

# Brent Housing Allocations Scheme 2013

(Amended November 2014)

As required by part VI of the  
Housing Act 1996, as amended  
by the Homelessness Act 2002  
and the Localism Act 2011

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# 1. INTRODUCTION

This document is the London Borough of Brent's Housing Allocations Scheme.

## 1.1 STATEMENT OF CHOICE

1.1.1 We are committed to providing excellent services that ensure the widest possible access to housing and prevent discrimination on the grounds of race, religion, gender or marital status, sexual orientation or disability.

1.1.2 Our aim is to achieve this by:

- Offering choice of accommodation, within the constraints of available supply
- Giving the applicants the opportunity to express preferences about their accommodation whenever possible, whilst at the same time allowing us to meet the needs of the borough in relation to housing, health and social care, sustainable communities and value for money.
- Meeting our legal and strategic obligations and requirements in a way that also takes into account the needs of local communities.
- Setting out clear standards for the services we provide, so that everyone knows what to expect.
- Writing our publications in plain English and offering translations, large print or a reading service where needed to help customers make informed choices about their housing.
- Ensuring that decisions reflect the scheme and are consistent and transparent, and that all decisions made in relation to applications for housing are closely monitored and confirmed in writing.
- Responding to the need of our customers and partners and ensuring that the views of our customers are heard.
- Providing comprehensive and accurate advice and information (in person and over the telephone) about social housing and other housing options including how to access them.
- Directing customers to the appropriate team, service or organisation where specialist advice is required.

1.1.3 If you are applying for housing, it is your responsibility to:

- Provide full and accurate details on all forms or correspondence in relation to your application for housing.
- Tell us immediately if your circumstances change in any way, for example, your address, family details or medical condition.
- Respond to all of our requests for information.
- Make a decision on viewed properties within the specified timescale agreed with the landlord.

## 1.2 BRENT'S HOUSING REGISTER

1.2.1 Brent's Housing Register is a local register of housing need. All applicants seeking social housing in Brent must apply through its Housing Register.

**Throughout this document, we refer to people seeking access to social housing for rent or low cost home ownership options as "applicants".**

1.2.2 Applicants are advised that, due to the high demand for social housing in the borough, most of the people who are able to join the Housing Register are unlikely to be offered a council or housing association home. The demand for housing exceeds supply and the Housing Register exists to enable the Housing Allocations Scheme to prioritise those households that are in greatest need and have the closest connection with Brent. Unfortunately, the majority of people on the Register will never be offered a home however long they wait; for them, waiting for a social rented home is unrealistic, and other options will be encouraged.

1.2.3 The Register also provides information on local needs which the Council and its partners use to develop new affordable housing.

1.2.4 The Housing Allocations Scheme sets out:

- The objectives of the Housing Allocations Scheme.
- How the Housing Register operates
- Who is eligible to be rehoused
- How applicants' housing needs are assessed
- How social rented homes are let
- How the choice based lettings allocations scheme operates

1.2.5 The Housing Allocations Scheme will operate through a choice based letting (CBL) system and Housing Allocations Scheme. However, there may be local variations in order to make best use of social housing, in which case eligibility for properties will be clearly labelled in the advertisement.

1.2.6 The system is designed to be easy to use, and allows applicants to have an understanding of their housing situation, enabling them to make the best choice from the housing options available to them.

### **1.3 PARTNER ORGANISATIONS**

1.3.1 Brent Housing Partnership – BHP (which manages homes on behalf of the Council), manages the largest stock of social housing in the borough.

1.3.2 All of the homes that Brent Housing Partnership manages are let in accordance with this Housing Allocations Scheme.

1.3.3. Partner Registered Providers (often referred to as 'housing associations') advertise their available homes through the choice based lettings scheme, where nomination arrangements exist. This is when the Council has the right to nominate prospective tenants to a property; in these cases the landlord will normally be required to advertise the vacancy through the scheme. The Council will, except where set out below, nominate applicants in accordance with the Housing Allocations Scheme.

1.3.4 In the Housing Allocations Scheme, unless stated otherwise, references to registered providers or housing associations relate to partner organisations that have entered into nomination arrangements with the Council. They may also be referred to as 'partner organisations'.

### **1.4 WHAT IS A HOUSING ALLOCATION?**

1.4.1 London Borough of Brent is a local housing authority. As a local housing authority, the London borough of Brent has a legal duty to decide which applicants should be offered a Council or Registered Provider property to which the London Borough of Brent has rights of nomination.

1.4.2 An allocation concerns the rules under which the London Borough of Brent decides the applicants that should be placed on its Housing Register and the process by which those on the Housing Register can obtain a tenancy of a Council property or a tenancy managed by a Registered Provider to which the London Borough of Brent has rights of nomination.

### **1.5 CHOICE BASED LETTINGS**

1.5.1 In order to maintain a system of allocation of housing in which those applicants who are on the Council's Housing Register have as much choice as possible, the London Borough of Brent operates a bidding system for available Council properties and vacant properties managed by Registered Providers to which the London Borough of Brent has rights of nomination.

1.5.2 The record of every applicant who meets the criteria to be on our Housing Register is categorised in two ways:

- Their record will state the number of bedrooms they require as determined by the number of bedrooms they and their household require
- Their record will state the access requirements of the applicant or of the least mobile member of their household.

1.5.3 The available properties will be advertised online. This is referred to as Locata Choice Based Lettings Scheme. All properties on the Locata Scheme will be categorised by reference to their number of bedrooms and accessibility.

1.5.4 Any registered applicant can bid for those properties on the Locata Scheme which correspond to their bedroom and access requirements.

