasons why a provision has been waived will be documented.

This is the revised Housing Allocation Scheme for Lewes Council and will take effect on or after *insert date here when the Scheme has been approved and an*

*implementation date has been agreed.* The assessment of need and qualifying criteria set out in the Scheme will be applied to all new and existing applicants from this date.

## 2.2 HOW THIS POLICY WAS DEVELOPED

This policy was developed following extensive data analysis and via a full public consultation with Lewes Council Residents, tenant panels, Council Members and staff, corporate and professional partners of the council and area forums. Following consultation, the policy was approved by Cabinet *on [insert DATE]*

## 2.3 DELEGATED AUTHORITY- MAKING CHANGES TO THE POLICY

The Scheme will be reviewed and revised as required:

- in response to any national policy or legislative changes; or
- in response to any policy changes instigated by the council; or
- to reflect the requirements of any new leading and relevant case law.

To enable this Housing Allocations Policy to operate fairly and within the law, the Head of Housing in consultation with the Cabinet Member for Housing is able to approve minor amendments to the scheme. Minor amendments to the scheme are those which do not significantly change existing policy or procedures and/or affect a small number of lettings or applicants

For changes to the operating procedures decisions will be delegated to the Head of Homes First.

Any significant changes to this Scheme will be approved by the council's Cabinet. Any major change to the Scheme can only be made after a copy of the proposed amendments have been consulted on by sending this Scheme to every Private Registered Provider operating in the Lewes area. This is a requirement under Section s166A (13) Housing Act 1996.

The council will take any steps as it considers reasonable (for example, by making contact via email,

telephone, or letter, or by placing a notification on a council's website, or via another suitable form of communication), within a reasonable period of time, to bring to the attention of applicants likely to be affected by:

- any alterations made to this Scheme
- any subsequent alteration to this Scheme that would affect the relative priority of a large number of applicants; or
- any significant alteration to any associated procedures for administering this Scheme.

Where a full review of the Scheme is undertaken, the council will normally adopt local government good practice guidelines and undertake a broad consultation that includes relevant statutory and voluntary sector organisations, tenant representatives, and applicants to the scheme.

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# 3. WHO CAN APPLY TO THE HOUSING REGISTER

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## 3.1 WHO CAN APPLY TO JOIN THE HOUSING REGISTER?

Applications for our housing register are welcome from those who are:

- a) Over the age of 16 years
- b) Eligible for housing services (*see section 3.2*)
- c) In housing need
- d) Have a local connection to Lewes District Council
- e) Do not fall within any of the disqualification criteria set out in this scheme
- f) Not currently named on someone else's housing register application
- g) Their current address is their sole residence

If an applicant is under 18 years of age, they will not normally be offered a property. If in exceptional circumstances a person who is 16 or 17 is granted a tenancy, this will normally be held in trust until they reach the age of 18. This means that another suitable person (such as a parent, legal guardian, social worker, or relative) will normally be responsible for the tenancy.

## 3.2 THE ELIGIBILITY RULES

Some groups of people cannot by law join the Housing Needs Register regardless of their housing need or circumstances. These are people who:

- come under a government rule which means they cannot lawfully access social housing as they are not eligible
- do not live habitually in the 'Common Travel Area' (UK, Channel Islands, the Isle of Man or the Republic of Ireland)
- do not have the right to live in the UK; or
- Fall under other categories of people who the Government may in the future decide are not eligible for housing assistance.

The key relevant regulations that apply to eligibility are:

- Regulations 3 and 4 Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006, SI 2006/1294
- all subsequent amendments including 'The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) (EU Exit) Regulations 2019 (SI 2019/861)
- The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2020 (SI 2020/667) implemented from the 24 August 2020.

The above is not a complete list of all the eligibility regulations. For example, there is significant legislation that relates to the UK's exit from the European Union and the implications for accessing housing assistance. These rules are complicated. Anyone who is impacted, or believes they may be impacted, can approach the council for advice, or can seek independent legal advice.

### 3.3 LOCAL CONNECTION

To qualify for the Housing Register an applicant (or the applicant's partner) must be currently resident in the district and lived in the district continuously for a minimum of 2 years.

For the purposes of determining a connection for residence, the council will accept the following circumstances as demonstrating 'normal residence':

- residency in a non-traditional dwelling, such as a mobile home that is placed on a residential site, or an official pitch
- people who are forced to sleep rough in the Lewes area as long as overall, they meet the 2-year period for residency.

Once registered, an applicant must continue to meet the residential connection qualification rule. If the applicant no longer meets this rule, they will be removed from the Housing Register as they will no longer qualify for inclusion.

People in the following categories will not normally be considered as having a residential connection:

- households applying for housing through this Allocation Scheme still owed any homelessness duty by any other local housing authority under the Housing Act 1996 Part 7 will be regarded as non-qualifying persons regardless of whether they have been placed in the Lewes area or not. This is because that other local authority retains the responsibility for re-housing whether under Section 193 or any other duty by which the other local authority retains responsibility for their accommodation
- those placed in the district of Lewes in any form of supported housing by another local authority
- secure or flexible tenants of other councils or tenants of any Private Registered Provider located in another council area; and/or
- those who do not meet the residential criteria but who have family members in this district, or who are employed in the district unless the Council agree there are exceptional circumstances.
- Persons who have been detained in the local authority area (e.g., in prison or hospital), will not be able to establish a local connection for residence in this form of accommodation as this does not

constitute being resident in the Lewes area by choice.

#### *Local Connection Definition to Rural and Town Properties*

With the exception of Lewes, Peacehaven, Newhaven, Seaford and the larger areas of Telscombe Cliffs, Saltdean and Rottingdean, all other parishes within the Lewes District are designated as rural.

For properties in both town parish and rural parish areas, applicants must qualify for inclusion on the Housing Register under the Local Connection as defined above before they can be considered under the Local Connection Definition for a specific town or parish.

Applicants who have a local connection to a specific parish or town must provide information, and proof where applicable, as to why they have a Parish Local Connection with that particular area.

When properties are advertised, preference will be given to applicants with a local connection in priority order as follows:

1. They live within the parish or town area at an address registered for Council Tax
2. They have permanent employment within the designated area
3. They have a close relative(s) i.e.: Mother, Father, Children or Siblings who have resided in the specific parish or town area for a minimum of five years with whom they have maintained regular contact.

Where other legal covenants are in existence, such as a planning Section 106 agreement, they will take precedence over the allocation policy. For example, only applicants with a local connection to the rural property advertised will be considered inclusive of all Bands in the case of a rural exception site.

#### *Allocation of Town and Rural Properties*

Lewes District Council aims to encourage and promote the sustainability of rural areas, proactively working in partnership with Parish Councils. The Council will allocate rural parish or town properties in the following order to ensure housing need and local connection are equally prioritised and balanced.



1. We will look for a rural parish or town connection to the advertised property through Bands A, B then C.
2. If no applicants through Bands A, B or C have a rural parish or town connection to the specific property being advertised, we will expand the radius to consider all applicants through Bands A, B then C who have a connection to an immediately neighbouring rural parish or town areas, and then expand the search radius again to the next areas as needed, until a suitable applicant is identified.
3. If no applicants through Bands A, B and C have any rural connection, the property will be allocated to the highest priority case with no rural connection.
  - b) partners where the applicant is currently cohabiting with a member of the same or opposite sex
  - c) children who reside with and are dependent upon the applicant. Children are defined as under 18 for these purposes
  - d) any other household member such as an adult child where it is accepted that:
    - they have been part of the applicant's household for a period of 12 months prior to their application to the council; and
    - they reside with the applicant as part of their household,
    - and the applicant will also need to demonstrate that this is not a short term or temporary arrangement.

### 3.4 WHO CAN BE INCLUDED AS PART OF THE APPLICATION

Joint applications may be accepted and will be treated as one application. The housing need of the full household will be considered in assessing housing need.

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.

Applicants should only include persons on their application who are a permanent member of their household and who will be occupying the accommodation offered as their only or principal home.

People who usually live with the applicant but are temporarily absent (for example, they are in prison on a short-term sentence, or in the care of any local authority, staying in hospital, or undertaking a college or university course), may be considered as a usual household member at the discretion of the council and depending on the facts presented.

Specifically, a person's housing application can include the following household members:

- a) spouses or civil partners where the applicant lives with and/or intends to live with their spouse or civil partner

Family members who do not currently reside in the UK cannot be added to a Housing Needs Register application.

The council may 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.

The council may decide to carry out a visit to each applicant's residence if their priority is sufficient for an allocation of housing under this Scheme. If a visit is carried out it will include an inspection of the accommodation and facilities and are normally, but not necessarily, arranged by appointment.

Joint tenancies are normally granted by the council or a Private Registered Provider where applicants have a long-term commitment, for example, married, or unmarried couples, or civil partners. See the councils Current Tenancy Policy for further details. This decision is for the council or relevant Private Registered Provider offering accommodation, who will decide whether to allow a joint tenancy depending on the circumstances, in accordance with our current tenancy policy.

For households with access to children through a Child Arrangement Order, the council will adopt the test set out in Section 189(1)(b) of Part 7 of the Housing Act 1996 to decide whether any child both lives with and is dependent on the applicant. Unless this test is passed an applicant will only be able to be considered for the size of accommodation relevant to their circumstances.

For households eligible to be rehoused only because of the housing need of the restricted persons, the council

has a duty to arrange as far as practicable, an assured shorthold tenancy with a private landlord.

If the main applicant is eligible and not subject to immigration control, non-eligible dependent children and other dependent family members will be taken into account when deciding the size of accommodation that the household is entitled to.

### 3.5 APPLICATIONS FROM EXISTING HOUSING TENANTS

When a tenant seeks a transfer and joins the housing register, they will receive a moving out inspection from a surveyor. During that visit they may be advised that they need to complete certain works to their home.

The works required must specifically relate to a breach of tenancy, such as deliberate damage to their home, unpermitted alterations, accumulations of rubbish. The works required, and why they are in breach of their tenancy agreement, must be clearly explained to the tenant.

We may decide to suspend the tenant from the housing register until works are completed. If they are suspended from the register, once works are completed, they can rejoin the register retaining their original date position. If they are not suspended from the register but do not complete the necessary works before moving, we will re-charge them to carry out the works

### 3.6 DISQUALIFICATION FROM THE REGISTER

Under Section 160ZA(7) of the Housing Act 1996 Part 6 a council is allowed to set criteria for classes of persons who are, or are not, qualifying persons. The following classes of person will not normally qualify for the Housing Needs Register.

1. Applicants without a residential connection to the Lewes Area
2. Applicants who do not have a housing need
3. Unacceptable behaviour
4. Applicants who are registered on another councils housing register
5. Applicants with sufficient financial resources

6. Applicants who own a home
7. Applicants with arrears or housing related debts
8. An applicant, or a member of their household, that has a current (unspent) conviction for drug dealing
9. Applicants making a false or misleading statement, withholding relevant information, or failing to inform the council of any material change in circumstances
10. Applicants who have refused two suitable offers of social housing
11. Introductory tenants

Where there are exceptions to these rules, these are set out in the relevant further details section below. There is a discretion to waive a rule in exceptional circumstances, as approved by the Head of Homes First or the Housing Options and Wellbeing Lead (see section 2.4 for details for how the Council will consider exercising discretion).

#### DISQUALIFYING CRITERIA 1: APPLICANTS WITHOUT A RESIDENTIAL CONNECTION TO LEWES BOROUGH AREA

To qualify for the Housing Register an applicant (or the applicant's partner) must be currently resident in the district and lived in the district continuously for a minimum of 2 years (*see section 3.3*).

Once registered, an applicant must continue to meet the residential connection qualification rule. If the applicant no longer meets this rule, they will be removed from the Housing Register as they will no longer qualify for inclusion.

#### *Exemptions to the residential connection rule.*

There are several exemptions to the residential requirements. These are:

- a) Where Lewes Council agrees there are very exceptional circumstances requiring a move into the area. This will be decided on a case-by-case basis. Examples where exceptional circumstances may be considered on a case-by-case basis include:

- I. reasons of safety, for example when an applicant is fleeing domestic abuse or hate crime from another area; or
  - II. an applicant is on a witness protection program and the council has agreed that a move to Lewes is essential; or
  - III. where the council agrees there is a very exceptional need to live in the Lewes area to provide or receive essential support.
- b) An applicant owed a main section 193 duty by Lewes Council. However, the other homelessness duties for example a prevention or relief duty owed by the Council do not qualify as an exemption to the 2-year residency rule.
  - c) Households placed in accommodation outside of the district by the council in meeting its statutory duties will also have a residential connection as long as they fulfil the 2-year residential connection. The time spent placed by Lewes in temporary accommodation outside the district will count towards time spent in Lewes
  - d) An application from a Gypsy or Traveller household where the applicant may not fully meet the 2-year continuous period of residence rule, if that period has been broken by travelling. The facts of each case will be considered when deciding whether the rule should be waived, and the applicant must have spent the majority of the last 2 years residing in Lewes.
  - e) A young person owed leaving care duties under Section 23C of the Children's Act 1989, looked after by East Sussex Council will be considered to have automatically established a local connection to Lewes until they reach the age of 21 (when this duty will cease, or 25 if they are pursuing a program of education agreed in their pathway plan).
  - f) A young person who has been provided with accommodation under Section 22A of the Children Act 1989 (provision of accommodation for children in care) who has resided in Lewes for a continuous period of at least two years will be considered to have established a local connection to Lewes even if some of that period accrued before that person turned 16 years old.
  - g) Applicants who satisfy the 'Right to Move' criteria. The Allocation of Housing (Qualification Criteria for

Right to Move) Regulations 2015 state that local connection qualification rules must not be applied to existing social tenants who seek to move from another council district in England, and who have a need to move for work related reasons to avoid hardship. However, under this Allocation Scheme, Lewes Council will limit these moves to no more than 1% of all lettings per year. (See annex 4 for details of how the 'Right to Move' criteria will be applied.)

- h) Where, at the date of application, the applicant is not currently resident in Lewes whilst:
  - I. receiving medical or respite care; or
  - II. serving a custodial sentence

In these circumstances the applicant must have been living in Lewes for 2 continuous years prior to their current circumstances.

