



CABINET REPORT

Report Title	Changes to the Housing Allocations and Choice Based Lettings Scheme
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AGENDA STATUS: PUBLIC

Cabinet Meeting Date:	17 October 2018
Key Decision:	Yes
Within Policy:	Yes
Policy Document:	No
Service Area:	Housing and Wellbeing
Accountable Cabinet Member:	Councillor Stephen Hibbert
Ward(s)	All

1. Purpose

- 1.1 The Homelessness Reduction Act 2017 came into effect on 3 April 2018 and extends the duties of local authorities to prevent and relieve homelessness.
- 1.2 The purpose of this report is to ask Cabinet to approve a series of minor changes to the Council's Housing Allocations and Choice Based Lettings Scheme in order to incorporate the Council's new duties under the Homelessness Reduction Act 2017 and help mitigate their impact on the amount of time that homeless households spend in temporary accommodation.

2. Recommendations

- 2.1 It is **recommended** that Cabinet approves the following changes to Northampton's Housing Allocations and Choice Based Lettings Scheme (set out in Appendix A of this report):
- (a) The Emergency Band is amended to include applicants who have been accepted by the Council as being owed the relief duty (under the Homelessness Reduction Act 2017) and have been assessed as being in priority need and unintentionally homeless;
 - (b) Band A is amended to include applicants who have been accepted by the Council as being owed the prevention duty (under the Homelessness Reduction Act 2017) and have been assessed as being in priority need;
 - (c) Band B is amended to include the following applicants:
 - Applicants who have been accepted by the Council as being owed the prevention duty (under the Homelessness Reduction Act 2017) and have been assessed as having no priority need
 - Applicants who have been accepted by the Council as being owed the relief duty (under the Homelessness Reduction Act 2017) and have been assessed as having no priority need
 - Applicants who are homeless or threatened with homelessness but have been notified that they have no right of rehousing under the homelessness legislation, or where the homelessness duties have been discharged but homelessness continues.
 - (d) Where an applicant has been accepted by the Council as being owed the relief duty (under the Homelessness Reduction Act 2017) and has been assessed as being in priority need and unintentionally homeless, their 'effective date' in the Emergency Band will be the date that the Council accepted that they were owed a relief duty, even if this occurred prior to 17 October 2018.

3. Issues and Choices

3.1 Report Background

- 3.1.1 The Homelessness Reduction Act 2017 came into effect on 3 April 2018 and amends Part 7 of the Housing Act 1996 by adding two new duties to local housing authorities' statutory rehousing duty:
- A 56 day duty to prevent homelessness
 - A 56 day duty to relieve homelessness
- 3.1.2 The new **prevention duty** requires the housing authority to take reasonable steps to prevent an eligible applicant who is threatened with homelessness within 56 days from becoming homeless. It can do this either by arranging for them to remain in their current home or by securing accommodation elsewhere, such as through a private tenancy of at least six months.

- 3.1.3 The new **relief duty** requires the housing authority to take reasonable steps to help an eligible applicant to secure accommodation within 56 days if homelessness has not been prevented or if a person requests assistance when they are already homeless.
- 3.1.4 If homelessness is not successfully relieved within 56 days and the applicant is eligible, has a priority need for accommodation and is not intentionally homeless, the housing authority will owe the applicant the **main housing duty** and will be required to provide them with settled accommodation.

Duty to provide temporary accommodation

- 3.1.5 If the housing authority has reason to believe that an eligible applicant is homeless and may have a priority need, it must provide them with temporary accommodation under its **relief duty**.
- 3.1.6 When a housing authority determines (after making appropriate enquiries) that the applicant does not have a priority need, it is able to withdraw the temporary accommodation after a reasonable period (usually 7 days) even if the applicant is still owed a duty to relieve their homelessness.
- 3.1.7 When a housing authority determines (after making appropriate enquiries) that it does not owe an applicant with a priority need the main housing duty (usually because they are deemed to be intentionally homeless), it will continue to provide them with temporary accommodation for a reasonable period to make alternative arrangements. This will be at least until the 56 day relief duty comes to an end and, for families, it may be longer.

