

WEST NORTHAMPTONSHIRE COUNCIL CABINET

Tuesday 11th July 2023

**Cabinet Member for Housing, Culture and Leisure:
Councillor Adam Brown**

Report Title **Draft West Northamptonshire Housing Allocation Scheme**

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List of Appendices

Appendix A – Draft West Northamptonshire Housing Allocation Scheme

1. Purpose of Report

- 1.1. To seek Cabinet approval that the draft West Northamptonshire Housing Allocation Scheme is subject to a ten-week public and stakeholder consultation.

2. Executive Summary

- 2.1 It is a legal requirement under Part 6 of the Housing Act 1996 (as amended) that Local Authorities have a housing allocation scheme, that sets out who is eligible to apply for social rented housing, how the local authority will prioritise applicant's and the basis on which a Local Authority will allocate accommodation.

- 2.2 In accordance with the Local Government (Structural Changes) Transitional Arrangements) (No.2) Regulation 2008, (regulation 12) (as amended coronavirus amendment regulation) West Northamptonshire Council requires a new Council Housing Allocations Scheme by 1 April 2024.
- 2.3 The draft West Northamptonshire Housing Allocation Scheme has been developed to provide an aligned and harmonised approach across West Northants. This will help in meeting the housing needs of the most vulnerable of West Northamptonshire's residents whilst ensuring that the area's valuable housing resources go to those in most in need.
- 2.4 The proposed Scheme will be through a choice-based lettings operating system.

3. Recommendations

- 3.1 It is recommended that Cabinet:
- a) Approve a ten-week public consultation period on the draft West Northamptonshire Housing Allocation Scheme
 - b) Approve delegated authority to Portfolio Holder for any changes to the Scheme prior to the start of the consultation
 - c) Note that following the public and stakeholder consultation, a final West Northamptonshire Housing Allocation Scheme will be brought back to Cabinet for adoption.

4. Reason for Recommendations

- 4.1 To accord with legislation which requires that when a local authority makes an alteration to their Housing Allocation Scheme reflecting a major change, they shall within a reasonable period of time bring these changes to the attention of those likely to be affected by them.

5. Report Background

- 5.1 West Northamptonshire Council is required to produce a new Housing Allocation Scheme in accordance with the Local Government (Structural Changes) Transitional Arrangements) (No.2) Regulation 2008, (regulation 12) (as amended coronavirus amendment regulation) which sets out that a Housing Allocation Scheme needs to be prepared with 36 months of a transition into a unitary authority.
- 5.2 It is a legal requirement under Part 6 of the Housing Act 1996 (as amended) that Local Authorities have a Housing Allocation Scheme, that sets out who is eligible to apply for social rented housing,

how the local authority will prioritise applicant and the basis on which a Local Authority will allocate accommodation.

- 5.3 The Council currently operates three different housing allocation schemes across West Northamptonshire, these were inherited from legacy authorities and operate in the same local areas as prior to 1 April 2021. The Daventry and Northampton areas operate choice-based lettings, whereas the South Northants area operates a direct lettings scheme.
- 5.4 The current schemes have different qualification criteria and how applicants housing needs are assessed and then prioritised, although they all broadly follow the principle of prioritising households in greatest housing need.
- 5.5 The new proposed Scheme has been developed which aligns and harmonises a consistent approach for West Northamptonshire. The Scheme also provides the opportunity for applicants to consider housing solutions across the wider geographical areas in order to meet their needs.
- 5.6 In developing the new scheme, national evidence and examples of best practice in housing allocations were considered. In addition, the Scheme reflects updates in new legislation and guidance, including, to improve access to social housing for members of the Armed Forces, Veterans and their families, and the Scheme is fully compliant with the housing requirements of the Domestic Abuse Bill 2020.
- 5.7 The Scheme has been developed with regards to the Council's Corporate Plan 2021-2025 priorities and associated actions within improved life chances and thriving villages and towns. In addition, it is mindful of the Integrated Care Strategy and the 10 'live your best life' ambitions.
- 5.8 The proposed Scheme seeks to provide access to social rented housing for our most vulnerable residents, including those experiencing homelessness, those with complex health and welfare needs, victims of domestic abuse and those subject to exploitation. The proposed Scheme also recognises the Local Authority's corporate parenting role, through the allocation of housing for young people leaving care and are ready for independent living.
- 5.9 Proposed draft Scheme
- 5.10 The draft West Northants Housing Allocation Scheme sets out the proposed rules regarding:
 - a) Who is eligible for social rented housing
 - b) Who would not qualify for social rented housing in West Northamptonshire
 - c) How applications will be assessed and the priority that will be accorded depending on the level of housing need
 - d) How West Northants Council will allocate social rented housing.