- i) Applicants who satisfy the Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012 Amended 2024. These are:
  - I. applicants who are serving members of the regular armed forces
  - II. applicants who previously served in the regular armed forces.
  - III. applicants who are serving or former serving members of the regular armed forces or reserve forces who suffer from a serious injury, illness or disability sustained as a result of their service
  - IV. applicants who are a bereaved spouse/civil partner of a former serving member of the regular armed forces and have recently ceased (or will soon cease) to be entitled to reside in services accommodation following the death of their spouse/civil partner; or
  - V. the divorced or separated ex-spouse of a member of HM Armed Forces, who is currently serving or going through resettlement, will be exempt from the local connection criteria for a period of six months following the divorce or separation

## DISQUALIFYING CRITERIA 2: NO HOUSING NEED

Applicants must be in housing need in order to qualify for the Housing Register. Applicants who do not meet the housing need criteria for an award of a band A-C will not be admitted to the Housing Register.

### *Exemptions to the housing need criteria*

There is an exception to this rule for applicants who are not homeowners over the age of 50 without an assessed housing need and would qualify for an age restricted property. The exception is because the evidence is that a number of older applicants are able to receive an offer of older person housing or age restricted housing as there is a greater availability for this type of housing.

Applicants who qualify under this exemption will only be considered for age restricted properties and not general needs properties. For homeowners there are some exceptions where an applicant who is 50 or over and a homeowner may be allowed to qualify for the housing register (see non qualification rule 5 below).

## DISQUALIFYING CRITERIA 3: UNACCEPTABLE BEHAVIOUR

Applicants whose anti-social behaviour (ASB) is serious enough to make them unsuitable to be a tenant, including current council tenants, will not qualify for the housing register.

The non-qualification rule for unacceptable behaviour will apply where an applicant, or any member of their household, has demonstrated serious unacceptable behaviour that, in the view of the council, makes them at the time of their application, or since their application, unsuitable to be a tenant.

The unacceptable behaviour disqualification rule will also apply to applicants currently on the Housing Register. An applicant's eligibility to remain on the Housing Register will be kept under review and an applicant may be rendered ineligible should the council be satisfied that the rule relating to unacceptable behaviour should be applied to their case.

Examples of unacceptable behaviour that may result in a decision that an applicant will not qualify to join the housing register include:

- a) they or a member of their household has committed anti-social behaviour in or around the vicinity of their home that has resulted in a CPN, CPO, injunction or other legal deterrent being issued within the past five years.
- b) they or a member of their household have a conviction for using their accommodation, or allowing it to be used, for illegal or immoral purposes such as drug dealing, within the past five years.
- c) they have been evicted from a tenancy by a social or private landlord for a breach of tenancy conditions, including non-payment of rent, within the past five years.
- d) failing to maintain any previous social rented or private rented property within the terms of their tenancy agreement or committing acts causing or likely to cause nuisance or annoyance to neighbours or others in the area where they live or have previously lived.
- e) conduct likely to cause nuisance or annoyance if they were to be offered a tenancy. This is conduct or behaviour that does not only relate to a previous social housing or private rented sector tenancy. It may include the circumstances where an applicant, or a member of their current or prospective household, is the subject of actions being taken by any council (or some other recognised body) on grounds of alleged ASB
- f) circumstances where the applicant, or any member of their household, has assaulted a member of the council's staff, whether or not an injunction is being sought, or has been obtained.
- g) being subject to a court order (including an interim order) for breach of tenancy conditions.
- h) conviction for illegal or immoral use of their current or former home.
- i) causing nuisance and annoyance to neighbours or visitors.
- j) committing criminal offences that still pose a threat to neighbours or the community such as drug dealing.
- k) being violent towards a partner or members of the family.
- l) allowing the condition of the property to deteriorate in avoidable circumstances.
- m) paying money illegally to obtain a tenancy.

- n) unlawfully subletting their tenancy.
- o) applicants who have been convicted of housing or welfare benefit related fraud, where that conviction is unspent under the Rehabilitation Offenders Act 1974.
- p) having unspent convictions where an assessment by the Council concludes that the applicant is unsuitable to be a tenant due to a significant risk to potential neighbours and/or communities.
- q) an applicant or any member of their household has been responsible for any racial harassment or other hate crime. 'Racial harassment' and 'hate crimes' are defined as racist, religiously aggravated, faith, gender, age, disability, and trans phobic or homophobic or gender re-assignment harassment or hate crime. A hate crime or racist incident is defined as any incident which is perceived to be racist or hate crime related by the complainant or any other person.

- there must be reasonable grounds for believing that the behaviour could continue or be repeated. For example, the applicant may have issued threats, or there might be a history of repeat offending.

When assessing whether behaviour may result in the applicant not qualifying the assessing officer will consider:

- a) the seriousness of the applicant's behaviour.
- b) the duration of the behaviour and/or the number and frequency of incidents.
- c) the length of time that has elapsed since the behaviour took place.
- d) any relevant vulnerability or support needs that may explain the behaviour.
- e) whether there is meaningful engagement with support agencies.
- f) critically, whether there has been a significant and sustained change in the applicant's behaviour.
- g) whether they believe on the evidence that the behaviour is likely to still reoccur now or at the point a tenancy was offered or commenced.
- h) whether the circumstances that caused the behaviour have changed. For example, whether nuisance was caused by drug or alcohol problems that the applicant has since successfully resolved.
- i) whether the member of the household responsible for the behaviour is still a member of the household.
- j) whether the council can accept any assurances from the applicant as to future behaviour and is signed up to an agreement setting out the behaviour that is expected of them.
- k) if the unacceptable behaviour is believed to be due to physical, mental or learning difficulties, whether, with appropriate support, the applicant could maintain a tenancy.

The assessing officer will be guided by the following framework when assessing whether an applicant should not qualify based on their unacceptable behaviour:

- Behaviour which can be regarded as unacceptable for these purposes includes behaviour by the Applicant or by a member of their household that would – if the Applicant had been a Council tenant at the time – have entitled the Council to a possession order under certain Grounds contained in the Housing Act 1985.
- The behaviour need not have led to possession, prosecution, or other enforcement action by a statutory agency if they had been a tenant, provided that, on the balance of probability, the household is responsible.
- There is no need for the Applicant to have actually been a Council tenant when the unacceptable behaviour occurred. The test is whether the behaviour would have entitled the Council to a possession order if, whether actually or notionally, the Applicant had been a secure tenant.
- in normal circumstances the behaviour concerned should have occurred within the last five years. In cases of a more serious nature, for example, those involving criminal prosecution, a longer timescale may be appropriate if the applicant still poses a threat to neighbours and community.

Applicants to whom the rule is applied will be written to and informed that:

- the unacceptable behaviour rule has been applied to their case and they do not qualify until the behaviour has been resolved.
- what they must do to resolve the problem, and

- they have a right to ask for a review of the decision made to disqualify them.

Non-qualification will apply until the applicant (or a member of their prospective household) has demonstrated, to the satisfaction of the council, their previous unacceptable conduct is unlikely to reoccur. This may include demonstrating cooperation with support agencies leading to a substantial improvement in behaviour.

Where an applicant is disqualified, any new application will only be reconsidered at the request of the applicant and only where there has been no reasonable cause for complaint or concern against the applicant (or members of their prospective household) for a continuous period of 12 months. It is the applicant's responsibility to notify the council when they have, in their view, resolved the issue and they will need to present evidence to back up their view as part of any new application.

An applicant may re-apply to join the housing register after 12 months. During this time, they will be expected to demonstrate behaviour that would make them suitable to be a tenant, such as no further anti-social or criminal behaviour in or around the vicinity of their home and/or no further breaches of tenancy conditions.

If an Applicant considers their unacceptable behaviour should no longer be held against them as a result of changed circumstances, they can make a fresh application. Unless there has been a considerable lapse of time, it will be for the Applicant to show that their circumstances or behaviour have changed, and that these changes should warrant an opportunity to make a fresh application. Each case will be considered on its own merits.

#### **DISQUALIFYING CRITERIA 4: APPLICANTS REGISTERED ON ANOTHER COUNCIL'S HOUSING REGISTER**

Any applicant or their partner who are registered on another Council's Housing Register as an applicant or a member of an applicant's household will not qualify.

#### **DISQUALIFYING CRITERIA 5: APPLICANTS WITH SUFFICIENT FINANCIAL RESOURCES**

With regard to finances, single and joint applicants will not qualify to join the register if they have savings or investments of over £32,000. 'Sufficient financial

resources' includes any assets or investments even if they are not immediately available to the applicant. This rule has been adopted because applicants with income, investments or savings at or above this level will mean that they do not qualify as they should be able to resolve their housing need. These financial limits will be reviewed every two years in line with the financial market.

Dependent children or non-dependent adult children's income will not be considered as part of the household's total income assessment.

In applying this qualification rule the Council will disregard any lump sum received by a member of the armed forces when leaving the armed forces or received as compensation for an injury or disability on active service.

Although this rule will mean applicants assessed as having sufficient financial resources cannot join the Housing Register, it does not prevent them being considered for any low-cost part ownership, or full ownership schemes. On request, information can be given as to which Housing Associations or developers are currently operating such schemes in the Lewes area and how applications can be made.

#### **DISQUALIFYING CRITERIA 6: HOME OWNERSHIP**

An applicant cannot qualify for the housing register if they or their partner own or have a legal interest in homeownership in a residential property in the UK or elsewhere. Applicants who have been the owner of a residential property within the last 5 years will be required to provide proof of the proceeds from the sale and of the disposal of any proceeds. Where proceeds from any sale have been spent recklessly and, as a result, takes an applicant's financial resources below the disqualification level set, an applicant can still be determined as not qualifying for the housing register.

Applicants who are not homeowners but have significant savings of £32,000 or a household income of over £80,000 a year (applicant and partner combined income taken into account), a decision may be taken that they do not qualify for the register. Applicant's will be asked to self-declare their income and savings on their housing application form and are reminded that withholding information or providing information that is untrue is an offence.

### *Exemptions to the financial resources and homeownership criteria*

Applicants who do not qualify under the homeownership or financial resources rules may be considered as an exception if:

- a) If as a result of a divorce settlement a Court has ordered that an applicant may not reside in the former matrimonial or civil partnership home in which they still have a legal interest for a period which is likely to exceed 5 years.
- b) Where someone is a homeowner and is statutory homeless due to domestic abuse and whose property has not yet been sold. A decision will be made as to whether to treat this as an exemption based on the facts and circumstances of the case.
- c) The applicant has a substantial disability, and their current home is not suitable for their specific needs. This is intended to cover situations where a person owns their own home but where it is agreed that they are no longer able to manage in it due to their advancing years, or due to a substantial disability that makes living in their home impracticable and where selling is unlikely to provide sufficient funds to purchase alternative accommodation that would be suitable for their needs. In addition, they must have exhausted all other options that could fund the required adaptations to their home including DFG grant options.

### **DISQUALIFYING CRITERIA 7: ARREARS OR HOUSING-RELATED DEBTS**

This section explains the requirements that applicants with housing related debt will need to meet, in order to qualify for the housing register.

Housing related debts apply to both the applicant and any partner included in their application. For the purposes of this allocations policy, Housing related debt includes but is not limited to:

- Any current or former tenant rent arrears or charges for use and occupation owed to Lewes or any local authority, registered provider or private sector landlord.

- Council tax arrears owed to Lewes Council
- Any unpaid Right to Buy discounts from previously owned property.
- Any tenancy deposit or rent in advance loans provided by the council that remain unpaid; or tenancy deposit guarantees that have been honored by the council and remain unpaid.
- Outstanding re-chargeable repairs
- Current and former housing related service charge arrears
- Temporary accommodation charge arrears for a license or a non-secure tenancy, where that temporary accommodation was provided by the Council.
- Any court costs incurred by a Council associated with any of the above debts.

The purpose of this qualification rule is to ensure any relevant debt owed to the Council, or another Council or another social landlord is recovered and to consider whether an applicant's current position creates a risk of future non-payment of rent.

### *Current or former rent arrears or another housing related debt owed to Lewes Council, a Registered Provider Housing Association*

Generally, applicants who have housing related debt will either:

- a) not qualify to join the housing register if the debt owed is over £1,500 or
- b) can qualify but will not be entitled to be made an allocation of housing until the debt is resolved as per the rules set out below. If an applicant is allowed to join the housing register, they will be ineligible to be considered for an offer until the debt has been resolved but they will still be allocated a band and will accrue their time in band whilst they take action to resolve the debt as per the rules set out in this section of the policy.

The following framework will be used to guide officers when applying this qualification rule. The Council will consider:

- The reasons why the applicant accrued the housing related debt and whether there are exceptional

circumstances that should be considered when applying the rule.

- Whether the debt has been caused by factors difficult for the applicant to control, for example a case where an applicant was genuinely unable to pay the full rent due to being impacted by the 'spare room subsidy' rule. This is also known as the "bedroom tax."
- Whether the applicant still owes that debt, and if they do, the extent of the arrears/debt as well as whether it is a recoverable debt, or a statute barred debt.
- Whether the applicant has taken debt advice, acted on it, and entered into an arrangement to clear the arrears/debt.
- If an arrangement has been made, the amount of arrears/debt paid off, any amount outstanding, and the regularity of payments made.

After considering the above the Council will decide whether the applicant will not qualify for the housing register, or that they will be allowed to qualify, but not considered for an offer until the issue has been resolved to the satisfaction of the Council. Debts of over £1,500 will mean that the applicant automatically does not qualify for the housing register until that debt has been reduced to under that amount, after which the rules set out below must be met before they will be considered for an offer of accommodation.

In cases of current tenant rent arrears under £1,500, the applicant must have made a repayment commitment to clear the debt and are making regular payments of an agreed sum which they have maintained for a period of at least 3 months which will normally mean not having missed a single payment; and the arrears have reduced to a figure that is equal to or less than six weeks payable rent. At this stage the application will be re-assessed and allowed to be considered for an offer.

However, the applicant will be expected to continue making regular payments of the agreed sum until the debt is cleared – if payments are missed then the application will again be suspended from being considered for an offer until the arrears are cleared, or payments have been made satisfactorily for at least a further three months.

If arrears are still outstanding when an applicant is made an offer, they will be expected to sign an agreement to continue the agreed payments after they have moved.