Acceptance of the main housing duty

- 3.1.8 The housing authority must always provide the 56 day relief duty before it can accept the main housing duty, and it is only permitted to accept the **main housing duty** when it has discharged its relief duty.
- 3.1.9 Under the main housing duty, the housing authority must ensure that suitable temporary accommodation is available for the applicant and their household until the main duty is brought to an end. This is usually through the offer of suitable settled accommodation which may be provided by the Council, a registered provider / housing association or a private landlord.

Northampton's Housing Register

- 3.1.10 In order to ensure that their housing needs are met as quickly as possible, everyone who is homeless or at risk of becoming homeless and approaches the Council for assistance under the Homelessness Reduction Act 2017 will be actively encouraged to apply to join Northampton's Housing Register.
- 3.1.11 At present, homeless households will only be awarded the highest priority (and placed in the Emergency Band) if the Council has accepted that it owes them the main (rehousing) duty under the homelessness legislation.

The use and cost of temporary accommodation

- 3.1.12 The severe shortage of affordable housing and a large increase in the number of requests for assistance under the homelessness legislation have resulted in a sharp rise in the number of homeless households that the Council has had to place in temporary accommodation.
- 3.1.13 Between March 2016 and March 2018, the number of households living in temporary accommodation more than quadrupled from 66 to 267 and, by the middle of September 2018, it had increased to 305.
- 3.1.14 Extended stays in temporary accommodation can cause severe hardship for the households involved, especially those households (including families with children) that are placed in Bed & Breakfast outside of the Northampton Borough because there is no other temporary accommodation available.
- 3.1.15 As the Council is only able to recover part of what it pays housing suppliers for the temporary accommodation it uses, extended stays and an increase in the number of placements are putting a huge strain on the Council's budget. See Paragraphs 3.2.6 – 3.2.8 and Paragraph 4.2.4 for further details.

3.2 Issues

More households spending longer in temporary accommodation

- 3.2.1 Although the primary objective of the Homelessness Reduction Act 2017 is to encourage early intervention and the prevention of homelessness, it is anticipated that homelessness and the demand for temporary accommodation will continue to increase in areas, such as Northampton, where there is a severe shortage of affordable housing across all tenures.
- 3.2.2 In Northampton, the amount of time that homeless households spend in temporary accommodation is affected not just by the number of households in temporary accommodation but also by the date that their housing application is placed in the Emergency Band of the Housing Register.
- 3.2.3 As explained earlier in this report, homeless households are currently placed in the Emergency Band (the highest Band) of the Northampton's Housing Allocations and Choice Based Lettings Scheme with effect from the date the Council accepts the main duty to them under the homelessness legislation.
- 3.2.4 Unfortunately, as the Council is no longer permitted to accept the main homelessness duty until after it has discharged its 56 day relief duty, homeless households must now wait up to 56 days longer before their housing applications are awarded the highest priority and placed in the Emergency Band of Northampton's Housing Register.
- 3.2.5 Unless the Housing Allocations and Choice Based Lettings Scheme is amended to mitigate this, homeless households will spend up to 56 days longer in temporary accommodation than they would have done if the Council had been permitted to accept the main homelessness duty – and they had been able to bid for properties – before it had discharged its relief duty.

Estimated cost of households spending longer in temporary accommodation

- 3.2.6 Based on an average net cost of £29 per night for Bed & Breakfast and £26 per night for self-contained nightly purchased accommodation, the average cost of accommodating each household for an extra 56 days in temporary accommodation will be between £1,456 and £1,624.
- 3.2.7 In the middle of September 2018, there were 197 homeless households living in self-contained, nightly-purchased temporary accommodation and 45 homeless households living in Bed & Breakfast.
- 3.2.8 Assuming that the Housing Allocations Scheme remains unchanged and that, each year, the same number of households are placed in self-contained, nightly-purchased temporary accommodation and Bed & Breakfast and they each spend an extra 56 days in temporary accommodation before they are rehoused, the extra cost to the Council could be nearly £360,000 per annum.