- 1.5.6 The priority of each bid is determined as following:
- Initially by reference to the Band in which the person making the bid has been placed; Band A has the highest value and Band C the lowest; and
  - The priority between those bidders who are in the same Band will be determined by the period of time person has been on the Housing Register in that Band (this is called priority date).
- 1.5.7 All home seeker and transfer applicants registered for housing with any partner Local Authority or Registered Provider become members of Locata. Applicants are only allowed to be on one partner's Housing Register. The current Locata partners are:
- London Borough of Brent
  - London Borough of Ealing
  - London Borough of Harrow
  - London Borough of Hillingdon
  - London Borough of Hounslow
  - A2 Dominion Housing Association
  - Catalyst Housing Association
  - Paradigm Housing Association
  - Shepherds Bush Housing Association
  - Network Stadium Housing Association
  - Thames Valley Housing Association
  - Notting Hill Housing
  - Westway Housing Association
  - Genesis Housing Association
  - Inquilab Housing Association
  - Hyde Hillside
  - Octavia Housing
  - Sir Oswald Stoll Foundation
- 1.5.8 Please refer to the current issue of the Locata Scheme User Guide for an up to date list of partner organisations. ([www.locata.org.uk](http://www.locata.org.uk)).

## **1.6 OBJECTIVES OF THE HOUSING ALLOCATIONS SCHEME**

### **1.6.1 To meet the legal requirements for the allocation of social housing as set out in Part 6 of the Housing Act 1996 (as amended by the Homelessness Act 2002) and Localism Act 2011.**

The Council will ensure that its Housing Allocations Scheme complies with all legislative requirements, related legislation, case law, local policies and strategies.

### **1.6.2 To provide a system of choice in housing**

The Council and its partners will develop the Housing Allocations Scheme in accordance with the principles agreed locally. All assessments of need and allocations will be made in accordance with the agreed Scheme.

The Housing Allocations Scheme aims to provide applicants with sufficient information to explain where homes are more likely to become available. This will allow them to make informed choices about their housing options.

### **1.6.3 To produce a system that applicants can understand and which is both open and fair.**

In order to ensure that it is consistent, fair and transparent, the Housing Allocations Scheme will include:

- Comprehensive feedback on the homes that have been let
- Adoption of a common housing needs banding structure
- Clear labelling of the properties advertised.
- Detailed procedures for needs assessment and allocations
- Performance management information
- A consistent review process

### **1.6.5 To increase the sustainability of local communities**

Homes may be advertised with criteria aimed at improving the long-term stability of a community. In such

cases, properties will be clearly advertised to show that special criteria apply.

#### **1.6.6 To assist in minimising homelessness and assist applicants in the highest assessed need.**

All applicants will have their housing needs assessed and be placed in a housing needs band according to their circumstances. This will take into account the reasonable preference criteria outlined in the Housing Act 1996 (as amended by the Homelessness Act 2002) and the Localism Act 2011.

Homes will generally be let to the applicant in the highest housing needs band who has been waiting the longest, having expressed an interest in the home and meeting the criteria advertised.

#### **1.6.7 To ensure that vulnerable applicants are supported**

Vulnerable people will be appropriately supported to access the Housing Allocations Scheme. A number of measures will be taken to ensure that vulnerable applicants are not disadvantaged such as:

- Providing appropriate advice and assistance
- Translating documents on request
- Providing information in other formats on request
- Partnership working with support agencies
- Undertaking monitoring and regular reviews of the Allocations Scheme

#### **1.6.8 To ensure that the scheme allows the Council and its partner organisation to make best use of homes and in particular adapted properties**

Properties that have been adapted or developed for people with a disability will be advertised as such and, due to the shortage of adapted properties, preference will be given to households needing that adaptation. Property advertisements will show which groups may express an interest in them.

### **1.7 HOW THE HOUSING ALLOCATION SCHEME WILL OPERATE**

- 1.7.1 Brent is part of the Locata choice based letting scheme. This is the choice based lettings scheme operating in West London.
- 1.7.2 Applicants who join Brent's Housing Register are placed in one of 3 Housing Needs Bands to reflect their housing need.
- 1.7.3 Most vacant homes are advertised for a set period of time on a regular basis. This is called an advertising cycle.
- 1.7.4 Applicants can only express an interest in the homes for which they are eligible. They must, for example, meet the criteria for the number of bedrooms in the home.
- 1.7.5 They may express an interest by bidding through the website or by calling in person at one of the Council's designated offices.
- 1.7.6 Once the deadline of the advertising cycle is reached, a shortlist of the applicants who have expressed an interest is provided by the Locata system.
- 1.7.7 The Housing Allocations Scheme is then used to determine who is prioritised for housing from the shortlist.
- 1.7.8 Feedback on lettings is made when a property has been let.
- 1.7.9 The feedback will include information about the priority and effective date of the selected applicant, but not any personal information relating to them.
- 1.7.10 The choice based lettings scheme will not operate when applicants are made a direct offer of housing.

### **1.8 REVIEWING AND MONITORING THE HOUSING ALLOCATIONS SCHEME**

- 1.8.1 The Housing Allocations Scheme will be reviewed regularly to ensure that it meets its stated objectives, complies with existing and proposed legislation and guidance, and does not operate in a manner that disadvantages, or discriminates against, any particular group.
- 1.8.2 An annual report on the application of the Housing Allocations Scheme will be considered by the Policy Coordination Group and the Council's Overview and Scrutiny Committee, and will be fed back to stakeholders.