For all other housing related debt under £1,500 that is not rent arrears, the applicant will be banded but be suspended from being considered for an offer until the debt is cleared in full. It will be the responsibility of the applicant to advise the lettings team when the debt is cleared in full and provide written evidence of this.

For applicants who are assessed as not qualifying for the housing register there is no time limit regarding when a person can make a new application following disqualification under this rule. Where a new application is made, the Council will assess whether the applicant has taken appropriate action to address the rent arrears/debt.

If disqualified an applicant will be informed of the actions they need to take to resolve the debt in order to qualify.

#### *Current or former rent arrears owed to a private sector landlord*

The Council normally only consider rent arrears from an applicant's last private rented tenancy in the circumstances where the council has obtained information that confirms on the balance of probabilities that a debt is owed. If there is a debt owed it will be for the assessing officer to decide on the facts gathered, the level of debt and the reasons for it, whether the applicant should be classified as a non-qualifying or should be allowed to qualify and if so whether they should be suspended from being considered for an offer until the debt is resolved. Where it is established that a debt is owed the same rules will apply as per a social housing debt above.

Where an applicant or their partner has held a private rented tenancy in the last 5 years the Council will write to their last landlord or lettings agency to enquire as to the reasons why the tenancy was terminated and whether there were any rent arrears at the point the applicant left the property. Applicants should not be penalised in the circumstances where a landlord or lettings agency fails to reply within 6 weeks. A further reminder will be sent and an attempt to obtain information through telephoning the landlord or agent.



If no reply has been obtained within 6 weeks the applicant will be allowed onto the register.

The Council will only contact the landlord or agent for the last rented property. However, where it comes to the attention of the Council that there were significant rent arrears relating to a previous private rented tenancy in the last 5 years that was not the applicant's last tenancy, a decision will be taken on the facts of the case whether to suspend the applicant from being considered for an offer until the debt is resolved.

### *Exemptions to the housing-related debt criteria*

Decisions to allow housing register qualification for applicants with more than £1500 of housing-related debts will be authorised by the head of Housing and recorded with the reasons why an allocation has been made.

### **DISQUALIFYING CRITERIA 8: CURRENT (UNSPENT) CONVICTION FOR DRUG DEALING**

Where an applicant or a member of their household has a current (unspent) conviction for drug dealing they will not qualify for the Housing Register until that conviction is spent and they are able to further demonstrate that their behaviour has changed so that they can be considered to be a suitable tenant.

### **DISQUALIFYING CRITERIA 9: MAKING A FALSE OR MISLEADING STATEMENT**

Any applicant seeking to obtain accommodation by making a false or misleading statement, by withholding relevant information, or by failing to inform the council of any material change in circumstances may be prevented from qualifying for the Housing Register, or where they are already registered, may have their 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.

It will be for the housing needs assessing officer in the first instance to decide if any errors contained in an application were deliberately made or not. If the officer is satisfied that the errors were not deliberate, or that they had no impact on the application, then no action

will be taken though the applicant may be warned about the need to provide accurate information and the consequences for not doing so.

Once removed from the Housing Register on these grounds, applicants will not be able to reapply for a period of 12 months. Decisions to remove the person from the Housing Register will be made based on the seriousness of the attempted fraud or false information given, including an assessment of why information was withheld.

### **DISQUALIFYING CRITERIA 10: REFUSING TWO SUITABLE OFFERS OF SOCIAL HOUSING**

As set out in the Council's statement on choice any applicant who refuses two suitable offers of social housing within the last 12 months will be suspended for a period of 12 months for an allocation of accommodation except where there has been a material change in circumstances such that the two offers of accommodation would no longer be suitable. The 12-month suspension shall be from the date the council notified the applicant of its decision. An example of a change in circumstances could be because of an enlargement of the applicant's household or a deterioration in health.

The council will determine whether an offer was reasonable for an applicant to accept using the suitable offer criteria set out at annex 2.

Applicants owed any of the statutory homeless duties will be made one suitable offer in writing and a refusal will mean that their banding priority for being owed a statutory homeless duty will be removed.

An offer of suitable accommodation for an applicant owed a statutory homeless duty could be either a private rented property, or a social rented property. Should the applicant refuse an offer that is considered both suitable for their needs and reasonable, then, subject to the council's homelessness review procedure, the homelessness duty owed will be discharged and they will lose any priority status granted to them based on the homelessness duty owed.

In these circumstances the council will then assess whether they have another housing need as defined by the Scheme that would allow them to be banded and owed a second suitable offer under the Scheme. If they do not, they will be removed from the Housing Register.

### *Exemptions to the refusal of two reasonable offer criteria*

Those who qualify for Council tenant incentive scheme will be exempt from criteria 10.

### **DISQUALIFYING CRITERIA 11: INTRODUCTORY TENANTS**

Any applicant who is a Council introductory tenant, or Housing Association starter tenant will not normally be allowed to join the Housing Register for a period of 1 years (from the start date of their current tenancy), unless there are overriding management reasons which have been agreed by the Head of Homes First. In some circumstances, exceptions may apply such as for example where in exceptional circumstances, for example, the property is no longer suitable for tenants (or a member of their household) due to a disability, or the property/location is impacting on their health and wellbeing.

Each case will be assessed on its own merit.

### **3.7 APPLICATIONS FROM ELECTED COUNCIL MEMBERS, STAFF MEMBERS OR RELATIONS**

To ensure the council is seen to be treating all applicants fairly, any application for housing or rehousing from members of the council or employees of the council must be disclosed.

If an applicant has a connection with the Council, they are treated no differently than any other applicant. However, before any offer of accommodation is made this must be authorised by the Chief Executive of the Council or the Head of Homes First, depending on the connection as set out below. For this purpose, an applicant with a connection includes the following circumstances plus the level of authorisation required:

- Any applicant who is a current elected member of the Council, or a former elected member of the Council - CEO
- Any applicant who is a current member of staff of the Council - HHF
- Any applicant who is a former member of staff of the Housing Service within the past 10 years - HHF

- A close relative of any current member of the Council's Housing Service defined as mother, father, son, daughter, brother, sister, partner, nephew, niece, uncle, aunt, grandparent, or grandchild - partners and people living together are treated in the same was as if they were married - HHF

Lobbying on behalf of any person is not allowed in any circumstances by, or on behalf of, a councillor or member of staff.

### **3.8 HOW THE COUNCIL WILL CONSIDER EXERCISING DISCRETION FOR EXCEPTIONAL CIRCUMSTANCES**

The Council will retain the ability, in exceptional circumstances, to exercise its discretion when applying any of the qualification rules listed, or any other rule adopted under this policy. Any person who is not a qualifying person by reason of the above criteria may be deemed to be a qualifying person for exceptional circumstances by a Senior Manager responsible for the applications and allocations team in Lewes.

Where in their application to join the Housing Register an applicant makes a case for discretion to be applied for exceptional circumstances, this will be considered as part of the application. Otherwise, where the case for discretion has not been made out as part of the application, the applicant will have a second chance to make the case for why discretion should be applied through the review process. For example, where an applicant has requested a review for a decision that they do not qualify, or a decision as to what band is owed, they may make the case for why discretion should be applied to their case for exceptional circumstances.

It is for the applicant to request a review and make the case for why discretion should be applied to their case for exceptional circumstances. A request for a review by an applicant of a decision that an applicant does not meet a qualification rule, or for any rule in the policy to be waived, will be taken as a request for any exceptional circumstances to be considered. This request for review should be within 21 days of their application being refused.

Where requested, the council will consider whether the applicant's circumstances (or those of a member of the applicant's household) are so exceptional that discretion should be applied.

The applicant will receive a written decision on their claim for exceptional circumstances to be applied within 56 days and, where that decision is that the case is not considered to be exceptional, reasons will be given.

Note the council cannot waive the eligibility rules for any applicant who is not allowed to access social housing under the immigration and 'persons from abroad' rules set by Central Government.

In deciding whether an applicant's circumstances are exceptional the council will fully consider the Equality Act 2010 and Children Act 2004 where children are part of the applicant's household. With regard to the Equality Act, the council will specifically consider:

- a) Whether the person, or a member of their household, meets the definition for one or more of the nine protected characteristics listed in the Equality Act
- a) whether the person, or a member of their household, meets the definition for one or more of the nine protected characteristics listed in the Equality Act 2010
- b) if we agree that the applicant or a member of their household comes under the definition for a protected characteristic, the council will fully comply with Section 149 of 2010 Equality Act and ensure it has obtained all relevant information relating to the applicant's protected characteristic and will consider that if they were not able to qualify for the Policy, whether this would have an exceptionally detrimental impact on the person with that protected characteristic: and
- c) ensure any decision that the applicant's circumstances are not exceptional will be a decision that is a proportionate means of achieving the legitimate objectives for the policy.

# 4. HOW TO APPLY TO THE HOUSING REGISTER

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## 4.1 HOW TO APPLY

People wishing to apply to the Lewes Housing Register must be made by completing an online application form.

Applicants will be required to provide the following information:

- Household details including names, ages, gender and relationship to applicant
- The last 5 years housing history including addresses
- The housing need – why a new home is required
- Support needs of the household
- Demographic information (for monitoring purposes)
- Financial circumstances and employment
- Financial or legal interest in another property
- Any relationship to a Council officer or Councillor at Lewes District Council

The Customer First and Homes First Teams can help an applicant to:

- Understand all housing options available
- Complete the application
- Obtain information to verify their application

- Understand how quickly they may be able to secure accommodation
- Access additional support

An applicant will be notified in writing by letter or email whether they qualify or do not qualify to join the Housing Register. If accepted an applicant will be informed of:

- a) the housing needs band they have been placed in (this determines priority)
- b) the date of application (may be used to determine priority within the band allocated)
- c) the size and type of properties for which they may be allocated
- d) their application reference number
- e) how to seek a review against their banding if they think it is wrong or if the decision is that they do not qualify under the Scheme rules

## 4.2 THE DATE A BAND WILL BE ALLOCATED

An applicant's priority start date is the date the assessment of their Housing Register application has been completed.

Applicants applying to the register from recognised supported accommodation provision within the district, will have their priority date backdated to the

day they moved into their current supported accommodation tenancy.

If an applicant's housing need and/or circumstances change and any reassessment results in the applicant being placed in a higher band, they will not retain the date they were awarded the lower band, and will be given a new priority date that aligns to the day their new, higher priority was awarded

Note: for eligible homeless applicants who meet the qualification rules to join the Housing Register, the following will apply with regard to their band start date:

- a) owed a Section 195(2) Prevention of homelessness duty – Band date is the date the duty was owed and not the date of the homelessness application
- b) owed a Section 189B (2) Relief of homelessness duty – If an applicant has not been owed a prevention duty, then the band date is the date the relief duty is owed and not the date of the homelessness application. If the applicant was owed a prevention duty which ended because they became homeless and they are then owed a relief duty, the effective date is the date the prevention duty was owed
- c) owed the Main Section 193(2) duty – Band date is the date the Main duty was accepted and owed.
- d) circumstances where the relief duty has ended, and the applicant is assessed at this point as not being owed a duty – the housing register application will be re-assessed in its own merit, and re-banded based on the individual circumstances, excluding the homeless application.
- e) where the applicant becomes homeless unintentionally within 2 years of accepting a private rented sector offer, offered to bring the main Section 193 homelessness duty to an end, the effective date will be the date of the new application.

### 4.3 OPPORTUNITY TO EXPRESS PREFERENCE

At application stage, applicants who are eligible to be considered for properties under the Scheme will be able to express a preference for their potential housing allocation. However, the ability to satisfy their preferences is extremely limited by the considerable housing pressures faced in Lewes, which mean that an applicant's preferences cannot always be met,

Applicants can indicate the following preferences:

#### AREA

Applicants can indicate the area, or areas, in which they would like to live.

An applicant will be asked at time of registration to state any area in which they believe they cannot live due to fear of violence, harassment, or domestic abuse. The assessment of their application will then consider the facts and decide whether the applicant is allowed to restrict areas.

Applicants cannot exclude geographical areas except in circumstances relating to domestic, hate or gang violence or other exceptional circumstances which a Housing Assessment Manager has agreed.

Expressing a preference over where an applicant would prefer to live does not mean that preference can be met, or that an applicant won't be offered suitable accommodation outside of their preferred area.

#### GARDENS

The provision of a garden will not be considered unless in exceptional circumstances

#### TYPE OF HOME

The medical/disability and social needs of an applicant will be considered when allocating the type of housing, e.g. a house, a flat, a maisonette, and floor level.

Households with medical priority or a disability will be considered for lower-level accommodation. Where no recognized need has been identified, any type and level of accommodation may be offered. Single applicants will be considered for studios or homes with one bedroom.

A studio is considered adequate for a single-person household or couple, unless a senior manager has accepted the recommendation of the Council's

Housing Medical Adviser (CHMA) for a one-bedroom home.

#### PETS

The council will not take an applicant's pet(s) into account when considering a suitable offer of a home for them. A refusal of an offer because the landlord has a no-pets policy will be regarded as unreasonable. The consequences of refusing an offer are set out in section 7.9.

An exception to this policy is where the council is satisfied the applicant or a member of their household requires a trained and certified working animal to live with them, for example, a dog which assists their owners who have a sensory or cognitive impairment (such as a sight or hearing impairment or autism)

#### RENTS

There will be differences in rents charged by different landlords for the same size of home. The council will consider the affordability of the home being offered to a Housing Register applicant, taking into account their income and eligibility to apply for appropriate welfare benefits to help pay the rent.

### 4.4 CHANGE OF CIRCUMSTANCES

Applicants are required to inform the council in writing of any material change in their circumstances that may affect their priority for housing. Examples of a change in circumstances include but are not limited to:

- a change of address or contact details, for either themselves or members of their household
- a change in their medical condition or disability (either existing or newly acquired)
- additional family members or other people they wish to add to their application (It will be for the council to decide whether they will allow additional people to join the application)
- any family member or any other person on the application who has left their household; and/or
- any significant changes in income, savings, or assets, that may require a reassessment under the income and savings qualification rule.

Applications may be temporarily suspended while the council assesses the information provided by the applicant and completes further enquiries that may be necessary. The original application date would still apply.

Where following a change in an applicant's circumstances this results in a change to the applicant's application or banding, they will be informed in writing.