5.11 Eligibility and Qualification

5.12 To join the West Northants Housing Allocation Scheme, an applicant will need to be both eligible and qualify.

- Eligibility

5.13 Social rented housing can only be allocated to people who have a permanent right to reside in the UK. Eligible applicants are defined by immigration legislation. If an Applicant is not eligible, then their application to join the West Northants Housing Allocation Scheme, does not progress any further.

- Qualification

5.14 Local Authorities are able to set their own local non-discriminatory qualification criteria. The draft scheme sets out persons who are non-qualifying and will not be allowed to join the Scheme.

5.15 It is proposed that the following circumstances of applicants will not qualify for the Housing Allocation Scheme:

a) Persons under 18 years of age

An applicant defined as a child (anyone age 0-17 inclusive). Exemptions will apply to a child who is aged 16 or 17 where a suitable third party can act as a trustee and hold a legal tenancy until the child reaches the age of 18 years.

b) Persons incapable of holding a tenancy

An applicant lacking the mental capacity to hold a tenancy as defined in the Mental Capacity Act 2005

c) Persons that do not meet the West Northants local connection criteria

Applicants need to have a local connection to West Northants for 2 years (based on either residency, employment, family associations, other special reasons, care leavers).

Exemptions will apply in the following cases:

- where the local authority has accepted a full statutory homelessness duty
- an applicant who are victims of domestic abuses
- an applicant who are members of the armed forces community

d) Persons found guilty of unacceptable or unreasonable behaviour

An applicant that is guilty of unacceptable behaviour that makes them unsuitable to be a tenant. There are a number of behaviours set out in paragraph 5.4.3 of the draft Scheme.

e) Persons who have housing related debt

Applicants who have outstanding liabilities such as rent or service charge arrears or re-charges, above the equivalent value of one-twelfth of the annual amount payable. There is an emphasis within the Scheme on the willingness and evidence of regular affordable payments of the applicant to address the debt, whilst ensuring the affordability of the applicant.

f) Persons who have breached tenancy conditions

Applicants who have been evicted for any breach of tenancy conditions. There are a number of behaviours set out in paragraph 5.6.1 of the draft Scheme.

g) Persons who are homeowners in the UK or abroad

It is proposed that applicants who are homeowners will be disqualified. There are a number of exemptions that will apply, these are set out in paragraph 5.7.4 of the draft Scheme.

h) Persons who have an income and savings above the financial resource limit

An Applicant who has a gross household income of £60k or above will not qualify. This figure will be kept under review and on the circumstances of an applicant.

An Applicant with savings above £16,000 will be disqualified from the Scheme. The sum of £16,000 has been adopted as it accords with the rate at which the Department of Work and Pensions (DWP) sets its own criteria regarding entitlement to welfare benefits. This savings threshold will change in line with the DWP benefit and pension rates.

i) Persons who do not have a recognised housing need

An Applicant who does not fall within one of the priority bands will be assessed as having no housing need will not qualify on this scheme. This is to ensure that through the Scheme we make best use of the finite resource of social rented housing and ensure that Applicants that join the Scheme have realistic opportunities of being re-housed.

An exemption will apply if the Applicant has no housing need but establishes a local connection within a local lettings policy in relation to rural exception sites, and the local connection determined within the relevant legal agreements.

5.16 Prioritisation

5.17 The Council is required by law to determine the relative priority that housing Applicants are awarded.

5.18 The Housing Act 1996 sets out that some people due to specified circumstances or characteristics are given a priority for an allocation of social rented housing, also known as a reasonable preference:

- a) People who are homeless within the meaning of Part 7 of the 1996 Act
- b) People who are owed a duty by any housing authority under section 190(2), 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any housing authority under s.192(3)
- c) People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
- d) People who need to move on medical or welfare grounds, including grounds relating to a disability
- e) People who need to move to a particular locality in the district of the housing authority, where failure to meet that need would cause hardship (to themselves or others).

5.19 Applicants will be prioritised for an allocation of social rented housing according to the following criteria:

- Bands, in the order of A to D. Band A has the highest priority and Band D the lowest.
- Where two or more applicants might have the same priority in the same Band, then the effective date will be used to prioritise between Applicants.
- The effective date will be the date that the Local Authority receives the last piece of supporting information to enable the completion of housing assessment and accepted onto the Scheme.