## 2. THE LEGAL FRAMEWORK

The London Borough of Brent's Housing Allocations Scheme sits within a tight and complex legal framework. It is governed by the following legislation and guidance, subject to the issue of any further guidance by the Secretary of State:

### 2.1 HOUSING ACT 1996 (AS AMENDED)

- 2.1.1 This Scheme has been drafted to comply with the requirements of part 6 of the Housing Act 1996, as amended by the Homelessness Act 2002 and the Localism Act 2011.
- 2.1.2 Part 6 of the Housing Act 1996 requires Local Authorities to make allocations and nominations in accordance with a published Housing Allocations Scheme. It covers:
- Allocations of local authority housing to new tenants
  - Transfers requested by local authority tenants
  - Allocations of local authority housing to current tenants of Registered Providers and
  - Nominations that the Council makes to Registered Providers
- 2.1.3 The 1996 Housing Act (as amended), requires the Council to provide "reasonable preference" to people with high levels of assessed housing need. It sets out the circumstances of applicants to whom reasonable preference must be given when deciding who will be offered a property
- 2.1.4 The Scheme takes into account the following legislation and regulations:
- Housing Act 2004, s223 Allocation of housing accommodation by local authorities
  - The Allocation of Housing and Homelessness (Eligibility) (England) (Amendment) Regulations 2012
  - Homelessness Code of Guidance for Councils (July 2006)
  - The Homelessness (Suitability of Accommodation) (England) Order 2012
  - Allocation of accommodation: guidance for local housing authorities in England, June 2012 and December 2013
  - The Allocation of Housing (Qualification Criteria for Armed Forces Personnel) (England) Regulations 2012
  - The Housing Act 1996 (Additional Preference for Armed Forces) (England) Regulations 2012

### 2.2 REASONABLE PREFERENCE

- 2.2.1 Section 166A of the Housing Act 1996 provides that local housing authorities must have an allocation scheme for determining priorities and the procedure to be followed in allocating housing accommodation. The scheme must be framed so as to give reasonable preference to any applicant who falls within the statutory reasonable preference categories in section 166A (3). Local housing authorities may frame their scheme so as to give additional preference to particular descriptions of people who fall within the reasonable preference categories and who have urgent housing needs.
- 2.2.2 While the Localism Act grants local authorities more flexibility over some aspects of allocations, the reasonable preference criteria still apply. This scheme therefore aims to ensure that reasonable preference is given to people with housing needs who fall into one or more of the following groups:
- Applicants who are homeless (within the meaning of part VII of the 1996 Housing Act, as amended by the Homelessness Act 2002 and Localism Act 2011).
  - Applicants who are owed a duty under section 190(2), 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any housing authority under s192(3)
  - People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
  - People who need to move on medical or welfare grounds, including grounds relating to disability
  - People who need to move to a particular locality in the housing authority area, where failure to meet that need would cause hardship (to themselves or others)
- 2.2.3 Every application received by the Council will be considered according to its facts. Because every

applicant's situation is different, applications will be considered on an individual basis and individual circumstances will be taken into account.

## **2.3 EQUAL OPPORTUNITIES AND DIVERSITY**

2.3.1 The Council will ensure that its Housing Allocations Scheme is applied in a manner that actively promotes equality and complies with its statutory obligations relating to equal opportunities and obligations

S.166A (3) of the 1996 Housing Act (as amended), requires that housing authorities should have regard to the following points in framing an allocations scheme:

The scheme must be framed so as to give reasonable preference to applicants who fall within the categories set out in s.166A (3) – that is, those who should be given reasonable preference - over those who do not

- Although there is no requirement to give equal weight to each of the reasonable preference categories, housing authorities will need to demonstrate that, overall, reasonable preference has been given to all the reasonable preference categories
- There is no requirement for housing authorities to frame their scheme to afford greater priority to applicants who fall within more than one reasonable preference category (cumulative preference) over those who have reasonable preference on a single non-urgent basis

This scheme aims to comply with these requirements and does not seek to give any additional priority to households falling into more than one of the reasonable preference categories.

## 3. BRENT'S HOUSING REGISTER

### 3.1 WHO CAN APPLY?

Anyone Aged 16 years or over (except those described below as 'ineligible' for housing) can apply to the Council to join the Housing Register. Some Registered Providers (RP) however, may only offer tenancies to applicants under the age of 18 if they have a guarantor.

### 3.2 JOINT APPLICANTS

- 3.2.1 Where more than one eligible applicant wishes to have a shared application they will be joint applicants.
- 3.2.2 For a joint application, all applicants have to qualify and meet the conditions on eligibility. A joint tenancy will not be granted to two or more people if any one of them is a person from abroad who is ineligible or is a person who is being treated as ineligible because of unacceptable behaviour, length of residency, financial capital and other assets or any other qualification criteria.

### 3.3 PEOPLE WHO CAN BE INCLUDED IN AN APPLICATION

- 3.3.1 An applicant can only include in their application members of their immediate family who normally live with them (or who would live with them if it were possible for them to do so) or other people who have an extenuating need to live with them. Usually this will mean members of the applicant's immediate family as follows:
- The applicant
  - The applicant's spouse or partner. By partner we mean anyone who lives with the applicant as their partner or who would live with them as a couple if they were able to do so.
  - Dependent children including where the applicant has a legal guardianship and the children are adopted or fostered, if they are under the age of 21 and live with the applicant full time, or for four or more nights every week. The applicant will be required to provide the London Borough of Brent with formal papers upon request (e.g court order) and documentation relating to any agreement that is currently in place regarding residency.
- 3.3.2 If there is an extenuating circumstances to include non-dependent adults ages over 21 the applicant will be required to provide further information and evidence about why they need to be considered as apart of the household such as giving/receiving care. For further clarification please refer to paragraph 3.3.2 in this document.

#### **Exceptions**

- 3.3.3 If an applicant has been accepted as statutorily homeless by the London Borough Brent, a household will include all members who were on the original homelessness application.
- 3.3.4 If an applicant is an Underoccupier applying to transfer to a smaller home (downsizing) and will be awarded Band A priority as an Underoccupier, then adult family members may be included on the application.