*Note: on allocation of accommodation, verification checks into the applicant's current circumstances are likely to be carried out again by the council or Private Registered Provider that owns the property. This is to ensure the allocation is being made in accordance with the applicant's current housing circumstances and needs at the time of a prospective offer. Therefore, a failure to notify the council of a change in circumstances may lead to an offer of housing being withdrawn and the application suspended whilst changes that were not notified to the council are assessed.*

### 4.5 RENEWING HOUSING REGISTER APPLICATIONS

Periodically, the council contacts all Housing Register applicants to: Request them to renew their applications and confirm if their household and housing circumstances have remained the same or if they have changed. Applicants are given 28 days to respond to the council's renewal request.

When an applicant does not renew their Housing Register application within 28 days of the request, the council will assume the applicant no longer requires its assistance and will suspend their application on the Housing Register.

When applicants renew their Housing Register applications:

- They are reassessed for eligibility, qualification and priority for housing; and
- Where a change of circumstances is indicated, the council requests further information from the applicant to decide whether this changes their eligibility, qualification or priority for housing; and

- On completion of its reassessment, the council confirms the outcome in writing

## 4.6 SECURE AND FLEXIBLE COUNCIL TENANTS

All applicants must disclose if they currently hold or have held a tenancy with the council. Secure 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 the Allocation Scheme. As such they will also be subject to the qualification criteria set out in section 2.

Where a secure or flexible council tenant is imprisoned for a period of more than 12 months and would therefore either accumulate rent arrears or possibly lose their tenancy, they can voluntarily give up their tenancy. Upon release, they would be made a direct allocation of a secure or flexible council tenancy that meets their needs. The size of accommodation would be the same as their previous tenancy, or a size that meets their needs under the terms of this Allocation Scheme, whichever is smaller. This will not apply to tenants who have been imprisoned in relation to a crime that would enable the council to seek repossession of their accommodation; where this applies the council will normally take repossession action.

## 4.7 MUTUAL EXCHANGES

Secure and flexible council tenants have certain rights in relation to exchanging their tenancies with other secure and flexible council 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 the Allocation Scheme, and full details for how these schemes operate can be obtained from Lewes Council or the landlord in the case of tenants of Private Registered Providers.

# 5. THE BANDING SYSTEM

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## 5.1 PRIORITY BANDING

The demand for social housing exceeds supply in Lewes and therefore this Scheme prioritises the housing of applicants assessed as being in the greatest need.

Priority for council and registered provider properties being let as secure, flexible or assured tenancies will be determined by placing all applicants in one of three tiers or 'bands'.

To be awarded any of the bands an applicant must qualify to be included on the Housing Register. This means they must meet the residential connection rule and not be disqualified under any of the other adopted rules, unless the council has agreed that discretion should be applied to waive the residential connection rule, or any other qualification rule due to exceptional circumstances

The banding system will normally be used to decide when to make an offer of accommodation and to whom. The housing bands are summarised below

### **Band A**

Exceptionally Urgent- Need to Move due to Reasonable Preference plus Additional Preference

### **Band B**

High priority statutory housing need to move:

### **Band C**

Lower priority statutory housing need to move

## 5.2 PRIORITISING BETWEEN APPLICANTS IN THE SAME BAND

Applicants will normally be ranked by date order in each queue as long as they qualify to be considered under the housing needs register.

To prioritise between applicants in the same Band, the council uses the priority date for the applicant. An applicant's priority date is usually the date they joined the Housing Register (except for homeless applicants and those moving on from supported housing schemes – see below).

Where, for example, the council finds there are two suitable applicants for a home available for letting, the applicant with the most priority is the one who has the earlier priority date.

Where the priority dates are the same, the council prioritises according to which applicant:

- I. Has higher medical needs
- II. Is working; and/or
- III. Has lived in their current accommodation longest (this only applies to council tenants needing to move for regeneration or redevelopment requirements (decants)).

For homeless applicants where the full duty is accepted, the priority date is the date when the homelessness relief duty ends. For Housing Register applicants moving on from supported housing schemes, the priority date is the date they moved into supported housing rather than the date of their Housing Register application



## 5.4 BAND A

These are applicants that are owed a statutory award of 'reasonable preference' but whom the Council also believes should also be awarded 'additional preference' based on their very urgent housing need.

The following Band A examples are intended to guide the applicant on the threshold set for a Band A award. See Annex 3 for more details on when a Band A award may be granted.

Category of Band A Priority	Summary Guide of Criteria
<p>A1 - 1 Emergency medical or disability</p>	<p>Applicants who are suffering sudden or severe progressive life-threatening medical conditions or disability and need an immediate move (e.g., to facilitate hospital discharge) because their current home is unsuitable (as it does not meet their medical needs and/or cannot be adapted) and poses an immediate and serious danger to the individual.</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 rehousing 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> <li>▪ the applicant has severe mobility issues, is housebound and is unable to leave their accommodation save with assistance that will result in high risk to themselves or their carer. They have an assessed need to move to accommodation that meets their needs</li> <li>▪ the applicant is a wheelchair user who is unable to use their wheelchair within their current accommodation and has an assessed need to move to wheelchair suitable accommodation</li> </ul> <p>The applicant's accommodation is directly contributing to the deterioration of the applicant's health, and the condition of the property cannot be resolved within a reasonable period of time – usually 6 months</p> <p>Where overcrowding in the property leaves the applicant at risk of life-threatening infection.</p> <p>Each case will be assessed on its own merit, and none of the examples given above would indicate an automatic Band A priority.</p>
<p>A2 - Exceptional Circumstances, Welfare and Hardship Criteria</p>	<p>The council recognises that there may be exceptional circumstances where the only way an exceptional housing need can be resolved is through a Band A award. 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:</p> <ul style="list-style-type: none"> <li>▪ a severe and imminent threat to life including current council tenants</li> </ul>

	<ul style="list-style-type: none"> <li>▪ emergency cases whose homes are damaged by fire, flood, or other disaster may be provided with another tenancy 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</li> <li>▪ households which, on police advice, must be moved immediately due to serious threats to one or more members of the household, or whose continuing occupation would pose an imminent threat to the community</li> <li>▪ cases nominated under the Police Witness Protection Scheme or other similar schemes that the council has agreed to be part of</li> <li>▪ an applicant who provides a form of essential support to a close family relative, as defined under Section 178(3) of the Housing Act 1996 (this includes parents, siblings, children, uncles, aunts, grandparents, spouses and former spouses) with a serious or enduring health condition who resides in the district</li> <li>▪ a care leaver assessed as ready to move to independent settled housing with a profound disability or assessed as having a significant vulnerability over and above the fact that they have been in care, who is assessed as needing to be housed urgently to significantly improve the impact their current circumstances are having on their disability or vulnerability</li> <li>▪ other exceptional circumstances as authorised by the Head of Housing First or equivalent.</li> </ul>
A3 - Armed Forces	<p>Applicants with urgent housing need and have access to no other accommodation who:</p> <ul style="list-style-type: none"> <li>▪ Are serving, (and will soon leave) the <i>regular</i> forces and are suffering from serious injury, illness, mental ill health, or disability which is attributable to the person's service</li> <li>▪ Is serving or has served in the <i>reserve</i> forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service</li> <li>▪ The spouse or civil partner of Armed Forces Personnel who has recently ceased, or will cease to be entitled to reside in accommodation provided by the Ministry of Defence, following the death of their spouse or civil partner who had service in the regular forces and whose death was attributable (wholly or partly) to their service</li> </ul> <p>For this purpose, "the regular forces" and "the reserve forces" have the meanings given by section 374 of the Armed Forces Act 2006.</p>
A4 – Transfer Tenants including under-occupiers	<p>Where a transfer tenant has to <b>decant</b> from a Lewes District Council tenancy either temporarily or permanently whilst major works are undertaken or where their home is imminently required for major repair or redevelopment, or due to be demolished.</p> <p>Where a tenant is in an adapted property where the <b>adaptations are no longer needed</b>, and they are willing to transfer to a suitable non adapted property</p>

	<p>The Applicant is a Transfer Tenant who is <b>under-occupying</b> their home and is willing to downsize to a smaller property, where a secure or flexible council tenant will release a home with two or more bedrooms by moving to a property with fewer bedrooms than they currently have, or</p> <p>The applicant is a transfer tenant aged 35 or over currently occupying a studio flat and wishing to move to a 1-bedroom flat</p> <p>Releasing a general needs property by <b>moving into older persons housing</b> only</p> <p>Housing association tenants 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.</p> <p><b>Successors</b> and non-statutory successors, approved by the Council for an offer of suitable accommodation.</p>
<p>A5 - Acute Overcrowding</p>	<p>Where a household is either statutory overcrowded or overcrowded by 3 bedrooms as measured by the overcrowding standard adopted by Lewes Council in this policy</p>
<p>A6 - Private sector properties insanitary or unfit Those living in insanitary conditions where the conditions pose an ongoing and serious threat to health</p>	<p>Private sector tenants and residents of dwellings where the council's Private Sector Housing Team has determined the property poses a Category 1 hazard under the Housing Health and Safety Rating System (e.g. crowding and space, excessive cold or risk of falls) and the council is satisfied that the problem cannot be resolved by the landlord within six 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 living conditions that are a statutory nuisance, and there is no prospect of the problems being remedied within a six-month time period.</p> <p>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.</p> <p><i>Note: this category will not include Private Registered Provider tenancies because there is a legal requirement on social landlords to urgently remedy defects that pose a risk to their tenants.</i></p>

## 5.5 BAND B

This band consists of applicants that are owed a statutory award of 'reasonable preference' under the policy and have been awarded band B priority based on their assessed high housing need.

Category of Band B Priority	Summary Guide of Criteria
B1 - Ready to move on from Council accredited supported housing schemes	An applicant is ready to move to independent settled housing on the recommendation of the support worker or equivalent.
B2 - Homeless households owed the following homelessness duties by Lewes Council	Homeless applicants who are owed the Main Housing Duty by Lewes District Council under Section 193 of the Housing Act 1996  This includes applicants who are insecurely housed, and who make arrangements to remain living with family or friends on a temporary basis after a full duty is accepted. (see Band C2)
B2 - Overcrowded by 2 bedrooms under the standard adopted by the Council	Where a household is two bedrooms short of the bedroom standard as measured by the overcrowding standard adopted by Lewes Council in this policy
B3 - Severe medical or disability grounds	Where an applicant (or a member of their household) is living in accommodation with a severe, long term, medical conditions (chronic or progressive) or severe disability that means they urgently need to move because their home is assessed as being highly unsuitable and is directly detrimental to the applicants' physical or mental health.  Where an applicant's (or a member of their household) housing is unsuitable because of severe medical reasons or because of their disability. The applicant (or member of their household) is not housebound, but their current housing is exacerbating their health conditions.  See Annex 3 for examples of when a Band B award may be granted.
B4 - Armed Forces	Members of the Armed Forces persons who meet the following criteria:  a) They are serving in the regular forces and will be discharged within 6 months and have served for 5 years or more, or b) They were previously serving in the regular armed forces. c) They did not leave the armed forces as a result of a dishonorable discharge, and d) They do not own or have a legal interest in any other property.  For this purpose, "the regular forces" and "the reserve forces" have the meanings given by section 374 of the Armed Forces Act 2006.

B5 - Transfer tenants	<p>The Applicant is a Transfer Tenant who needs to move urgently because of harassment or threat of violence or other exceptional circumstances, subject to approval by the Head of Homes First.</p> <p>Ex-tenants returning from institutions e.g. rehabilitation where a commitment has been made in order to secure the relinquishment of a Council or RP tenancy on entering the institution.</p>
B6 – Compulsory Purchase Order	The Applicant has a home, but Lewes District Council has a statutory duty to rehouse them, e.g. Compulsory Purchase Order
B7 – Other	Any other exceptional circumstances which would warrant a Band B priority, as authorised by the Head of Housing

## 5.6 BAND C

This band consists of applicants with a statutory need, but that need is assessed as being lower than Band B

Category of Housing Need	Summary Guide of Criteria
C1 - Homelessness duty	<p>Applicants owed any other homelessness duty by Lewes Council as set out below:</p> <ul style="list-style-type: none"> <li>▪ Applicants where the Section 189(B) Relief duty has been brought to an end and an applicant has been assessed at that point as being <b>intentionally homeless</b> (and hasn't been disqualified under the unacceptable behaviour disqualification rule).</li> <li>▪ Applicants owed the Section 193 C (4) Main duty where the Prevention or Relief duty was ended by the council due to their <b>deliberate non-cooperation</b>.</li> <li>▪ Applicants <b>owed a Relief duty</b> by Lewes District under Council Section 189B (2) of the Homelessness Reduction Act (2018)</li> <li>▪ Applicants <b>owed a Prevention duty</b> by Lewes District under Council Section 195 (2) of the Homelessness Reduction Act (2018).</li> <li>▪ Applicants where the Section 189(B) Relief of homelessness duty has been brought to an end and the applicant is determined to be homeless but <b>not in priority need</b> and therefore not owed a Main homeless duty.</li> </ul> <p><i>Note: Applicants owed a main homeless duty by any other council will not qualify to join the Housing Register.</i></p>
C2 - Insecurity that risks homelessness	A pregnant applicant or applicant with a child or children who are sharing a home with family who are not part of their household and where:

	<p>a) They have no ownership or tenancy rights, and the arrangement is short term and very insecure and only available whilst the applicant is actively seeking an offer of social housing or alternative accommodation with friends or in the private rented sector, and</p> <p>b) They were owed a prevention of homelessness duty as they were assessed as likely to become homeless within 56 days, and that duty has ended because they have been allowed to remain at home whilst they bid for social housing with their Band C priority and it is likely that they can remain for at least a year, and</p> <p>c) The family member with the interest in the home has agreed to allow the applicant to remain for at least a year.</p> <p><i>Note: Applicants in this category will be boosted to Band B if full housing duty is accepted after 56 days, even if they remain living temporarily with family or friends after the duty is accepted under s.193 of the Housing Act. Their effective date for Band B will be the date that full housing duty is accepted, not the date they were awarded Band C</i></p>
C3 - Applicants living in unsatisfactory housing	<p>Private sector tenants that Lewes Council has determined that the property poses a serious category 1 hazard under the Health and Safety fitness rating and the Council's assessing officer is 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, and the household are not able to resolve their own housing problem by moving to alternative private sector accommodation.</p> <p>The Applicant resides in unsanitary or unsatisfactory housing conditions that lacks access to either a kitchen, bath/shower room, or inside WC.</p>
C4 - 'Right to move applicants'	<p>Existing social tenants of accommodation in England whom the council have assessed as qualifying under the Government's Right to Move regulations. Allocation to applicants who qualify for this award is limited to a maximum of 1% of all lettings.</p>
C5 - Older persons without an assessed housing need	<p>Single applicant or couples aged 55 or over and with no other housing need that would grant them an award of Band A or Band B and the applicant is willing to accept older person's housing only and has been assessed as suitable for that type of housing by the Council</p>
C6 - Exceptional hardship and other circumstances	<p>Those who need to move to give or receive care that is substantial and ongoing, where failure to meet that need would cause hardship.</p>
C7 – Other exceptional circumstances	<p>Any other exceptional circumstances, not listed above, by approval of the head of service.</p>
C8 – Lacking one bedroom	<p>Customers who are overcrowded and lacking one bedroom only</p>

## 5.6 MOVING BETWEEN BANDS

A change in an applicant's circumstances may trigger a reassessment of their housing application. This may result in one of the following changes for the applicant:

- An increased level of priority in accordance with the Policy and being moved to a higher band;
- A reduction in the level of priority and being moved to a lower band;
- Staying in the same band;
- Becoming ineligible to stay on the Housing Register

The priority date may change if an applicant is moved between Bands, for example, from Band B to Band A, or from Band B to Band C, because of a change in their circumstances.