5.20 Band A

Applicants awarded a Band A include those who have urgent medical need and those that need to move due serious risk of harm. In addition to support the need to make best use of housing stock, Band A priority will also be awarded to those applicants who are over-occupying their homes by one or more bedroom, and those releasing adapted properties that are no longer required by the applicant or a member of their household.

5.21 Band B

Applicants awarded a Band B include those are entitled to a reasonable preference. In particular those who are owed a homeless prevention, relief or main duty, need to move due to insanitary or overcrowded conditions. This band recognises the Council's corporate parenting responsibility, hence, includes care leavers who are ready to move into more independent living, and also household approved by the local authority as foster carers and require a larger property in order to look after a child under the care of the local authority. In addition, armed forces personnel are included in this band to reflect the statutory guidance to improve access to social housing. This priority band also includes those with high medical and / or welfare needs, and hardship grounds

5.22 Band C

Applicants awarded Band C represent those with lower-level housing needs and includes applicants with medium welfare needs. It includes homeless households who are in priority need but are intentionally homeless. In addition, those households who are overcrowded due to lacking one bedroom, Applicants who have at least one dependent child and are sharing facilities with others and split households.

5.23 Band D

This band includes a limited number of Applicants, including those who have refused the maximum number of offers of accommodation (for the majority of Applicants this will be 2) and are demoted to this band for 12 months. It will also include households who have been deemed to have deliberately worsened their circumstances. This band will also include specific households who are permitted to qualify for the Scheme with no housing need but have a local connection to a rural exception site, where allocation requirements are contained within legal planning agreements.

5.24 **Wider strategic priorities**

5.25 The priority banding also considers the wider strategic objectives of West Northamptonshire and its partners considering the role of housing in meeting health and social care outcomes. Examples of this are to those requiring suitable accommodation to facilitate hospital discharge (Band A), those ready to move on from supported housing or Local Authority care (Band), and those applicants who are victims of domestic abuse, racial abuse and hate crimes (Band A and B). The proposed policy approach also awards priority to those Applicants who are considered to be socially isolated and are unable to access services that are required (Band C).

5.26 **Choice based lettings**

5.27 The draft Scheme is proposing to operate a choice-based lettings (CBL) scheme. Operating an CBL Housing Allocation Scheme is regarded as best practice, as it promotes greater customer choice as it enables applicants to bid for a property to be re-housed. This approach can support people to move to locations they may not have previously considered, once they can access information about property types and demand in different areas.

5.28 The draft Scheme is proposing that properties to be re-let will be advertised on a weekly basis. Adverts will be created for each of the properties which will give details of the available properties and any specific criteria or restriction on who can bid. An Applicant will be able to make 3 bids during each bidding cycle.

5.29 **Offers of suitable accommodation**

5.30 It is proposed that Applicants will be entitled to two refusals of a reasonable offers of accommodation. However, the following exceptions are recommended:

- a) Homeless applicants to whom the authority has accepted a S193 main duty to accommodate will only receive only refusal of a reasonable offer of accommodation. After the first refusal, the 2nd nomination/offer will be through a direct match/auto-bid.
- b) Homeless applicants to whom the authority has accepted a S188 duty to accommodate will only receive only refusal of a reasonable offer of accommodation. After the first refusal, the 2nd nomination/offer will be through a direct match/auto-bid.
- c) Applicants who are subject to MAPPA are entitled to one reasonable offer to accommodation, this will be through a direct matching.

5.31 This will enable their high urgent housing needs to be resolved at the earliest opportunity, and timely move-on from temporary accommodation into permanent accommodation. Safeguards will be in place to ensure that any offers of accommodation are suitable in line with statutory suitability regulations.

5.32 Impacts of the new draft Scheme

5.33 The new draft Scheme has been developed to ensure that it is legally compliant and where required will align and harmonise the operation of the Scheme across West Northants. Criteria within the draft Scheme has been set against national sets of formula, for example savings thresholds linked to DWP Benefit and Pension rates, this makes the Scheme more robust and at less risk of challenge.

5.34 The current three existing Schemes in operation have collectively approx. 4000 households registered for re-housing. The draft West Northamptonshire Housing Allocation Scheme has the potential impact on applicants who will have access to a greater number of properties across West Northants under the draft new Scheme.