Reducing the use and cost of temporary accommodation

- 3.2.9 Although the proposed changes to the Housing Allocations and Choice Based Lettings Scheme will remove a significant barrier to the rehousing of homeless households – and, in doing so, prevent the Council from incurring the substantial additional cost of what would otherwise have been an extended stay in temporary accommodation – there is still a very urgent need to reduce the number of households in temporary accommodation and to secure alternative, less expensive, types of temporary accommodation.
- 3.2.10 A report on these options will be considered by Cabinet in November 2018.

3.3 Choices (Options)

Option 1 (Recommended)

- 3.3.1 Cabinet can approve the following changes to the Banding Criteria in the Housing Allocations and Choice Based Lettings Scheme:
- (a) The Emergency Band is amended to include applicants who have been accepted by the Council as being owed the relief duty (under the Homelessness Reduction Act 2017) and have been assessed as being in priority need and unintentionally homeless;
 - (b) Band A is amended to include applicants who have been accepted by the Council as being owed the prevention duty (under the Homelessness Reduction Act 2017) and have been assessed as being in priority need;
 - (c) Band B is amended to include the following applicants:
 - Applicants who have been accepted by the Council as being owed the prevention duty (under the Homelessness Reduction Act 2017) and have been assessed as having no priority need.

- Applicants who have been accepted by the Council as being owed the relief duty (under the Homelessness Reduction Act 2017) and have been assessed as having no priority need.
 - Applicants who are homeless or threatened with homelessness but have been notified that they have no right of rehousing under the homelessness legislation, or where the homelessness duties have been discharged but homelessness continues.
- (d) Where an applicant has been accepted by the Council as being owed the relief duty (under the Homelessness Reduction Act 2017) and has been assessed as being in priority need and unintentionally homeless, their 'effective date' in the Emergency Band will be the date that the Council accepted that they were owed a relief duty, even if this occurred prior to 17 October 2018.
- 3.3.2 If agreed, these changes will ensure that the Housing Allocations and Choice Based Lettings Scheme takes into account the Council's new duties under the Homelessness Reduction Act 2017 and helps to mitigate the impact that those new duties have on the amount of time that homeless households spend in temporary accommodation before they are rehoused.
- 3.3.3 The proposed changes will enable the Council to continue to award Emergency Band status to those eligible applicants in priority need who are unintentionally homeless, enabling them to bid for settled accommodation without having to wait for the 56 day relief duty to end.
- 3.3.4 If agreed, this Option will enable to Council to place in Band A all eligible applicants who are in priority need and working with the Council under the 56 day prevention duty. This replaces the existing Banding Criteria which places applicants in Band A if they have been served with a possession order that has less than 8 weeks to run and extends it to include all reasons for potential homelessness, including parental exclusion.
- 3.3.5 Applicants to whom the Council owes a relief duty and are in priority need will be placed in Band A while any concerns about possible intentionality are investigated, and their Banding will be subsequently adjusted in accordance with the determination.
- 3.3.6 The purpose of recommendation (d) in Paragraph 3.3.1 is to ensure that, when an applicant who is owed a relief duty is placed in the Emergency Band, their 'effective date' (the date that is used to determine their relative priority within the Emergency Band) is backdated, if necessary, to the date that the Council accepted that they were owed a relief duty.
- 3.3.7 Although the primary purpose of this report has been to change the point at which a homeless household is placed in the Emergency Band of the Housing Register, the four recommendations – if implemented – will ensure that everyone who is assisted under the Homelessness Reduction Act 2017 and applies to join the Housing Register is awarded the appropriate level of priority and placed in the correct Band in accordance with the Scheme.