## 5.7 QUOTA FOR APPLICANTS OWED A HOMELESSNESS DUTY

In order to reduce the financial impact on the Council for homeless households in temporary accommodation, and to ensure that the Council is able to meet its duty to provide suitable temporary accommodation, the council will target a percentage of all annual lettings (a quota) for allocation to applicants owed a homeless duty residing in temporary accommodation. This quota will be set at the start of each financial year and may change during the year according to demand pressures. The Council may wish to apply quotas for other groups and information about the quota level set for the homeless and any other groups will be detailed on the Council's website

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# 6. ASSESSING APPLICATIONS

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## 6.1 DECISIONS

All decisions taken under this Allocation Scheme will be by a 'Homes First' assessment officer within Lewes Council unless otherwise specified. Any change of procedure to outsource decisions will be agreed with the portfolio holder for housing.

Any band awarded reflects an applicant's housing need with the higher the band awarded (with Band A being highest) reflecting the greater level of assessed housing need.

Applicants will be required to sign a declaration, or to give informed consent, to confirm their understanding that:

- the information given is correct and that they will notify the council of any change in their circumstances
- enquiries will be made concerning their eligibility for housing and level of priority; and
- information may be sought from other organisations.

Once an applicant provides information, the council will process that information under Article 6 of the UK-GDPR. The processing is necessary under the 'Public Task' purpose and is necessary for the council to perform a task in the public interest or for its official functions, in this case to meet its legal responsibility to assess housing applications, and we are satisfied that the task or function has a clear basis in law.

It is the responsibility of the applicant to provide all the information requested to assess their circumstances, and to provide any supporting information or documents that are requested. Incomplete information will mean the council is not

able to complete its assessment until it has in its possession all the information it requires.

All incomplete applications will be cancelled after a period of 28 days measured from the date further information has been requested. If cancelled, this does not prevent the applicant making a subsequent application at a later date, although in such cases the applicant's effective date of registration would not be backdated to the date of the earlier application.

Lewes Council may request information or a reference from an applicant's current or previous social landlord and may request a reference from the most recent private sector landlord (or any other recent private sector landlord) if the applicant is, or has been, a private sector tenant. This is to check whether there has been any breach of tenancy conditions.

All applications are subject to verification checks, and these may be applied:

- at the point of initial application
- following any change of circumstance notified to the council by the applicant
- following any routine validation audits
- following an annual review of the application
- at the point of an offer of accommodation
- at the point of letting.

## 6.2 ASSESSING PRIORITY

The council uses a banding system to prioritise each application for the housing register, taking into account a range of statutory requirements and the local policies.



## 6.3 MEDICAL PRIORITY

If the Applicant or a member of their household believe that they have a 'Medical Need' to be rehoused, the Medical Circumstances section of the application should be completed. Applicants will be asked to provide information about why their current home is affecting their health. In these instances, letters of support from their GP, Consultant and/or Occupational Therapist will be requested. Evidence should outline how a condition specifically affects an applicant's current and future housing needs. Most cases will be assessed by an allocations officer using the guidelines set out in this section of the scheme and the examples in annexe 3. More complex cases may also be passed on, at the Council's discretion, for an independent medical assessment which will support council officers to make appropriate decisions on the application and banding.

When assessing whether to award Band A or B or no priority, the council will follow the five-stage assessment set out below:

- 1) Is the medical/disability issue serious enough for a priority banding to be considered?
- 2) If the medical condition is serious enough for a priority banding to be considered the assessing officer will then decide if there is a direct link between the identified medical problem and the applicant's current housing accommodation/situation, i.e., on the facts obtained (from the applicant and any medical information or reports submitted including any advice from an independent medical advisor or occupational therapist if sought or required) does the assessing officer accept that the applicant's current housing accommodation/circumstances are making their medical condition or disability substantially worse, or will make it worse?
- 3) In practical terms, the officer will consider the adverse effect this has on the applicant's ability to manage day-to-day tasks in their current home. The applicant's current housing accommodation/circumstances may be impacting on their medical condition or disability but not to the extent that an award of Band A or B priority should be granted under the criteria adopted for the Scheme. There are examples listed in Annex 3 for

when an award of Band A or B may be awarded, and they are used to guide the officer when making their decision.

- 4) Before making an award, the assessing officer needs to be satisfied there is a realistic expectation that the impact on the identified medical condition/disability would be removed, or significantly improved, through the provision of alternative accommodation.
- 5) If the officer is satisfied that the impact on the identified medical condition/disability would be removed or significantly improved, they would then decide whether to award Band A or B depending on the severity of the impact.

### *When medical priority will not normally be awarded*

Medical priority will not normally be awarded in the following circumstances:

- where the applicant has a health issue, however severe, that is not impacted by the accommodation occupied
- health problems that are not affected by housing or cannot be improved by moving
- where a move would only make a marginal improvement to the applicant's condition
- medical impacts caused by housing defects that are likely to be rectified in a reasonable time frame
- where another reasonable course of action is available to the applicant to resolve their difficulties
- time-related medical problems (e.g., pregnancy-related problems or a broken leg)
- disrepair problems not impacting significantly on the applicant's medical condition. (Note: under the Scheme an applicant may receive priority separately for living in unfit or unsatisfactory housing depending on the assessment made of their circumstances and impact)
- overcrowding not impacting significantly on the applicant's medical condition. (Note: under the

Scheme an applicant may receive priority separately for being overcrowded)

- if the situation can be resolved by equipment or minor adaptations which can be implemented in a reasonable period of time.

Medical assessments are not just related to banding. The council will also consider requests for future housing, for example regarding the floor level a household may need and whether an extra bedroom is required due to a child having autism. Guidelines for assessing extra bedroom requests for ADHD, Asperger's, sensory processing difficulties, and other mental or physical health problems are set out in Annex 3.

## 6.4 OVERCROWDING AND THE BEDROOM NEED

For the purpose of assessing a person's housing need for overcrowding and for the purpose of deciding the number of bedrooms to be allocated to a household for rehousing the following criteria will be used:

1 bedroom will be allowed for each of the following:

- Applicant and partner/spouse (if any)
- Any additional adult couple
- Any two children of the same sex, up to the age of 18. (*any three children of the same sex, up to age 18, if the room size is greater than 110 square feet*)
- Any two children of either sex, under the age of 10 (*any three children of either sex up to age 10, if the room size is greater than 110 square feet/ 10.2 square metres.*)
- One bedroom for any additional person (aged 18 or over)

### *Notes on how the Council will apply the above criteria:*

- Families headed by a single parent will be treated in the same way as a family headed by a couple.
- Children are not considered as part of the household of the applicant if the children have a main permanent residence elsewhere

- Couples should always have their own bedrooms and not share with children.
- Couples can be treated as needing two bedrooms only if there is an exceptional medical need and the Council's medical assessment agrees with this need.
- When assessing the level of overcrowding where an applicant or a member of their household who is part of the application are sleeping in a room that is not a bedroom, they will not be counted as having a bedroom.
- For measuring overcrowding and the size of the home that can be allocated the Council will include students who are away on a temporary basis i.e. at university or college).
- Non-dependent children will only be considered as a member of the household if they have been living with the applicant as their permanent full-time residence for a period of over 12 months. This may be waived for non-dependents who give or receive care from the applicant.
- Commercial lodgers are never considered as non-dependents. (In this context commercial lodgers are non-family members who are receiving board and/or lodgings in return for payment, or payment in kind).
- Any property with 2 reception rooms will have one counted as a bedroom.
- An extra bedroom may be awarded where there is a severely disabled adult or child who the Council agree, based on the facts assessed, needs their own room (see annexe 3 for more details as to how a claim for an extra bedroom will be assessed).
- Unborn babies are not considered when determining the number of bedrooms needed.
- A couple or single parent expecting a baby is entitled to one bedroom.
- Single people without children may be offered a studio.
- Double bedrooms will be used for two people sharing (for example two children sharing).
- An applicant should note that for Private Registered Provider properties, the Housing Association may have adopted different criteria for determining the number of bedrooms a household requires.

The number of bedrooms needed by an applicant depends upon the size of their family. The table

below is a guide to the number of bedrooms that we consider an applicant needs based on household size

SIZE OF FAMILY	ALLOCATED PROPERTY SIZE
Single person	Bedsit / single person home with single bedroom
A couple without children	1 bedroom
Two adults of the same sex and generation, for example flat sharers, or two brothers up to the age of 18	1 bedroom
A couple or single parent with one child of any age, including an adult child	2 bedrooms
A couple or single parent with sons or daughters of the same sex regardless of age	2 bedrooms
Two adults of opposite sex who do not live as a couple, for example a brother and sister	2 bedrooms
A couple or single parent with two children of the opposite sex and both under 10	2 bedrooms
A couple or single parent with two children of the opposite sex, where one or both are aged 10 or over	3 bedrooms
A couple or single parent with three children	3 bedrooms
A couple or single parent with four children (all of the same sex or two of each sex)	3 bedrooms
A couple or single parent with two children of the opposite sex aged under 10, and one dependent relative (for example, widowed mother)	3 bedrooms
A couple or single parent with four children (three of one sex and one of the opposite sex)	4 bedrooms
A couple or single parent with 5 or more children	4 bedrooms
A couple or single parent, with 6 or more children	5 bedrooms

In exceptional circumstances the council may exercise its discretion and apply the Bedroom Standard flexibly. This means a household may be assessed as needing a home with more or less bedrooms than indicated by the bedroom standard. The circumstances when this flexibility could be applied include:

- Council tenants under occupying in their current properties, where the current property has three or more bedrooms, will be allowed, if they wish, to be considered for properties with one bedroom more than they need.
- Families with a 2,3, 4 or 5-bedroom need (as measured under this policy rules) who are willing

to, can choose to be considered for smaller council owned properties that are up to one bedroom size less than their assessed need as long as this does not mean that they will be statutorily overcrowded. *There will be no compulsion to accept an offer of social housing that is 1 bedroom less than their assessed need. An applicant will be expected to indicate on their application form that they are willing to accept an offer of social housing that is 1 bedroom less than their assessed need. Where this has not been indicated on their application form an applicant can at any time request that they are considered for an offer that is 1 bedroom less than their assessed need.*

- Carers who provide regular overnight care may be granted a bedroom based on the assessment of the facts of each case. The fact that there is overnight care will not necessarily mean an extra bedroom will be allowed. The decision will be based on the facts of the case including:
  - the number of days overnight care is provided.
  - whether there is a requirement for the carer to remain awake and
  - what other facilities are available in the home.

## 6.5 CHECKS INTO ANY COURT CASES OR UNSPENT CRIMINAL CONVICTIONS

All applicants and members of their prospective household will be requested to disclose any pending court cases or unspent criminal convictions.

The council may use any information disclosed (or any other information obtained during the assessment or following registration) to ascertain whether the applicant should be disqualified from joining, or from remaining on the Housing Register, after applying the serious unacceptable behaviour rule.

Spent convictions are not required to be disclosed and will not be taken into account in assessing a person’s eligibility to join the Housing Register. The assessment will consider whether there is evidence of any current serious unacceptable behaviour

regardless of whether a person has been convicted in the past for that behaviour.

If the council decides that, on the information obtained during the assessment process, there is a pressing need for a Disclosure and Barring Service (DBS) check, or further information from the Probation Service, relevant inquiries will be made.

Information gained will not automatically exclude an applicant from the Housing Register. Information received may also be used to make informed decisions about the suitability of any property that may be offered.

All assessments will be carried out in accordance with data protection and information sharing policies and other legal requirements.

## 6.6 DELIBERATE WORSENING OF CIRCUMSTANCES

Social housing in Lewes is an extremely scarce resource in demand from a very large number of applicants, the majority of who will never receive an offer of accommodation from the council. The council has a responsibility to make the best use of its housing stock by ensuring that allocations of houses are made only to those who are in genuine housing need and who, despite having made every effort to help themselves improve their housing situation, continue to have a housing need.

For this reason, where there is evidence that an applicant has deliberately made their housing situation worse in order to gain a higher banding, the assessment of their needs will be based on the circumstances before the change in their situation brought about by their actions to deliberately worsen their circumstances. This will be considered at the point their application is assessed or, for applicants already on the Housing Register, at the point they request a change in banding due to a claim that their circumstances have changed.

Examples of deliberately worsening circumstances include:

- applicants who have allowed family members or others to move into their property, who previously had suitable accommodation or the financial means to secure their own accommodation, and this has resulted in the

property being overcrowded unless the addition to the household is considered to be unavoidable such as an older relative requiring full time care.