5.35 The existing schemes apply different thresholds for their qualification criteria, and the new Scheme will provide a consistent approach across West Northants, especially in the following areas:

5.36 Table 1: Summary of qualification criteria changes

		Existing Allocation Schemes			Proposed new scheme
Aspects of scheme	of	Daventry area	Northampton area	South Northants area	Draft Scheme WNC

Local connection	Residency last 12 months	Residency last 3 years	Residency 6 out of the last 12 months	2 years immediately prior to application
Housing related debt	Will not qualify with housing debt over £1000	Reduced priority for rent arrears	Will not qualify with over 8 weeks' worth of housing related debt	Will not qualify if rent exceeds 1/12 of the annual repayment amount and have failed to three monthly or 12 weekly consecutive payments
Property ownership	Do not qualify however exceptions in place	Combines assets and savings to for exclusion where there is no reasonable preference	Do not qualify – however exemptions in place	Do not qualify, however exceptions in place
Income threshold	Capped at £60k	Capped at: £30k single £40k joint	Capped at £60k	Capped at £60k
Savings threshold	No threshold	Capped at £16k for single applicant and £32k for joint	Capped at £16k	Capped at £16k
No housing need	Band D	Do not qualify	Do not qualify – exemption for rural schemes	Do not qualify – exemption for rural schemes

5.37 The proposed prioritisation banding system (A-D) is much simpler than some of the existing schemes, without the inclusion of points or stars etc.

5.38 A comparison exercise of the various aspects of the existing allocation schemes banding criteria shows that the new proposed scheme is broadly similar, and it is unlikely to be a significant impact on any one group of applicants in relation to losing or gaining relative priority for an allocation of housing. This is largely because the draft Scheme is framed on reasonable preference categories which existing schemes also reflect.

- 5.39 The new proposed Scheme is much clearer on how medical and welfare needs will be considered and prioritised with the Scheme, and the information that will need to be provided by recognised medical professionals.
- 5.40 A particular impact on current applicants to the legacy Daventry Allocation Scheme is those with no housing need seeking social rented accommodation. Under the proposed new draft Scheme, households with no housing need will not qualify for the scheme. In practice, this is likely to have a limited impact, as the demand on the current legacy scheme is approx. 135 applicants.
- 5.41 Alongside the work to develop a new draft housing allocation scheme for West Northamptonshire; are three related projects:
- a) The housing allocation Scheme ICT system
 - b) The housing allocation function and where it sits
 - c) The implementation of a new housing allocation Scheme and the alignment of processes and procedures.

6. Issues and Choices

- 6.1 It is a legal requirement under Part 6 of the Housing Act 1996 (as amended) that Local Authorities have a Housing Allocation Scheme
- 6.2 West Northamptonshire Council is required to have a harmonised housing allocation scheme by 1 April 2024 as set in the Local Government (Structural Changes) Transitional Arrangements (No.2) Regulation 2008, (regulation 12) (as amended coronavirus amendment regulation).
- 6.3 Therefore, to enable us to adhere to these timescales it is recommended that the draft West Northants Housing Allocation Scheme is approved for public and stakeholder consultation.
- 6.4 The Council may be at risk of legal challenge if we do not have an adopted Housing Allocation Scheme within the timescales set out.

7. Implications (including financial implications)

7.1 Resources and Financial

- 7.1.2 The draft Housing Allocation Scheme proposed does have costs associated with the accompanying ICT system. The proposed ICT solution and confirmation of the supplier will be subject to a procurement process. Work is currently taking place to identify what the ICT costs will be, and if these were to exceed existing budgets, a further report to Cabinet would follow.

7.2 Legal

- 7.2.1 It is legal requirement under Part 6 of the Housing Act 1996 (as amended) that Local Authorities have a Housing Allocation Scheme, that sets out who is eligible to apply for social rented housing,

how the local authority will prioritise Applicants and the basis on which a Local Authority will allocate accommodation.

7.2.2 In accordance with the Local Government (Structural Changes) Transitional Arrangements (No.2) Regulation 2008, (regulation 12) (as amended coronavirus amendment regulation) West Northamptonshire Council requires a new Council Housing Allocations Scheme by 1 April 2024.

7.2.3 Section 166A (13) states that:

Before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, a local housing authority in England must:

- a) send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements and;*
- b) afford those persons a reasonable opportunity to comment on the proposals.*

7.2.4 The proposed consultation will satisfy this requirement.

7.2.5 Section 168(3) of the Housing Act 1996 as amended states: When the authority make an alteration to their scheme reflecting a major change of policy, they shall within a reasonable period of time take such steps as they consider reasonable to bring the effect of the alteration to the attention of those likely to be affected by it.