Option 2 (Not recommended)

- 3.3.8 Cabinet can defer the proposed changes to the Banding Criteria until 2019/20 when the Council consults on the full set of changes it is planning to make to the Housing Allocations and Choice Based Lettings Scheme.
- 3.3.9 If the proposed changes are delayed, homeless households will have to wait up to 56 days longer before they are placed in the Emergency Band. This will extend their stay in temporary accommodation and increase the number of households living in temporary accommodation.
- 3.3.10 Based on the figures in Paragraphs 3.2.6 – 3.2.8, a delay of nine months could cost the Council an additional £270,000 in temporary accommodation.

Option 3 (Not recommended)

- 3.3.11 Cabinet can do nothing
- 3.3.12 If Northampton's Housing Allocations and Choice Based Lettings Scheme is not amended, it will not reflect or complement the Homelessness Reduction Act 2017 and, as an unintended consequence, homeless households will be prevented from being awarded the priority the Act intended and they will spend longer than necessary in temporary accommodation.
- 3.3.13 An extended stay in temporary accommodation may cause severe hardship, especially for families that are placed in Bed & Breakfast outside of the Northampton Borough because there is no other accommodation available.
- 3.3.14 Based on the figures in Paragraphs 3.2.6 – 3.2.8, this Option could cost the Council an additional £360,000 per annum in temporary accommodation.

4. Implications (including financial implications)

4.1 Policy

- 4.1.1 The action that the Council is proposing to take is in line with Council policy and reflects the priorities in the Corporate Plan 2016-2020.

4.2 Resources and Risk

- 4.2.1 The number of households applying to the Council for assistance under the homelessness legislation has risen sharply since March 2016.
- 4.2.2 Since March 2016, the number of households in temporary accommodation has increased, by an average of 8 per month, from 66 in March 2016 to 305 in September 2018.
- 4.2.3 Given the high cost of temporary accommodation – and the fact that only part of it is met by the customers and government subsidies – we must use every opportunity to reduce the use and cost of temporary accommodation.

- 4.2.4 The net cost of accommodating homeless households in temporary accommodation has increased dramatically in recent years and is placing a huge strain on the Council's budget. The current forecast is that, in 2018/19, the temporary accommodation budget could be overspent by around £1.7m.
- 4.2.5 The changes proposed in this report are designed to ensure that homeless households are rehoused as quickly as possible and are not disadvantaged by the obligations placed on the Council by the new legislation. They should help to limit the use and cost of temporary accommodation.

4.3 Legal

- 4.3.1 If a housing authority's adopted Allocations Scheme is to be altered and those alterations amount to 'a major change of policy' then there must be consultation with providers of social housing and registered social landlords.
- 4.3.2 There is no statutory definition of what constitutes a 'major change' although case law suggests that this means a change which affects the relative priority of a large number of people or significant changes to the process to be followed; it is not necessary to consult on minor changes.
- 4.3.3 The amendments proposed in this report are principally to incorporate changes in the relevant legislation made by the Homelessness Reduction Act 2017 which impose additional duties upon the Council. It is therefore necessary to amend the Bands in the Scheme to ensure that appropriate priority is afforded to those to whom these new duties apply.
- 4.3.4 Collectively, these recommendations do not amount to a major change of policy requiring consultation with registered providers of social housing and registered social landlords required by section 166A (13) of the Housing Act 1996. Similarly, there is nothing to indicate that the proposed changes would result in conspicuous unfairness to any group and therefore require non-statutory consultation with such groups.
- 4.3.5 The key risk to the Council is the continuing use of the existing Housing Allocations Scheme which contributes to a delay in rehousing homeless households from temporary accommodation within the Borough and fails to take account of the changes brought about by the 2017 Act.

4.4 Equality and Health

- 4.4.1 A full Community Impact Assessment has been completed.
- 4.4.2 These changes to the Housing Allocations and Choice Based Lettings Scheme will have an overwhelmingly positive impact on people with different protected characteristics and will help the Council to address and mitigate the problems caused by homelessness.
- 4.4.3 The analysis of impact by protected characteristic predicts that the changes to the Housing Allocations and Choice Based Lettings Scheme will contribute to a reduction in the health inequalities and social and economic exclusion of people with any combination of protected characteristics who are disproportionately affected by homelessness.