- homeowners who have transferred their property to another family member within the last five years from the date they make their application to the Housing Register.
- applicants who have given up affordable and suitable private rented accommodation that they are able to maintain to move in with other relatives or friends, creating a situation of overcrowding.
- requesting or colluding with a landlord or family member to issue them with a notice to leave their accommodation.

These are examples only. There may be other circumstances in which the council decides that an applicant has deliberately worsened their circumstances.

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# 7. ALLOCATING PROPERTIES

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## 7.1 WHAT IS AN ALLOCATION?

The following are “allocations” of accommodation under this Housing Allocations Policy

- The selection of a Housing Register applicant to be a secure or introductory tenant of Lewes District Council;
- The grant of a new tenancy to an existing tenant by way of “transfer” upon the tenant’s request;
- The nomination of a Housing Register applicant to be an Assured or an Assured Shorthold tenant of housing accommodation owned by a registered provider (including a housing association) through the council’s Nomination Rights Agreement.

## 7.2 ALLOCATIONS NOT COVERED BY THIS POLICY

The following are not “allocations” under this Housing Allocations Policy:

- An offer of accommodation to a tenant of Lewes District Council, who does not meet any of the reasonable preference criteria. Under the Localism Act 2011 such cases are not subject to the allocation rules set by section 166A of the Housing Act 1996;
- Succession to a tenancy on a tenant’s death pursuant to section 89 of the Housing Act 1985 or section 131 of the Housing Act 1996;
- Assignment of a tenancy by way of mutual exchange;
- Assignment of a tenancy to a person qualified to succeed to the tenancy on the tenant’s death;
- Transfer of the tenancy by a court order under family law provisions or under the Civil Partnership Act 2004;
- An introductory tenancy becoming a secure tenancy;
- Where the council initiates transfers (e.g. temporary moves (decants) to alternative accommodation to allow for major works);
- Re-housing due to being displaced from previous accommodation by Lewes District Council or being re-housed by Lewes District Council pursuant to the Land Compensation Act 1973;
- A person being granted a family intervention tenancy;
- Provision of non-secure temporary accommodation in discharge of any homelessness duty or power;
- Allocations which housing associations made outside of nominations agreements;
- Offers of tied accommodation made to Lewes District Council.
- Contractual accommodation duty owed by Lewes District Council to ex-service tenants where stipulated in council employment contracts;
- Cases where Lewes District Council has a contractual duty to provide ongoing accommodation; This only applies where caretakers or sheltered scheme managers have been provided with accommodation as part of their employment and the contract of employment guarantees ongoing accommodation.

## 7.3 LETTING BY PREFERENCE-BASED, DIRECT OFFERS

All homes owned by the council and homes owned by housing associations to which the council has nomination rights are let through a single direct offer for most applicants, taking account as far as is possible any preferences the applicant has expressed about their future housing

The council makes every effort to match applicants' preferences as far as is possible given the supply of housing available to it. In selecting properties to allocate and which applicant is most suitable, the council will normally take into account the following factors:

- Whether a home is a house, maisonette or flat;
- The size of the home, how many bedrooms it has, and whether it has double or single bedrooms so the council can match the minimum and maximum number of people suitable for that home (for example, a home with 3 bedrooms of which two are double rooms and one is a single room is suitable for a household with 4 or 5 people in it);
- Where a home has two or more living rooms, the council, where possible, designates one as a bedroom. For example, a three-bedroom home with two living rooms, one of which can be used as a bedroom, is designated and let as a home with 4 bedrooms;
- Whether children are allowed to live in the home;
- Whether age limits apply. For example, for some homes for older people applicants have to be aged over 50 and others over 60; Whether pets are allowed (see section 3.4.4);
- The floor level of the home, whether the home has lift access, or any adaptations
- The weekly rent charged and any other additional charges, and whether an affordability assessment indicates the applicant can afford them;
- The area in which the home is located
- any essential requirement concerning the type or location of re-housing

- the housing band into which the applicant's case falls; and
- the date registered within that band (except for when a property may be allocated outside of band and date order (see section 1.8 below)

The council will not normally take into account non-essential preferences concerning the location or type of rehousing requested by the applicant;

## 7.4 LOCAL LETTINGS POLICIES

Local lettings initiatives may be applied to meet the particular needs of a Parish, Village, local ward, block, estate or area or to address sustainability and community issues to ensure that the housing allocation scheme is able to contribute to building sustainable communities.

The following are examples of local lettings policies that may be deployed under this Scheme. The list is for illustrative purposes and is not exhaustive.

- age restrictions
- prioritising applicants who are key workers
- restrictions on lettings to vulnerable households where there are already a concentration of supported tenants/residents in a street or block
- lettings to childless households where there are high concentrations of children and young people living on a specific estate, street, or block
- ensuring that there is a balance of working and non-working households allocated to a scheme

New developments will normally have local lettings policies regardless of whether the new development is subject to a Section 106 agreement or affordable housing statement. Where a new development is subject to a Section 106 planning agreement the criteria set will be followed.

The council will decide when a local lettings policy may be appropriate and why.

There must be a clear evidence base for adopting a local lettings policy. A written record of each policy adopted should be kept. The following framework

will be used by the Council to decide whether a local lettings policy is appropriate:

- that there is a clear definition of the objective to be achieved by that particular local lettings policy
- that there is a clear evidence base to back up the need for a local lettings policy
- that any potential equality impact has been considered
- how long the local lettings policy is intended to operate; and
- when the local lettings policy should be reviewed.

## 7.5 DIRECT OFFERS OUTSIDE OF THE BAND AND DATE ORDER SYSTEM.

There may be circumstances in which there are urgent strategic, operational, or financial reasons to make a direct offer of housing outside of the band and date order criteria. Specific examples include but are not limited to:

- a) people who need to move due to a fire or flood, or severe storm damage to their home
- b) where there is an evidenced threat to life in the area in which an applicant currently lives for example, people who are at imminent risk of violence and are to be housed through a 'Witness Protection Programme'
- c) people who it has been agreed must be housed urgently as part of a multi-agency protocol such as a MAPPA, MARAC case where it is agreed there is a need to manage where a person should be housed
- d) where a vacant adapted property or a property designed to disability standards becomes available it may be offered to those households with a need for this property type regardless of their band or the date they were registered
- e) in the case of a secure or flexible council tenant who is willing to transfer from a property they do

not require, and which is particularly suitable for an applicant with special or support needs

- f) applicants who have voluntarily given up their secure and flexible council tenancy whilst they are in prison through an agreement with the Council to rehouse them on release from prison
- g) where an applicant is homeless and in temporary accommodation and owed a Section 189B (2) Relief duty or 193(2) Main duty under the Housing Act 1996 and the council wishes to make a direct offer outside of the band and date order to move applicants out of temporary accommodation in order to manage any budgetary or legal requirements placed on the council
- h) persons whom the council has a duty to rehouse under Section 39 of the Land Compensation Act 1973
- i) a vulnerable applicant where the outcome of an assessment is that a managed let in a particular suitable location is the best letting solution for that applicant; or

Special allocation arrangements may also apply in respect of properties available for letting on new-build developments.

Decisions to allocate properties outside of band and date order system will be authorised by the head of service, and recorded with the reasons why an allocation has been made. These will be reported on to members at least annually through a performance report covering all applications and lettings.

*Note: households that may be at high risk due to significant repairs issues will be decanted and made a direct offer outside of this Allocation Scheme as any offer will be a management initiated move and these sit outside of the requirements of allocations legislation.*

## 7.6 VERIFICATION

Following the matching of a property to a suitable applicant, the council reserves the right to verify the circumstances and housing conditions of a Housing



Register applicant before offering them a viewing of a suitable home.

The council will complete checks for any outstanding arrears or housing-related debts owed to us. Housing register applicants must produce any documents requested by the council in order to verify their current circumstances, including, but not limited to:

- Proof of identity – original documents are required as photocopies are not accepted; and
- Proof of address(es) lived at for the past 5 years for the main and joint applicant; and
- Proof of eligibility to receive an offer of accommodation
- Proof of any employment income or welfare benefits received (if relevant); and
- Any other documentary proof as appropriate and requested at the time

## 7.7 VIEWINGS

Following satisfactory verification, the council will invite the successful applicant to view the property. The invitation to view a home is made via a telephone call and/or an SMS text message and immediately followed up with an email and/or letter.

At the time of being contacted by phone and/or SMS text message, the council asks the applicant to confirm they will attend the viewing as well as confirm they are clear about the address of the home to be viewed. Where the council has left a voice message for the applicant and/or sent an SMS text message about a viewing, the council expects a response within one working day to confirm attendance. Failure to confirm attendance may result in the applicant being bypassed for a viewing and having their application removed from the Housing Register.

In the follow up invitation to view email/letter, the following information about the home is supplied including the:

- Address of the home;
- Rent and service charges payable;
- Number of bedrooms and bedspaces;

- Who the landlord is;
- Floor level and whether there is a lift;
- Type of heating;
- Adaptations if relevant;
- Whether pets are allowed.
- Whether the home is ready to move into straight away (it may still be occupied as the current tenant has given notice, or repairs may still be needed.)
- That the applicant will need to make a decision at the viewing about whether they will accept the home

## 7.8 NON-ATTENDANCE AT VIEWINGS

If an applicant does not attend a viewing of a home, whether they confirmed they would attend or not, the council will suspend their housing application and contact the applicant to find out why they did not attend the viewing.

The council will decide whether the reasons for not attending the viewing were reasonable or not. Examples of acceptable reasons for not attending a confirmed viewing include:

- Life-threatening health issue;
- Having an operation at the same time as the viewing;
- Breakdown of transport beyond the applicant's control, e.g. train or bus strike.

If the council accepts the reasons for not attending the viewing on this occasion, then the housing application will be reinstated, and the applicant can be considered for other homes and invited again to view one that matches their needs.

If the council does not accept the reasons for not attending the viewing, the council will:

- If the applicant is a homeless applicant owed the full housing duty by the council, end its duty to house the applicant.
- If the applicant and their household are occupying temporary accommodation which the

council provided because the applicant was homeless, the licence will be terminated with reasonable notice. The applicant will then have to find their own accommodation.

- If the applicant is a Transfer tenant, the council may suspend their Housing Register application for 12 months and they may not be considered for further suitable homes during that time.

Where the applicant falls into one of the exceptions for receiving more than one offer and has failed to attend a viewing for a first or second offer, the non-attendance will be confirmed by letter for the record. The non-attendance letter relating to the second offer will warn of the consequences of not turning up to a third viewing which are:

- For a council or housing association tenant wishing to move to a home with fewer bedrooms, their Housing Register application will be suspended for 12 months, and they will not be considered for further suitable homes during that time.
- For an applicant occupying a council-owned home which has adaptations no longer required, the council will start proceedings to regain possession of the home and will make a final offer.
- For applicants needing an adapted home, the council will make a final offer which if not viewed or refused will mean: – The application is suspended from the Housing Register if the applicant is a Transfer tenant; or –
- The council will discharge its duty to the household where they are Homeless

## 7.9 REFUSING AN OFFER OF ACCOMMODATION

If an applicant does not reply to an offer within two working days of receiving the offer it will be deemed to have been refused, unless there are exceptional circumstances as to why there is no response

Any applicant who refuses three suitable offers will be suspended for a period of 12 months for an allocation of accommodation unless there are very exceptional circumstances that the Council agrees mean that they should not be suspended. The 12-

month suspension shall be from the date the council notified the applicant of its decision.

The council will determine whether an offer was reasonable for an applicant to accept using the suitable offer criteria set out at annex 2.

### *Exemptions to the suspension of an applications following refusal of two properties*

By exception, the following categories of applicant can receive up to three offers without affecting their status on the housing register:

- Council tenants who wish to move to a smaller home so that their larger home is released for another Housing Register applicant who needs it;
- Council tenants whose move would release an adapted home for another Housing Register applicant who needs it;
- Applicants who need to move to an adapted home.
- Where it is clear the applicant's details have been recorded incorrectly and this has led to an invitation to view a home that will not meet the applicant's needs; or
- It is clear the details about the property have been recorded incorrectly which has led to the applicant viewing a home which does not meet their needs

## 7.10 REFUSALS FOR HOMELESS APPLICANTS

Applicants owed any of the statutory homeless duties will be made **one** suitable offer in writing, and a refusal will mean that their banding priority for being owed a statutory homeless duty will be removed.

An offer of suitable accommodation for an applicant owed a statutory homeless duty could be either a private rented property, or a social rented property. Should the applicant refuse an offer that is considered both suitable for their needs and reasonable, then, subject to the council's homelessness review procedure, the homelessness duty owed will be discharged and they will lose any

priority status granted to them based on the homelessness duty owed.

In these circumstances the council will then assess whether they have another housing need as defined by the Scheme that would allow them to be banded and if so, they may still receive a second offer under the 2-offer policy if their revised housing need banding is sufficiently high to qualify for a second offer. If they do not have another housing need as defined by the policy they will be removed from the Housing Register under the 'no housing need' qualification rule.

A statutory homeless duty is defined as:

- the prevention of homelessness duty under Section 195(2)
- the 'relief of homelessness duty' under Section 189B(2)
- where the relief duty has come to an end and an applicant is then owed a Section 190 Intentionally homeless temporary accommodation duty to provide them with a reasonable opportunity to secure alternative accommodation for occupation (Section 190(2) duty); or
- the Section 193(2) main homelessness duty or the Section 193C(4) 'reduced' Section 193 duty.

The suitability criteria used to determine whether an offer to end a main homeless duty owed under Section 193(2) of the Housing Act 1996 or a relief of homelessness duty owed under Section 189b, will be the criteria set down in the Suitability of Accommodation Order England 2012, as amended by Section 12 of the Homelessness Reduction Act 2017, relevant case law, and statutory guidance.

These criteria only apply to an offer of social housing or private rented housing made with the intention of

ending a main or relief homeless duty. Where an offer is made to any other banded applicant who is not owed a full homeless duty it is for the council to decide based on the facts of the case whether the offer is suitable using the guidance in Annex 2 of this Scheme to help make the decision.

# 8. RIGHTS OF INFORMATION, REVIEW AND COMPLAINTS

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## 8.1 REVIEWING AN APPLICATION

Every active applicant on the Register will have their application reviewed annually, or more frequently if required, to ensure the application information is kept up to date and to efficiently manage the administration of the register.