### 3.4 PEOPLE GIVING OR RECEIVING CARE

- 3.4.1 People who have an exceptional need to live with you means people who are not included in the definition of immediate family but who have a real need to live as part of the household in order to give or receive care or support. This may include:
- A child (of the applicant or partner) aged 21 or over who can not live independently because of a disability or a care need
  - A carer, if someone in the household needs full time care and no one in their immediate family is able to provide this.
  - An adult (including elderly) relative who needs to receive care. For some elderly people moving to sheltered accommodation is the best alternative.
- 3.4.2 If you wish to include people not in your immediate family on your housing application, you must explain on your application why it is necessary for them to live with you. We may also require you to provide evidence such as a court order, a social services or occupational therapy assessment and/or

evidence that you are in receipt of Carers Allowance.

- 3.4.3 Brent council can decide whether a person is normally resident as a member of the household. The Operational Director of Regeneration and Growth has the discretion to allow additional people to be included on the application when h/she considers it is appropriate, taking into account all of the circumstances. When exercising this discretion Brent Council will also take into account the prevailing housing conditions in the Borough.

### **3.5 FAMILY MEMBERS NOT CURRENTLY LIVING WITH THE APPLICANT**

- 3.5.1 The London Borough of Brent will not include on an application family members who are not resident in the UK at the time an application is submitted.
- 3.5.2 These household members will only be considered once the family member added to the application for housing has been granted leave to remain and/or recourse to public funds in the UK.
- 3.5.3 In joint access cases, bedroom eligibility will be awarded to the main care provider who is the applicant that the children live with for more than half the week (four nights or more). It usually means that the applicant is in receipt of child benefit or tax credits and we will take into consideration both parents' housing arrangements to ensure that one property has adequate accommodation for the children. This does not prohibit the other parent from maintaining their usual and agreed access to the children but they may have to accept an element of overcrowding.

### **3.6 BEDROOM ENTITLEMENT**

- 3.6.1 In order to make the best use of the available housing stock, it is essential to let available properties to those who need that size and type of property. When deciding the size of the property for which applicants are eligible, the standard as set out in the next paragraph will be applied.
- 3.6.2 A separate bedroom is allocated to:
- Each married, civil partnership or co-habiting couple
  - Any other person aged 21 years or over (that is allowed to be included on the application, except in the case of accepted homeless households where adult children will be expected to share a bedroom with siblings of the same sex).
  - Each pair of children or young people aged between 10-20 of the same sex.
  - Each pair of children under 10, regardless of their gender
  - Any unpaired person aged between 10-20 is paired, if possible with a child under 10 of the same sex, or, if that is not possible, he or she is given a separate bedroom, as is any unpaired child under 10
- 3.6.3 Households willing to accept small accommodation, particularly a family requiring a 2-bedroomed property that is prepared to accept a 1-bed property, will be able to bid on applicable properties that are advertised. Offers will be made in these circumstances where the applicant agrees to this in writing and the overall permitted occupancy of the property does not result in statutory overcrowding. Please note that some Registered Providers do not allow applicants to bid down for their properties.
- 3.6.4 The Council will only allow bedrooms for people who are entitled to be on the application. If the applicant or a member of their household is pregnant, the applicant should notify us when the baby is born to update their application (by completing a change of circumstances form in the first instance). Bedroom entitlement will be reviewed depending on the household composition.
- 3.6.5 In exceptional circumstances, the Council may exercise discretion in deviating from the Bedroom Standard where a household will be offered a larger or smaller accommodation. These are:
- Where applicants require larger accommodation on health grounds. This maybe awarded where an applicant or a member of their household needs their own bedroom for medical reasons; needs a carer/personal assistant or some special bulky medical equipment. These will be considered on a case by case basis, taking into account the advice of the Council's District Medical Officer and reports from relevant adult/children social services.
  - Occasionally, there maybe no suitable cases on the four and five bedroom list due to the space standard of the property. Where this occurs, allocation can be made to applicants providing this does not result in under occupation of the property. In these cases, the Rehousing Officer will match the

personage of the household with the personage of the property. For example, a 4-bedroom, 6-person property, in the absence of suitable cases on the 4-bed list, could be offered to a household on one of the 3-bedroom lists that consists of 6 persons, i.e. parent(s) and four children.

### **3.7 APPLICANTS WHO ARE INELIGIBLE FOR HOUSING**

3.7.1 Section 160A of the Housing Act 1996 (as amended) sets out who is ineligible to receive an allocation of housing. Applicants who are ineligible for housing fall into these three categories:

- Certain persons who are subject to immigration control, unless they are re-included by order of the Secretary of State or care exempt because they are already a secure tenant.
- Other persons from abroad whom the Secretary of State deems to be ineligible for an allocation of housing accommodation by a local housing authority or are exempt because they are already a secure tenant.
- Certain persons who the local authority decides to treat as ineligible due to unacceptable behaviour, which would prevent them from being considered as suitable tenants.

### **3.8 APPLICANTS WHO ARE INELIGIBLE DUE TO IMMIGRATION RULES**

3.8.1 Only applicants that are eligible can be included on the Housing Register. The following applicants will be eligible for an allocation of accommodation:

a) Applicants that are subject to immigration control

3.8.2 A person that is subject to immigration control will only be eligible for an allocation of accommodation if they fall within a category of persons that have been prescribed as eligible by regulations made by the secretary of state.

b) Applicants that are not subject to immigration control

3.8.3 A person that is not subject to immigration control will be eligible for an allocation of accommodation unless:

- Their only right of residence is one which has been prescribed as not resulting in eligibility by regulations made by the secretary of state or
- They are not habitually resident in the Common Travel Area or excluded from the requirements on Habitual Residence Test by Regulation 6(2) of the Allocation of Housing and Homelessness (Eligibility) (England) (Regulations 2006).