4.4.4 These changes are part of the Borough Council's commitment to improving communities and our town as a place to live. In implementing them, the Council will have due regard to its Public Sector Duty and will continue to work to tackle discrimination and inequality and contribute to a fairer society.

4.5 Consultees (Internal and External)

4.5.1 If the proposed changes are approved by Cabinet, details of the changes will be posted on the Councils website and Northampton Partnership Homes website, registered providers and applicants on the Housing Register will be sent a letter of explanation.

4.6 How the Proposals deliver Priority Outcomes

4.6.1 The changes to the Housing Allocations Scheme will help meet 2 of the priorities in the Corporate Plan:

- **Housing for Everyone:** They will mitigate the impact that the Homelessness Reduction Act 2017 is having on the amount of time that homeless households spend in temporary accommodation and support the Councils action plan for managing the increasing demand for temporary accommodation
- **Working Hard and Spending your Money Wisely:** They will help to reduce the use and cost of temporary accommodation by ensuring that all homeless households spend as little time as possible in temporary accommodation.

5. Appendices

Appendix A – Changes to Northampton's Housing Allocations and Choice Based Lettings Scheme (October 2018)

6. Background Papers

Community Impact Assessment
Housing Allocations and Choice Based Lettings Scheme (October 2017)

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APPENDIX A

Changes to Northampton's Housing Allocations and Choice Based Lettings Scheme (October 2018)

SECTION 6 The Structure of the Priority Banding System

The proposed deletions are highlighted in *underlined italics*

The proposed additions are highlighted in **bold, underlined text**.

Emergency Band

Applicants who have a statutory right of succession and wish to succeed to a Northampton Borough Council or Housing Association property, but that property is not suitable for the applicant's household type due to under-occupation, or being designated as sheltered housing and/or having been adapted and the applicant does not qualify for an adapted property.

(DELETE) *Applicants whom the Council has accepted as being eligible as homeless and in priority need (except for those found to be intentionally homeless).*

Tenants who have to vacate their homes within six weeks due to a Compulsory Purchase Order or Northampton Borough Council Tenants who have to move, as their home requires major works within six weeks. This will be determined and managed subject to the Council's decant procedure.

Applicants who are under-occupying a Northampton Borough Council or Housing Association partner's property. The Under-occupation scheme will be important in light of the measures in the Welfare Reform Act 2012, which will reduce Housing Benefit entitlement for work age social tenants who under-occupy their property (measured in accordance with the Local Housing Allowance size criteria).

Applicants who are statutorily overcrowded as defined by Part 10 of the Housing Act 1985.

Emergency Landlord Request Transfer as defined by section 5.9 of this Housing Allocations scheme.

Hospital discharge customers, who have somewhere to live on leaving hospital but it is unsuitable for their medical needs and cannot be made suitable through adaptations due to cost, structural difficulties, or the property cannot be adapted within a reasonable amount of time, or such customers who have nowhere at all to live when they leave hospital.

Applicants who are being discharged from the Armed Forces who have sustained serious injury, illness, medical condition, or disability during service which is attributable (wholly or partly) to the person's service. It will also cover serving former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their Service.

(ADD) Applicants accepted by Northampton Borough Council as being statutorily homeless and owed the duty under S193 of the Housing Act 1996 (as amended).

(ADD) Applicants accepted by Northampton Borough Council as being owed the relief duty under S189B of the Housing Act 1996 (as amended), and who have been assessed as being in priority need and unintentionally homeless.

Band A – Urgent Need

Applicants who have a severe medical, welfare award or disability (including learning disability) where the current accommodation is unsuitable or it is unreasonable to remain in occupation.