At the anniversary of the application date, or when carrying out a review, each applicant will be contacted, usually by letter or email, to confirm their application is still required and will be asked to check their application details are still correct against their online portal and update them where necessary. In the instance of an applicant being unable to check and update their online application, a paper review form will be issued and should be returned within the timescales provided.

- when a tenant completes a mutual exchange
- where the applicant moves and does not provide a contact address
- where the applicant has died
- where, at the housing application or any reassessment, an applicant has not supplied information requested within 28 days.
- where an applicant already registered becomes ineligible or is disqualified under the rules adopted for this policy
- where the applicant buys a property either through the Right to Buy or Right to Acquire or through the open market or inherits a property.

Any applicant whose application has been cancelled has the right to ask for a review of that decision.

## 8.2 CANCELLING APPLICATIONS

An application will be cancelled from the Housing Register in the following circumstances:

- at the request of an applicant
- where an applicant does not respond to an application review, within the specified time set out in any correspondence sent to them
- where the Council or Private Registered Provider has housed the applicant

## 8.3 THE REVIEW PROCEDURE

Under the housing legislation an applicant has a legal right to request a review of any of the following decisions reached by the council:

- a decision that an applicant is ineligible, or not a qualifying person to join the Housing Register
- a decision regarding which band an applicant has been awarded

- the priority date granted for the band awarded
- to remove an applicant from the Housing Register
- any decision about the facts of the case that has been used to assess their application including the decision the council has made regarding who can be included in the application
- where an applicant considers that a decision has been reached based on incorrect information.

## 8.4 HOW A REQUEST FOR A REVIEW WILL BE DEALT WITH

Applicants who are unhappy with a decision made under the Allocation Scheme should in the first instance contact the Homes First Team and explain why they think the decision is not correct or not reasonable. An initial informal review will then be undertaken by either the housing officer who dealt with their case or an equivalent officer.

The applicant will be notified whether the decision still stands and the reasons for this usually within two

working days via a telephone call, text, email, or letter.

If an applicant wishes to take the matter further, they can make a request for a formal review of the decision within 21 days of being informed of the outcome of the informal review. The request can be made verbally or in writing by letter or email. In these cases, the applicant will then be invited to make a written submission stating the reasons for their request for a review. Formal reviews will be conducted by a 'Homes First' Service Manager who will notify the applicant of the outcome of the review in writing, including the reasons for their decision. The council aims to notify the applicant within 56 days; however, this is a target timescale and may be longer depending on operational pressures.

There is no right to request a review of a review decision.

# 9. SERVICE STANDARDS

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In delivering all services associated with our Allocations policy, including assessing housing register applications, prioritising applicants, matching and allocating properties, corresponding with applicants, renewing applications and dealing with complaints and reviews, we will:

Treat all of our customers equally and with respect, in accordance with their need and, where possible, their preferences for housing regardless of age, disability, sex, race, religion or belief, sexual orientation, marriage and civil partnership or gender reassignment

Enable Housing Register applicants to state their preferences about what type of home they would like to live in

Provide free information and advice about applying to the housing register, demands on social housing, as well as realistic housing options.

Make sure any information about housing options is easy to find and to understand.

Ensure all allocations of council homes and nominations to housing associations are carried out in accordance with the rules set out in this Housing Allocations Policy

Make available: – The Housing Allocations Policy, both in full and as a summary, for download from the council’s website (printed versions can be made available on request.) <https://democracy.lewes-eastbourne.gov.uk/documents/s6277/housing%20allocations%20policy%20kd%20-%20appendix%20b.pdf>

Comply fully with the Data Protection Act 199810 and ensure all information Housing Register applicants provide is treated in the strictest confidence.

# 10. THE COUNCIL'S LEGAL DUTIES TO APPLICANTS

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## 10.1 DATA PROTECTION

Lewes Council will ensure personal information of all applicants (new, existing, and deleted) is:

- stored lawfully
- processed in a fair and transparent manner
- collected for a specific, explicit and legitimate purpose
- kept up to date and held until it is no longer required; and
- shared only with other organisations for legitimate processing.

Lewes Council's privacy notice, which sets out when and why it collects personal information about people who access its services, how it uses it, how it keeps it secure, and individuals' rights, can be found on its website: <https://www.lewes-eastbourne.gov.uk/article/1342/Privacy-notice>

The UK-GDPR and the Data Protection Act 2018 provide individuals with a right to request access to any of their personal data held by Lewes Council, and a right to know where the data came from, how it is used, and why it is held. Such a request is called a "subject access request" and applies to personal data in housing files. Information about making a subject access request is available on the Council's website: <https://www.lewes-eastbourne.gov.uk/article/1113/Make-a-personal-data-request>

Subject access requests can be made in writing to Lewes Council at [accessinformation@lewes-eastbourne.gov.uk](mailto:accessinformation@lewes-eastbourne.gov.uk) or by post to the Council's office at the Town Hall and must describe the information sought. Applicants must state their name and provide proof of their identity, such as a copy of a passport, driving license, or recent utility bill.

Any applications made by third parties on behalf of an applicant (for example by a lawyer acting for a client) must be accompanied by written evidence of authority to act. If this is not possible by reason of disability, the Council should be contacted in order to make alternative arrangements.

The Council will not usually charge a fee to deal with a subject access request.

Once the Council has received the information and proof of ID, it must provide the requested information within one month. There is a limited range of exemptions from the right of subject access.

Housing files may contain information about other people (third parties). If the Council cannot respond to a request without giving information about other people, it is not obliged to include this information in its response unless they consent, or unless it thinks it is reasonable in all the circumstances to disclose this information without their consent.

## 10.2 RIGHT TO INFORMATION

Anyone has the right to request access to recorded information held by the council under the Freedom of Information Act 2000 (FOIA).

Requests under the FOIA must be made in writing, must include the applicant's name and a correspondence address, and must specifically describe the information requested.

Once a valid request has been reviewed the council must usually respond within 20 working days.

### 10.3 EQUALITY, ACCESSIBILITY, AND MONITORING

Lewes Council is committed to ensuring that the Scheme, and the implementation of all associated guidance and procedures, are non-discriminatory, taking into account the needs of groups protected by the Equality Act 2010, the Human Rights Act 1998, and for children, Section 11 of the Children Act.

To help the council identify the needs of applicants, the application form contains specific questions relating to vulnerability, ethnic origin, sexual orientation, disability, and other relevant criteria. The information obtained will be used to monitor the impact of the Scheme to enable a better understanding of people's housing needs and ensure no one is discriminated against as a result of the way this Scheme has been framed or during the administration of it.

Under the Equality Act 2010, and in particular Section 149 of the Public Sector Equality Duty, a council is required to give due regard to eliminate discrimination, advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not, when exercising a public function such as implementing their legal Housing Allocation Scheme.

Lewes Council will ensure this Scheme complies with current equality legislation. It will be subject to a full Equality Impact Assessment (EIA) before it is adopted. The EIA will be regularly reviewed as information regarding the impact of the Scheme is obtained. A copy can be requested directly from the council.

### 10.4 COMPLAINTS

Complaints are separate to the circumstances in which an applicant is entitled to seek a review of a decision made on their housing application. A request for a review of a decision made on an application should be made under the review procedure set out in section 3.12 and not through the council's complaints processes.

Where an applicant wishes to make a complaint about poor service, or the way they have been treated, this should be made using Lewes Council's complaints process. Information about how the Council deals with complaints can be found on its website: <https://www.lewes-eastbourne.gov.uk/article/1938/Make-a-complaint>

Where a complaint relates to how an applicant has been dealt with under this scheme, an applicant has the right to continue with their complaint to the Local Government and Social Care Ombudsman Service if they are unhappy with the Council's response to their complaint.

The Local Government and Social Care Ombudsman provides an independent complaint handling service for complaints that have not been resolved by local authorities. The Ombudsman can investigate complaints about how the council has done something, but it cannot question what has been done simply because someone did not agree with it. Further information can be found on the LGSCO's website: [www.lgo.org.uk](http://www.lgo.org.uk)

### 10.5 CONTACTING THE COUNCIL

You can contact Lewes District Council to ask about any aspect of this policy or your application by visiting the website:

[Contact us - Lewes and Eastbourne Councils](#)

Or by telephoning: 01273 471600



# 11. ANNEXES

## ANNEX 2: DEFINITION OF A SUITABLE OFFER

Where accommodation is offered an applicant will normally be expected to accept an offer of a property that meets their specified needs. Reasonable offers are those that are deemed as suitable and appropriate to meet the housing and medical needs of the household concerned and are affordable to the applicant and his or her household.

The suitability criteria used to determine whether an offer to end a main homeless duty owed under Section 193(2) of the Housing Act 1996) or a relief of homelessness duty owed under Section 189b, will be the criteria set down in the Suitability of Accommodation Order England 2012, as amended by Section 12 of the Homelessness Reduction Act 2017, relevant case law and statutory guidance.

These criteria only apply to an offer of social housing or private rented housing made with the intention of ending a full homeless duty. Where an offer is made to any other banded applicant who is not owed a full homeless duty it is for the council to decide on the facts of the case whether the offer is suitable using the guidance in this annexe to help the officer make the decision.

The council will consider that a property is suitable if all of the following criteria are met:

- it is located in an area that the council considers to be suitable for the applicant and their household. This could include accommodation located outside of the Eastbourne area;
- if it is affordable for the applicant and his or her household based on his or her financial circumstances at the time of offer;
- it is sized in accordance with the criteria in this Scheme;
- it complies with any recommendation made by a medical or other relevant advisor.

In determining the suitability of accommodation, the council will consider the following:

- the significance of any disruption to the employment, education or caring responsibilities of the applicant or a member of the household;
- the accessibility of medical or other support facilities that are currently used by the applicant or a member of the household;
- the accessibility of local services, including places of worship, amenities, and transport;
- its duty to safeguard children under Section 11 Children Act 2004;
- its public sector equality duty under Section 149 Equality Act 2010;
- if a suitable property is located outside of the district's boundary, then the council has to take into consideration the distance from the applicant's existing accommodation in the district.

The above are matters for the council to determine based on the facts of the case.

### **GUIDANCE FOR ASSESSING OFFICERS ON HOW THE COUNCIL WILL ASSESS REASONABLE AND UNREASONABLE REFUSALS:**

#### **1) Property size**

The property must be the appropriate size for the household's needs at the time of making the offer. Where the family composition has changed, so that the property offered is too small or large for the applicant's needs, the refusal will be recorded as reasonable.

It is the applicant's responsibility to ensure that they register any change in their circumstances that will affect the number of bedrooms to which they are entitled.

Where the applicant refuses a property because it is too small on grounds of the need for an additional or larger bedroom(s) due to medical/mobility factors, but it meets the lettings standard, this will normally be considered to be an unreasonable refusal unless the applicant provides new medical information at the offer stage that is accepted by the council.

## 2) Property type

It will not be considered to be a reasonable refusal due to a dislike of the property type. Therefore, an applicant cannot reasonably refuse an offer because for example, it is in a tower block, it does not have a garden or a particular heating system, it is on a wrong floor, or does not have a lift. If the applicant states medical grounds for refusing the property, these should already have been disclosed and considered as part of the assessment of their application, unless new information is submitted that is accepted by the council.

Where specialist accommodation is offered to a household inappropriately, this is considered to be a reasonable refusal. This may be for example:

- offers of wheelchair standard housing to households which do not have wheelchair users;
- offers made to disabled applicants which are unsuitable for their needs, for example where they are unable to open a door entry system because the doors are too heavy;
- offers of sheltered housing where the applicant is not of the appropriate age.

## 3) Property condition

Where a property is refused on grounds of repair/decoration, this will be considered an unreasonable refusal unless the voids team decides to withdraw the property from letting for further works to be carried out.

## 4) Area of choice

An offer will still be considered reasonable even if it is not within an applicant's area of choice.

## 5) Racial harassment

Where an applicant from an ethnic minority household refuses the property prior to viewing because the previous tenant was rehoused as a result of racial harassment, or there is a known problem of racial harassment in the vicinity of the property, the refusal is considered reasonable.

## 6) Choice of landlord

An applicant cannot choose whether they are rehoused by a specific Private Registered Provider. Therefore, any refusal for example by an applicant of a property because it is a Private Registered Provider property with no 'Right to Buy', or 'Right to Acquire', or the rent is higher than another social landlord will not be considered to be reasonable (unless in the example of the rent level the assessment is that the offer is unaffordable for the applicant in question).

## 7) Pets

One of the conditions of the tenancy agreement is that a tenant must obtain the written consent of the landlord before keeping domestic pets. Some retirement housing blocks have a 'no pet policy'.

Any intention to keep a pet must comply with the council or Private Registered Provider tenancy terms and conditions, which means that permission must be sought and agreed prior to signing the tenancy agreement for the property. Therefore, any refusal on the basis that permission has not been granted to keep a pet is not reasonable.

## ANNEX 3: EXAMPLES OF WHEN AN APPLICANT MAY BE AWARDED PRIORITY BAND A OR B, ON THE BASIS OF A MEDICAL OR DISABILITY NEED

### Examples of circumstances to help the assessing officer to decide when Band A (Emergency) may be awarded on medical or disability grounds

The following examples are intended to guide the assessing officer on the threshold set for a Band A award. They can also serve to help an applicant understand the threshold for a priority award to be granted. A Band A award is for *“Applicants who are suffering sudden or severe progressive life-threatening medical conditions and need an immediate move (e.g., to facilitate hospital discharge) because their current home is unsuitable (as it does not meet their medical needs and/or cannot be adapted) and poses an immediate and serious danger to the individual.”*

- a) Applicants who have a progressive, chronic or life-threatening medical condition and cannot be discharged from hospital because they do not have any accommodation, or their accommodation is unsuitable for example, because they cannot access toilet and/or bathing facilities in the property. This will include cases that cannot be discharged from hospital because their home is, and will remain, permanently entirely unsuitable or entirely inaccessible to live in.
- b) Where the assessing officer accepts that the evidence from a relevant health professional indicates that there is a significant risk of serious and permanent injury and/or permanent disability.
- c) Applicants who have a progressive, chronic or life-threatening medical condition and urgently need to move to accommodation with significant disabled adaptations, such as accommodation suitable for a wheelchair user.
- d) A serious illness, where an applicant is receiving palliative care and urgently requires rehousing to facilitate the on-going provision of that care.
- e) The applicant’s health is so severely affected by the accommodation that it is likely to become life threatening, e.g., applicant has severe mental health problems that are significantly exacerbated

by their accommodation and that opinion is fully evidenced by the applicant’s consultant or mental health services.