### **3.9 DO NOT QUALIFY DUE TO UNACCEPTABLE BEHAVIOUR OR ACTIONS**

3.9.1 When deciding whether or not an applicant is eligible for housing, Brent Council may decide that the applicant should be treated as ineligible for housing if it is satisfied that:

- The applicant, or members of the household has been guilty of unacceptable behaviour serious enough to make them unsuitable as a tenant of the Council and
- In the circumstances at the time of their application is considered they are unsuitable to be a tenant of the authority by reasons of that behaviour.

3.9.2 Behaviour that may be regarded by Brent Council as unacceptable, including the following:

- Behaviour of the applicant(s) which would (if they were a secure tenant of Brent Council) entitles the Council to a possession order of their property under section 84 of the Housing Act 1985 on any grounds mentioned in Part 1 of schedule 2 to that Act (other than ground 8); or
- Behaviour of a member of the applicant's household which would (if they were a person living with a secure tenant of Brent Council) entitles the Council to seek a possession order of their property under section 84 of the Housing Act 1985 on grounds mentioned in Part 1 of Schedule 2 to that Act (other than ground 8).

3.9.3 Brent Council cannot allocate housing to anyone who is not eligible to join the Housing Register, even jointly with someone else who is eligible to join the Housing Register.

3.10 Do not qualify due to length of residence in the borough

3.10.1 All applicants must currently be living in the London Borough of Brent and have continuously lived here for the period of 5 years or more prior to joining the housing register. Applicants who do not meet this criterion will not be eligible to join Brent's Housing Register.

- 3.10.2 Those who are homeless within the meaning of Part VII of the Housing Act 1996 and the London borough of Brent has accepted a full housing duty to them will be required to meet the residency criteria prior to being able to bid for properties, or until they meet the average waiting time for the property of the appropriate size, whichever is the shortest time..
- 3.10.3 Residents who have been living in Brent for 5 years or more but have been placed in temporary accommodation by another local authority in order to meet a homelessness duty will not qualify (despite having been living in the borough for more than five years).
- 3.10.4 Applicants who have been placed in temporary accommodation out of borough by the London Borough of Brent in order to meet a homelessness duty will continue to accumulate time towards the residency criteria, and not lose any length of time previously resident in the borough.

### **3.10.3 EXCEPTIONS TO RESIDENCY RULE:**

- Existing secure or fixed term tenants of the London Borough of Brent.
- Young People leaving care and referred to Brent Council Children's services assessed by the panel (whether or not they currently live in Brent)
- Serving and former members or widows of members of the armed forces and reserved forces whether or not they currently live in the borough
- Those residing in supported housing schemes commissioned by the London of Brent.
- Persons in Prison whose last settled address was in the borough.

### **3.11 DO NOT QUALIFY BECAUSE MEET ASSET/INCOME THRESHOLD**

- 3.11.1 Gross household income will be taken into consideration when registering for public sector housing. Depending on the bedroom size needed, applicants meeting the below income threshold will not qualify for housing (they will not be eligible to join the register) as they are deemed to have sufficient financial resources to buy a home or pay market rent in the borough.
- 1 bed need – £35,000 per annum
  - 2 bed need – £45,000 per annum
  - 3 bed need – £55,000 per annum
  - 4 bed need – £70,000 per annum
- 3.11.2 If an applicant owns or has an interest in a property as a free holder or leaseholder in the United Kingdom or anywhere else in the world, or part-owns a property under the shared ownership scheme then they will not qualify to join the Housing Register. This will include people who live in caravans, mobile homes, houseboats and accommodation on seasonal holiday parks.
- 3.11.3 Applicants who formerly owned a property will be asked to provide evidence of the sale and details of any capital gained from the sale to determine their qualification. If applicants disposed of capital without making adequate housing arrangements, for example, gifting the capital to relatives or friends, they will not qualify.
- 3.11.4 Those who do not own accommodation but have sufficient savings to buy a property (or share in a property) or obtain private rented property will also not qualify to go on the housing register. The Council consider savings of £50,000 and over to be sufficient.
- 3.11.5 The London borough of Brent, at the discretion and with the approval of the Operational Director for Regeneration and Growth and the Allocations Panel may make an offer of social housing in exceptional circumstances, for example where an elderly owner occupier who can not stay in their own home need to move into sheltered accommodation. In these instances, the applicant should not financially benefit from the offer of social housing and is therefore required to sell their accommodation and provide the Council with evidence of the sale.
- 3.11.6 Where an application is refused because the applicant falls into one of the three ineligible categories defined above, applicants will have the right to request review of that decision under section 167 (4A) of the Housing Act 1996 (as amended). In making a decision whether to accept or refuse an application the decision shall be notified to the applicant in writing, giving full details of the reasons of refusal.

## **4. HOW THE HOUSING REGISTER WORKS**

### **4.1 HOW TO APPLY TO JOIN THE HOUSING REGISTER**

4.1.1 To apply to join the Brent housing Register applicant must complete a housing application using the on-line form (through the Locata website [www.locata.org.uk/brent](http://www.locata.org.uk/brent) or by visiting the council's designated offices. Multiple applications are not allowed; an applicant may have only one active application on the Housing register.

### **4.2 CIVIL PARTNERSHIPS AND COHABITEES**

4.2.1 Civil partnership is a legal relationship, which can be registered by two people of the same sex. The Civil partnership Act came into force on the 5th December 2005.

4.2.2 For the purposes of the Housing register civil partnerships will be treated in the same way as married applicants including in the following cases:

- Parental responsibility for the other civil partners child
- Succession and assignment of a tenancy agreement
- Protection from domestic violence
- Immigration and nationality purposes

4.2.3 Cohabiting couples will be treated in the same way as married applicants, except that some evidence of an abiding relationship will be required before a joint tenancy is awarded.