7.2.6 The consultation is proposing to contact all existing housing applicants and notify them of the draft changes which will satisfy this legal requirement.

7.2.7 A review of the draft West Northants Housing Allocation Scheme is being sought from Counsel to ensure the Scheme's lawfulness.

7.3 **Risk**

7.3.1 There is a legal requirement to consult on the proposed draft Housing Allocation scheme therefore failure to do so will leave West Northants open to challenge on the Scheme that is implemented.

7.4 **Consultation and Communication**

Subject to Cabinet approval, the draft Scheme will undergo a ten-week public and stakeholder consultation to seek input and feedback that will be used to shape and inform the final Scheme. This will then be submitted to Cabinet for final approval and adoption. Moving forward, the Council will undertake a range of communications activities to ensure stakeholders will be kept informed and engaged on the development and changes to the Scheme.

7.5 Consideration by Overview and Scrutiny

7.5.1 A presentation to Children's, Education and Housing Overview and Scrutiny took place on the 19th June 2023. Recommendations have been made to Cabinet and are set out in a separate report, however the completeness the recommendations and an officer response are set out below:

1. The proposed non-qualifying criteria for the Housing Allocation Scheme should not bar persons who have housing related debt but who are making reasonable efforts to pay it back.

Response: The draft Scheme has a person-centred approach to housing related debt, focusing on debt that is above the equivalent value of one twelfth of the annual amount payable by an Applicant. The emphasis within the Scheme is the Applicants willingness to address the housing related debt and proposes that the applicant is required to have a repayment plan and requires no less than three monthly or 12 weekly continuous payments.

Any repayment agreement will be based on the affordability of the applicant, rather than the level of debt. Efforts will be made to take into consideration why the housing related debt had arisen in the first place.

2. The proposed non-qualifying criteria for the Housing Allocation Scheme should deal robustly with persons who have damaged social rented housing let to them in the past.

Response: The draft Scheme is robust in its approach to applicants who have been in breach of a tenancy (regardless of tenure) within the previous six years. This is set out in section 5.6.1.

3. An applicant who has at least one dependent child and is living in accommodation where the facilities are shared with others outside their own household should be placed in Band B not Band C of the proposed bands for assessing housing need.

Response: The current draft Scheme has 'An applicant who has at least one dependent child and is living in accommodation where the facilities are shared with others' this category of need is within Band C. However the current draft does not a distinction between sharing facilities with family associations and those sharing facilities with households outside of their family associations. The Scheme could separate these housing need categories out to reflect the following:

Band B: An Applicant has at least one dependent child and is living in accommodation where the facilities are shared with others who are not part of your family association

Band C: An Applicant has at least one dependent child and is living in accommodation where the facilities are shared with a family association.

*Family Association are defined within the local connection criteria, section 5.3.2 (C)
Sharing facilities are defined as sharing a bedroom, kitchen and main front door*

4. The proposed bands for assessing housing need should include provision for an applicant who has a dependent child under 16 years old who is subject to a Child Protection Plan.

Response: The draft Scheme includes the use of discretionary powers in relation to qualification, choice and prioritisation in a limited individual case, where an applicant needs to move due to:

- a) Multi-Agency Risk Assessment Conference (MARAC).
- b) Multi-Agency Public Protection Arrangements (MAPPA).
- c) Action being taken as a result of adult or child safeguarding concerns.

A decision as to whether or not to exercise discretion will be made at the point of receipt of application and again at the point of offer.

5. Clear information regarding the affordability of properties should be made available to applicants at an early stage in the bidding process, ideally including an affordability calculator tool.

Response: The current draft Scheme includes within the appendices, an affordability assessment checklist, which sets out how to determine whether an Applicant can afford the housings costs of the property they have been allocated.

When implementing the ICT to support the operation of the Scheme, work will take place on developing a self-service affordability calculator that Applicants can also use. Work will also take place with Registered Providers across West Northamptonshire develop a standard approach to assessing affordability.

6. The go-live date for the new Housing Allocation Scheme should be scheduled for after 1 April 2024 to mitigate risks that could result from coinciding with the date when Council Tax bills are issued.

7.6 Climate Impact

7.6.1 None

7.7 Community Impact

7.7.1 An Equality Screening Assessment in respect of the draft Housing Allocations Scheme has been completed and will be made available alongside the formal public and stakeholder consultation. Changes will be made to the ESA to reflect any feedback gathered during the consultation.

8. Background Papers

none