- f) Due to limited mobility a person is unable to access essential parts of the property e.g., bathroom/toilet and no adaptation is possible.
- g) A member of the household is elderly or disabled or has a progressive illness and is likely to require admission to hospital or residential/nursing care in the immediate future and re-housing would enable the person to remain at home.
- h) Where the applicant is prevented from having access to kidney dialysis, respiratory, or other similar essential equipment. This will normally apply where these circumstances are likely to prevent someone from remaining in their home for all or most of the time. Such a condition would be likely to be ongoing, rather than a temporary condition.

### Examples of circumstances to help the assessing officer to decide when Band B should be awarded on medical or disability grounds

- a) A life-threatening condition which is seriously affected by the current housing and where re-housing would make that condition significantly easier to manage.
- b) A life limiting condition and their current accommodation is affecting their ability to retain independence or enable adequate care.
- c) A new and life-changing condition that severely impairs their mobility, meaning they are unable to carry out day-to-day activities, or have difficulty accessing facilities inside and outside of their accommodation and require housing into suitable accommodation.
- d) An applicant or member of his/her household usually has a chronic condition; examples might include a respiratory condition, severe asthma or emphysema – and that the condition is being made worse by the current accommodation.

- e) Where their current property leaves a person at risk of infection, e.g., where an applicant is suffering from late-stage or advanced AIDs.
- f) People who have a severe mental health or learning disability which significantly affects their ability to lead a normal life, and which puts them at risk of admission to hospital or residential care. Evidence would normally need to be provided from a specialist consultant psychiatrist or a certified paediatric nurse that their current accommodation is having a significant detrimental impact on the mental health of any member of the household.
- g) People living in a mobile home, caravan or converted vehicle which, due to medical conditions, the vehicle cannot meet their essential needs.
- h) Where remaining in the current accommodation poses a significant risk of serious and permanent injury and/or permanent severe disability.
- i) Someone with a medical or disability who's housing has rendered them housebound.
- j) Where a move would avoid the need for another service (e.g., Social Services) from having to provide a significant level of support. This might include for example residential care, overnight care provision, or other support with similar resource implications.
- k) Where someone suffers with epilepsy or other conditions that cause frequent and unpredictable falls and all medical interventions to prevent them have been investigated. This will involve an assessment of the layout of their current accommodation, for example the number and nature of steps, stairs or other hazards that may increase the risk of serious injury.
- l) The applicant or household member requires significant disabled adaptations to meet their needs, and this is not possible in their current accommodation or would not be cost effective.
- m) Armed forces personnel who need to move to suitable adapted accommodation because of a serious injury, medical condition or disability that he or she has sustained as a result of service.
- n) Veterans who have actively served in the armed forces and are suffering from severe post-traumatic stress disorder or serious illness directly related to service in the forces.
- o) An occupational therapist has identified that the current accommodation is partially suitable but:
  - the applicant or member of his/her household needs a major adaptation, such as a level access shower; or
  - the applicant or member of his/her household has significant difficulty managing stairs or difficulty accessing the property owing to stairs or slopes leading to doorways and the occupational therapist recommends a lift, ramped access or ground floor living; and
  - the adaptations are unlikely to be completed in a reasonable period of time
- p) Applicants who have significant mobility issues and would benefit from a move to ground floor or level access accommodation.
- q) Applicants who have significant mobility issues and would benefit from a move to accommodation that has level access showering facilities.
- r) Children with severe conditions such as autism, or cerebral palsy or ADHD where their long-term needs cannot be met without long term settled accommodation.
- s) A person with a severe disability requiring some adaptations to their property that cannot be provided for in their current accommodation.
- t) Where an applicant can access their home but struggles to access normal day-to-day facilities within it (e.g., bath/shower/toilet) without experiencing significant difficulty, pain or other discomfort. This would include cases where an adaptation is possible but cannot be undertaken in a reasonable period of time. (Note: any priority would be removed if an adaptation is completed, or work started)

## **GUIDELINES FOR ASSESSING EXTRA BEDROOM REQUESTS FOR ADHD, ASPERGER'S, SENSORY PROCESSING DIFFICULTIES AND OTHER MENTAL OR PHYSICAL HEALTH PROBLEMS**

In making an assessment for an extra bedroom for ADHD, Asperger's, sensory processing difficulties, and other mental or physical health problems the council will consider the following framework to help guide the assessing officer:

- the nature and severity of the disability;
- the nature and frequency of any care required during the night; and
- the extent and regularity of the disturbance to the sleep of the child who would normally be required to share the bedroom.

In all cases this will come down to a matter of judgement on facts of each individual case.

A claim should normally be supported by medical evidence and many children will be in receipt of Disability Living Allowance (DLA) care component at the middle or highest rate for their medical condition or Personal Independence Payment (PIP) at the enhanced rate or mobility component.

Requested evidence will include, but may not be limited to, the following:

- medical evidence detailing the nature of the disability, how this effected by the home environment and the impact on other members of the household
- other supporting information from care and support agencies involved with the child and family (this should be specific information relating to the request for re-housing rather than a general letter of support and is likely to be from specialist rather than universal services); and,
- proof of DLA entitlement, and whether or not Universal Credit or Housing Benefit will agree to pay for the extra bedroom moving forward

The circumstances where a possible award of an extra bedroom may be made include a consideration of all of the facts set out below:

- a) Supporting letters for example from school SENCO stating that they also use a calm room at school and why, a letter specifying aggressive behaviour and frequency, behaviour flow chats, list of aggressive behaviours displayed at school, also stating the danger of child sharing alone with another child, their sensory issues, their inability to cope with small changes and reaction as a result.
- b) Where there is professionally assessed evidence of a child or young person up to the age of 25 in the household who has a severe or profound learning difficulty, with a presentation of behavioural or emotional difficulties who exhibits sexually exploratory behaviour or other inappropriate behaviour of a serious nature and has a limited understanding around the impact of this on others. This may need to be certified by a consultant psychiatrist.
- c) The applicant or a member of their household (adult or child), need major medical equipment for the long term, such as home dialysis, equipment for percutaneous external gastrostomy feeding, long term large assistive equipment or and/or bulky medical supplies which need to be used and stored on a permanent basis.
- d) A DLA or PIP award letter indicating high care and low mobility.
- e) An assessment of need which supports the claim for an additional bedroom based on a severe impact where that assessment has been undertaken by the appropriate health or care professionals. The assessment would need to evidence that sharing with another family member who has care needs or behavioural problems that severely affect that family members ability to sleep, which in turn is having a very significant negative impact on their employment (to the extent that they may lose their permanent employment), or on their mental health (to the extent that they have been assessed with a severe mental health condition, or their current condition has become severe, as a result of having to share).
- f) Carer's award letter (or social services report) stating care award is due to care needing to be given day and night.

Examples unlikely to qualify include:

- a) Circumstances, for example, where the claimant is one of a couple who is unable to share a bedroom.
- b) Where children share and the claim is that by having to share this is impacting on their ability to study and complete homework but there is evidence that they are able to study elsewhere in the home or at relatives or using library services.
- c) Where family members provide overnight care and support only at weekends or for part of the year.
- d) People with mental health issues who say they want an extra room for a friend or relative who provides support.
- e) A claim based solely on the wish that the applicant requires an additional room so that a child can cut themselves off from the world, which they claim is essential to their mental wellbeing.
- f) People who are in receipt of formal overnight care (provided by NHS continuing care nurses, visiting agency carers, etc)

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## ANNEX 4: RIGHT TO MOVE QUALIFYING CRITERIA

Right to Move – Statutory guidance on social housing allocations for local housing authorities in England

An existing social housing tenant (living outside of the Eastbourne area) will not be disqualified on the grounds of no residential connection if they: have reasonable preference under s166(3)(e) because of a need to move to the Eastbourne area because the tenant works in Eastbourne or needs to move to take up an offer of work.

Whether or not the applicant meets the above criteria isn't solely determined by the need to move for work, but that it would cause them hardship if they were able to do so.

### Definition of Work

- Work should be a permanent contract or one with a minimum term of 12 months.
- Work should be of 16 or more hours a week (unless it can be demonstrated that the earnings are substantial).
- Work should not be voluntary.
- Work can include apprenticeships.
- The relevant district should be the main place of work.
- In the case of self-employed tenants, work should be regular as opposed to intermittent.

### Distance, time and travel costs

When determining hardship, the time taken to travel to work and the cost of the travel should be taken into account. The council considers the following criteria may suggest hardship:

- Travel time to get to work is in excess of two hours each way (personal or public transport depending on circumstances).
- Travel costs are more than £30 per day or 25% of net income from the employment or there is no transport available at all.

### Other factors

These factors are all considered on a case-by-case basis as to whether hardship would be faced by the applicant if they could not move:

- Would failure to move mean the applicant would lose an opportunity to gain a better job/promotion, an apprenticeship, increase hours/pay or move from unemployment to employment.
- If the nature of work likely to be available closer to the applicant's home.
- Personal factors including care responsibilities and medical conditions affected by the tenant not being able to move closer to work.
- Any other situation where hardship would be demonstrable if the tenant could not move.

### Discretion

Every application will be dealt with on a case-by-case basis allowing all circumstances and variables to be considered.

### Proof of Work

A combination of the following can be used as to prove that work or a job offer is genuine:

- Contract of employment (particularly if stating main place of work).
- Wage slips showing hours worked (particularly if zero hours contract) but they are unlikely to evidence the location of work.
- A letter offering employment (it is likely that the employer will be contacted to confirm acceptance).
- A letter from an employer to prove the work and location.

### Right to Move Quota

No more than 1% of all lettings will be prioritised for Right to Move applicants based on the total of the previous year's lettings by the council.

## ANNEX 5: FURTHER DETAIL FOR THE ELIGIBILITY RULES

Some groups of people cannot by law join the Council's Housing Register regardless of their housing need or circumstances. These are people who:

- come under a government rule which means they cannot lawfully access social housing as they are not eligible to do so, or
- do not live habitually in the 'Common Travel Area' (UK, Channel Islands, the Isle of Man or the Republic of Ireland), or
- do not have the right to live in the UK, or
- fall under other categories of people who the Government may in the future decide are not eligible for housing assistance.

The key relevant regulations that apply to eligibility are:

- Regulations 3 and 4 Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006, SI 2006/1294, and
- All subsequent amendments including 'The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) (EU Exit) Regulations 2019 (SI 2019/861), plus
- The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2020 (SI 2020/667) implemented from the 24 August 2020.

The following classes of persons, subject to satisfying a habitual residency test, will be eligible to join this Scheme:

- a) British citizens (constituting the nations of England, Scotland and Wales).
- b) Commonwealth citizens with a right of abode in the UK immediately before 1<sup>st</sup> January 1983 who have remained commonwealth citizens throughout (excluding non-British citizens from Pakistan and South Africa, but inclusive of citizens from Gambia and Zimbabwe).
- c) Irish citizens (constituting the nations of Northern Ireland and Republic of Ireland).

d) EEA Nationals (other than those from Ireland) and their family members, who

- Have acquired limited leave to enter and remain in the UK.
- Were frontier working before 31 December 2020, or;
- Are lawfully residing in the UK by 31 December 2020, but still have to apply to, or acquire status under the EU Settlement Scheme before the deadline of 30 June 2021 and are covered by the "Grace Period statutory instrument".

e) Persons exempt from immigration control (e.g., diplomats and their family members based in the UK and some military personnel).

f) Persons granted refugee status by the UK Government.

g) Persons granted exceptional or limited leave to enter or remain in the UK with condition that they and any dependents have resource to public funds (e.g., humanitarian or compassionate circumstances).

h) Persons with current leave to enter or remain in the UK with no condition or limitation, and who are habitually resident in the UK, The Channel Islands, the Isle of Man or the Republic of Ireland (defined as the Common Travel Area) (a person whose maintenance and accommodation is being sponsored must be resident in the Common Travel Area for five years since date of entry or date of sponsorship, unless the sponsor has died).

i) Persons who have humanitarian protection granted under the Immigration Rules (e.g., a person whose asylum application has failed, but they face real risk of harm if they returned to their state of origin).

j) Persons who moved to the UK as child seeking asylum and have been given limited leave to remain.

k) Persons who have limited permission to enter or remain in the UK, from November 2018 onwards, due to Calais leave.



l) Persons who have limited permission to enter or remain in the UK as the family member of a relevant persons of Northern Ireland.

m) Persons who have leave to enter or remain in the UK under Appendix Hong Kong British National (Overseas) of the Immigration Rules, and your leave is not subject to a condition requiring you to maintain and accommodate yourself or any person dependent upon you.

n) Persons who are a relevant Afghan citizen, such as one who has worked for the UK government in Afghanistan.

o) Persons who have permission to enter or remain in the UK and left Afghanistan in connection with the collapse of the Afghan government took place on 15 August 2021 and are allowed to claim housing and welfare assistance from the state.

p) Persons who are currently living in the UK and previously was living in Ukraine before 1 January 2022 and left as a result of the Russian invasion which took place on 24 February 2022 and have arrived in the UK under the Ukraine family scheme or the homes for Ukraine scheme and have been granted leave to remain.

q) Persons who are currently living in the UK and previously was living in Ukraine before 1 January 2022 and left as a result of the Russian invasion which took place on 24 February 2022 and have arrived in the UK under the Ukraine family scheme or the homes for Ukraine scheme and have been given limited leave to remain.

r) Persons who have been granted limited leave to remain due to being a victim of human trafficking or slavery.

s) Persons who were living in Sudan before 15 April 2023 and left as a result of conflict that commenced on 15 April 2023 and have been granted leave to remain and are allowed to claim housing and welfare assistance from the state and do not have a person that will sponsor your stay in the UK.

The above section is not a complete list or explanation of all the eligibility regulations. For example, there is significant legislation that relates to the UK's exit from the European Union and the implications for accessing housing assistance including the status of family members. These rules are complicated. Anyone who is impacted, or believes they may be impacted, can approach the council for advice, or can seek independent legal advice.