### **4.3 APPLICANTS CONSENT AND DECLARATION**

4.3.1 When applicants apply to join the Housing Register, they must sign a declaration to confirm that:

- The information they have provided is complete, true and accurate.
- They will inform the Brent Council immediately of any changes in circumstances.
- They understand that information will be shared with partner organisations (Brent Housing Partnership (BHP) and Registered Providers (RPs) together with other relevant organisations in order to complete or verify information or to prevent fraud or protect public funds in other ways.
- They consent to the council making enquiries of any relevant persons (including credit checking/referencing companies) to confirm that the information on the application form is correct or to add to the information given where necessary to complete an assessment of need or to consider suitability for housing.

### **4.4 NOTIFICATION OF CHANGES IN CIRCUMSTANCES**

4.4.1 Applicants must notify the London Borough of Brent of a change of circumstances which may effect their priority for housing. Applicants who have had a change of circumstances and have not informed the Council may have their application set to pending whilst an investigation takes place in order to determine their eligibility and entitlement for housing.

4.4.2 For transfer applicants, it is the responsibility of the applicant to inform Brent Housing Partnership of any change of circumstance to enable Brent Housing Partnership to re assess the transfer application accordingly. Any appeals against decisions made following assessment of priority band and date must be directed to Brent Housing Partnership.

4.4.3 Examples of change in circumstances include someone joining or leaving the household, the birth of a child, a change of address, the purchase or acquisition of an interest in a home, or a change in the health or welfare of the applicant and/or a member of their household.

4.4.4 Applicants should notify the London Borough of Brent of any change in their circumstances by completing the online change in circumstances form available on the Locata website [www.locata.org.uk/Brent](http://www.locata.org.uk/Brent)

### **4.5 RENEWAL OF HOUSING APPLICATIONS**

4.5.1 To keep the Housing Register up to date, applicants may be contacted to see if they still want help with housing.

4.5.2 Applicants are required to re-register their housing application once a year, in order to confirm that

they still want to be considered for housing.

- 4.5.3 On the anniversary of the date their housing application was registered, applicants will be required to renew their application. Applicants will be notified of the arrangements for completing this renewal and must do so within the specified time period.
- 4.5.4 When completing their renewal, applicants must confirm that they still want to be considered for housing and provide details of all changes in their circumstances.
- 4.5.5 Failure to complete renewal within the time period specified (or to respond to a written request for information needed to assess their housing application) will result in the applicant being removed from the Housing Register.

#### **4.6 CANCELLATION OF HOUSING APPLICATIONS**

- 4.6.1 A housing application will be cancelled (and removed from the Housing Register) in the following circumstances:
- When the applicant requests it
  - When the applicant becomes ineligible for housing
  - When the applicant has been housed through the Allocations Scheme
  - When the applicant accepts an Assured Shorthold Tenancy via a Council scheme
  - When an applicant fails to maintain their housing application (through the renewal process) or they move home and fail to provide the Council with a contact address.
  - When an applicant fails to respond to a request for further information within the specified time.
- 4.6.2 Should an applicant whose application has been cancelled wish to re-join the Housing Register they will receive a new effective date. In exceptional circumstances the Council may agree to reinstate a cancelled application without revising the priority date if the applicant notifies it within 3 months of the application being removed from the Register.

#### **4.7 VERIFICATION OF HOUSING APPLICATIONS**

- 4.7.1 Before offering an applicant the tenancy of public sector housing, Brent Council will need to verify what the applicant has said in their housing application.
- 4.7.2 The verification interview may take place before or after an applicant is shortlisted for a particular property. The purpose of the interview is to check on the accuracy of the Council's initial assessment.
- 4.7.3 During the interview, a record will be made of the applicant's current circumstances; a check will be made to ensure that the applicant has been put into the correct Housing Needs Band.
- 4.7.4 All applicants who are eligible for housing will be expected to produce original documents to verify their housing need at the verification appointment. If they are unable to produce the relevant documents, they may not be able to go ahead with any current bid.
- 4.7.5 For everyone included in the housing application, the Council will require proof of identity, together with proof of residence for all addresses used during the past five years. It will also require proof of income, proof of pregnancy, medical conditions and any disabilities, and a range of other documents, including for example birth certificates, marriage certificates, divorce papers, tenancy agreements, and bank statements, as appropriate.

#### **4.8 DATA PROTECTION**

- 4.8.1 Brent Council and the arm's length Management Organisation (ALMO) Brent Housing Partnership and registered Providers will make every effort to keep information provided by applicants safe and confidential. They will comply with policies on Data Protection, which can be viewed on their websites.
- 4.8.2 Computer records are covered by the Data Protection Act 1984 which controls the way in which personal data is collected, processed, distributed and stored.
- 4.8.3 The Data Protection Act 1984 gives rights to individuals about whom the information is recorded. These rights include the rights of access to the information and the right to challenge the accuracy of that information.
- 4.8.4 Requests for access to data must be made in writing to Brent Council's Feedback and Information

Team. Although a fee will not normally be charged for data access, a £10 charge will be made for a copy of the applicant's file.

#### **4.9 MISREPRESENTATION AND FRAUD**

- 4.9.1 Brent Council and its partners are committed to prosecuting any applicant who deliberately misrepresents their circumstances or attempts to deceive or defraud the Council in order to secure the tenancy of a council or housing association home to which they are not entitled.
- 4.9.2 The law imposes severe penalties (including substantial fines or imprisonment) where an offence is proved. If the applicant has gained a tenancy through misrepresentation or fraud, legal action will be taken to recover possession of the property and evict them.

#### **4.10 COUNCILLORS' INVOLVEMENT IN DECISION MAKING**

- 4.10.1 Elected Councillors cannot be involved in assessing housing applications or the allocation of housing. This does not prevent them, however, from seeking or providing information on behalf of their constituents, or from being involved in developing and approving future scheme.

#### **4.11 MEMBERS OF THE COUNCIL, STAFF AND THEIR RELATIVES**

- 4.11.1 In order to ensure that the Council is treating all applicants fairly, any application for housing or re-housing from Councillors or employees of the Council or associated persons must be disclosed.
- 4.11.2 These applications will be assessed in the normal way but any allocation of housing must be approved by the Operational Director for Regeneration & Growth.