Applicants who have priority on welfare grounds and require moving urgently because of a risk to their well-being or health. This would include a person who needs to move to a different locality in order to give or receive care, to access specialised medical treatment, or to take up a particular employment, education or training opportunity.

Applicants who permanently lack one or all of these essential facilities – hot water, heating, a kitchen, internal toilet and bathroom.

Private sector tenants who are required to vacate their home as a result of enforcement action by the Local Authority.

(DELETE) Applicants who are in priority need and who have been issued with a legal notice that the landlord requires possession, which has less than eight weeks to run.

Applicants who are occupying Partnership Agency accommodation and who have an agreed move on.

Applicants who no longer require the adaptations in their current home. Customers who release an adapted property where the tenant does not require their current home and will therefore be releasing an adapted property by moving.

Applicants who are part of a multi-agency public protection agreement (MAPPA).

Serious threat to the well-being of a child and their accommodation is a contributory factor to the risk. These are cases where an emergency move is required to mitigate the risk to the child as confirmed by Northamptonshire County Council's Director of Adult and Children's services.

Customers who have an agreed fostering or adoption agreement in place with Northamptonshire County Council, who need to move to a larger home in order to accommodate a looked after child. It will also include special guardians, holders of a residence order and family and friend carers who are not foster carers but who have taken on the care of a child because the parents are unable to provide care.

Customers who could not be expected to find their own accommodation, such as young adults with learning disabilities who wish to leave the family home so that they can live independently within the community.

Applicants who are being discharged from the Armed Forces bereaved spouses or civil partners of those serving in the regular forces where (i) the bereaved spouse or civil partner has recently ceased, or will cease to be entitled, to reside in Ministry of Defence accommodation following the death of their service spouse or civil partner, and (ii) the death was wholly or partly attributable to their service.

(ADD) Applicants accepted by Northampton Borough Council as being owed the prevention duty under S195 of the Housing Act 1996 (as amended) and assessed as being in priority need.

(ADD) Applicants accepted by Northampton Borough Council as being owed the relief duty under S189B of the Housing Act 1996 (as amended) and assessed as being in priority need.

Band B – Moderate Need

Applicants who are owed a duty under the Rent (Agriculture) Act 1976 and Northampton Borough Council service tenants who are due to retire or have their contract of employment terminated.

Applicants who are sharing facilities (bathroom, kitchen etc.), with a separate family household.

Applicants who require a move for moderate medical or welfare grounds where there is an acknowledgement that alternative accommodation would be beneficial but is not essential.

(DELETE) *Applicants who are not in priority need and have received a Notice to Quit, this includes private rented tenants, tied tenants, or lodgers.*

Customers owed a reasonable preference who qualify to join the housing register and would be classed as an Emergency, Band A or Band B priority need customer in accordance with this housing allocations scheme but have been given reduced priority as a result of one of the reasons outlined below:

Rent arrears, or other related housing debt to the Council from any applicant who applies, including joint applicants/family members;

Deliberately worsening housing circumstances to achieve higher priority;

Non-compliance with tenancy agreement or other unacceptable behaviour, including committing or allowing to be committed acts of antisocial behaviour and damage to Council property;

Income or capital above the thresholds;

Property not meeting the repair void standard required for a transfer; applicant, including the state of cleanliness, or decoration;

Refusal of 3 reasonable offers within a 12 month period.

(ADD) Applicants accepted by Northampton Borough Council as being owed the prevention duty under S195 of the Housing Act 1996 (as amended) and assessed as having no priority need.

(ADD) Applicants accepted by Northampton Borough Council as being owed the relief duty under S189B of the Housing Act 1996 (as amended) and assessed as having no priority need.

(ADD) Applicants who are homeless or threatened with homelessness but have been notified by Northampton Borough Council under S184 Housing Act 1996 (as amended) that they have no right to rehousing under the homelessness legislation because they are not in 'priority need' or they are considered to have become homeless 'intentionally', or where homelessness duties have been discharged but homelessness continues.