#### **4.12 EQUAL OPPORTUNITIES AND MONITORING**

- 4.12.1 Brent Council is committed to the principle of equal opportunities in the delivery of all of its services. Brent Council will seek to ensure that its Housing Allocations Scheme is applied in a manner that is fair to all sections of the community regardless of nationality, ethnic origin, marital status, age, gender or disability.
- 4.12.2 Brent Council and its partners will be responsive, accessible and sensitive to the needs of all applicants. They will not tolerate prejudice and discrimination and will actively promote equality
- 4.12.3 Applicants will be invited to indicate if they wish to make use of the Council's translation and interpretation services, and if they require other special services as a result of visual impairment, hearing difficulties or other disability.
- 4.12.4 Confidential interview facilities are provided at all Customer Service Centres and the Brent Civic centre, all of which are wheelchair accessible. Home visits will be carried out as required, especially where the applicant has a disability or mobility problems.
- 4.12.5 All applicants for housing or re-housing will be asked to provide details of ethnic origin, age, gender, faith, sexuality and disability. This will not, however, be a requirement for acceptance of an application. Diversity records will be kept and monitored on a regular and systematic basis to ensure properties are being offered and allocated fairly, and will be reported to the Overview and Scrutiny Committee.
- 4.12.6 The Brent Housing Allocations Scheme (including amendments) will be reviewed regularly in order to ensure that it does not operate in a manner that disadvantages, or discriminates against, any particular group.

#### **4.13 CONFIDENTIALITY**

- 4.13.1 Information about a housing application must only be disclosed to a third party on a "need to know" basis and in the following circumstances:
- For the purpose of effective joint working with health, education, social services and other agencies, in appropriate cases, to ensure the safeguarding of children and vulnerable adults and positive outcomes for households
  - For the purpose of detecting and preventing fraud
  - For the promotion of community safety and the detection and prevention of crime

- For efficient administration of offers of re-housing, lettings, housing association nominations and rent and benefit accountancy
- Where disclosure of information is a legal requirement.

#### **4.14 ACCESS TO PERSONAL FILES**

- 4.14.1 Housing applicants have the right to see what information is held about them on non-computerised records by virtue of the Access to Personal Files (Housing) Regulations 1989 in respect of records made after 1 April 1989.
- 4.14.2 Applicants also have a right of access to information held about them and their households. This right of access extends only to “personal” information.
- 4.14.3 In certain circumstances, the Council may refuse access where, for example, the information has been provided in confidence by a third party or disclosure may identify a third party who has not consented to disclosure.
- 4.14.4 Requests for access to data must be made in writing to the Council’s Feedback and Information Team. A fee of £10 may be charged for supplying an applicant (or their representative) with a copy of their file.

# 5. ASSESSMENT OF HOUSING NEED

## 5.1 HOUSING NEEDS BANDS

5.1.1 To apply for housing, all applicants must join the Housing Register by completing the online housing application form. Following assessment, the application will be placed on the Housing Register (if the applicant is eligible for housing) in one of four Housing Needs Bands, based on the information provided:

- Band A
- Band B
- Band C
- Band D: No priority and therefore not able to bid

5.1.2 Band A will contain those applicants in the highest housing need and Band D those applicants with no identified housing need.

## 5.2 HOW THE BANDING WORKS

5.2.1 When applying to join the Housing Register applicants will have their housing need assessed and be given a priority band if there is sufficient housing priority to be registered. These bands are the Council's way of making sure we offer homes to people who are most in need. These bands take into consideration the reasonable preference categories and people who the London Borough of Brent considers to be a local priority for housing.

### 5.2.2 Assessment of housing applications

5.2.2.1 When the Council has assessed their housing application, the applicant will receive a letter setting out the outcome. In that letter the Council will:

- Confirm what Housing Needs Band the applicant has been placed in on initial assessment. Some assessments (such as those relating to medical conditions) may take longer and may result in a change in banding.
- Confirm the size (and if applicable the type) of property the applicant is eligible to bid for.
- Confirm the applicant's priority date (please see 5.2.3 for details)
- Include a reminder about informing the Council of any change in the household's circumstances
- Inform of a decision that the applicant is not eligible to join the Housing Register and do not meet the qualification criteria, and offer advice and information on alternative housing options
- Provide details of the appeal and review procedures
- Explain how annual re registration works

### 5.2.3 Deciding on priority date

5.2.3.1 An applicant's priority date enables the Council to decide who has higher priority when applicants fall within the same bands. The priority date is usually the date the application is received, except:

- Where an applicant has moved from one band to another band, their new priority date will be the date when the change of circumstances causing the banding change is processed and accepted. In the event that an applicant moves up a band and subsequently has a further change of circumstances that causes a band demotion, the original priority date in the lower band will be retained where this demotion is within six months of the band change upwards.
- Where an applicant receives priority on medical or welfare grounds, their priority date will be the date they applied for this award.
- Where an applicant has been accepted as being homeless, the priority date will be the date of the determination of their homelessness application, unless they already for band C with an earlier priority date.

### 5.2.4 Applicants who have deliberately made their housing situation worse

5.2.4.1 The Council will consider whether an applicant has deliberately made their housing situation worse

to increase their housing need and consequently improve their chances of rehousing through the Housing Register.

- 5.2.4.2 If the Council decides that the applicant has made their housing situation worse, the applicant will remain in the band that reflects their housing need before the deliberate action (or inaction) that made their situation worse.
  - 5.2.4.3 If the applicant was not on the Housing Register when the deliberate action (or inaction) that made their situation worse occurred, the assessment of housing need will be based on their housing need immediately before that date
  - 5.2.4.4 The assessment will be reviewed on request but not normally within the first twelve months of the application being made. If the restriction is removed, the application will be placed in the band that reflects the applicant's current housing circumstances and their priority date will be the date that the application was moved to the new band.
- 5.2.5 Owner occupiers**
- 5.2.5.1 The Housing situation within the Borough is such that the Council is unable to assist home owners with housing. Such applicants will be expected to make their own arrangements to resolve any housing need that they have. This includes co-owners, keyworker and shared ownership housing. If it is demonstrated that there is exceptional need (equivalent to Band A) and there is no prospect of resolving the issue in any other way then the case will be considered by the Allocation Panel. However, there is still no guarantee that housing will be offered. Owners will be advised when they register of the Council's position.
  - 5.2.5.2 Applicants who have previously owned a property and have sold it will be asked to provide proof of the sale together with evidence of the proceeds received from the sale.

## 6. FINDING A HOME

The London Borough of Brent lets the vast majority of its homes and its nominations through its Choice Based Lettings Scheme (Locata). For all advertised properties, the eligibility of bids received will be checked against the labelling used in the advertisement. Any ineligible bids will be discarded. Where properties are advertised, the allocation of a property will be based on the priority of bids received.

### 6.1 CHOICE BASED LETTINGS

- 6.1.1 Anyone who is on the Housing Register can bid for properties that are appropriate to their housing need.
- 6.1.2 Although applicants cannot bid for homes that are larger than they need, applicants who need 2 bedrooms or more may bid for homes that have one bedroom less than they need..
- 6.1.3 In exceptional circumstances (involving very large families that have little or no prospect of obtaining a home that is large enough for their needs), applicants may be permitted to bid for properties that are up to three bedrooms smaller than they need. Before this can happen, however, the applicant must obtain the permission of the Council.
- 6.1.4 Where an applicant chooses to accept an offer of accommodation that has fewer bedrooms than they need and subsequently re-applies to join Brent's Housing Register, they will not be awarded any priority for overcrowding unless their circumstances have changed significantly since they accepted the tenancy of their existing home.
- 6.1.5 Registered Providers (Housing Associations) have their own standards for occupancy and may not offer properties that are smaller than the applicant needs.

### 6.2 CIRCUMSTANCES WHEN ELIGIBLE APPLICANTS WILL NOT BE ABLE TO PARTICIPATE IN CHOICE BASED LETTINGS

- 6.2.1 Some applicants who are eligible for housing will not be allowed to participate in the choice based lettings scheme if the Council considers that, due to their age or their need for specialist support, they are not yet ready to sustain a tenancy. The circumstances in which this may occur are described in section 6.6 below.
- 6.2.2 Applicants who are eligible for housing will also not be allowed to participate in the choice based lettings scheme if they have accepted an offer of housing but the property is not yet ready for occupation, or if it has been agreed that they will only receive a 'direct offer' of accommodation.
- 6.2.3 Applicants who are eligible for housing can be suspended from bidding for homes through the choice based lettings scheme if they refuse two written offers after making successful bids. Any suspension will be effective for up to twelve months.
- 6.2.4 Decisions on whether or not applicants should be temporarily prevented from participating in the choice based lettings scheme will be made by the Council. Where it decides that an applicant should not be allowed to participate, the Council will inform the applicant of the reasons why they are not able to take part, any conditions that will need to be met before they will again be entitled to take part, and the date that they may request a review of the decision to prevent them from taking part.

### 6.3 ADVERTISING AVAILABLE HOMES

- 6.3.1 The London Borough of Brent advertises its own void properties and also partner Registered Provider units for which it has nomination rights. The adverts will appear weekly online on Locata. Once the properties have been advertised, registered applicants on the London Borough of Brent's Housing Register are invited to express an interest by bidding for the properties advertised according to their eligibility for the property.
- 6.3.2 Some registered social landlords may decide not to advertise all of their homes through the choice based lettings scheme. This will depend on the level of tenancy nomination rights that the Council has agreed with them.
- 6.3.3 In exceptional cases, a home may be excluded from the advertising scheme because it is needed, for example, to deal with an emergency or for use as alternative accommodation for a tenant who has to move out of their home because it has become unsafe or requires extensive repairs. Other examples

include homes that are needed for applicants who have specific housing needs or have been specially adapted and meet the particular needs of an applicant. (See Sections 6.8 and 6.9 for further details).

6.3.4 All adverts will include property descriptions which will be used as set criteria to assess the applicant's eligibility for the property. The following details may be included:

- Property types, e.g. houses, maisonettes or flats
- Size of property, e.g. double or single bedrooms must be specified so that the minimum and maximum number of persons suitable for occupancy can be identified (defined as bedspace).
- Whether children are allowed
- Stipulation of age limits for Older Persons Dwellings
- Whether pets are allowed.
- Landlord details e.g. London Borough of Brent or Registered Providers
- Floor level of property
- Property characteristics e.g. heating type, lift access etc.
- Weekly rent charges and any other additional charges for each property
- Whether any adaptations exist within the property
- The mobility group
- In the advertisement, the home will be labelled to show whether it is restricted to any particular group of applicants.

## **6.4 LABELLING OF PROPERTIES**

6.4.1 The Council will label the advertised homes in a way that provides as much information as possible about the property and which applicants are eligible to express an interest. Where an applicant does not meet the criteria outlined, they will not be considered for the home.

6.4.2 Labelling criteria will include:

- Transferring tenant: The Council and registered social landlords may sometimes decide that a home will only be available for their own existing tenants.
- Property size: Applicants must be eligible for the size and type of the property they are bidding for – they will be advised of what they can bid for when they join the scheme.
- Housing needs bands: Some homes may only be offered to applicants who are in particular Bands.
- Adapted homes: Homes that are particularly suitable for people with disabilities will have special symbols to help applicants with those needs to identify them. Adverts for adapted or accessible homes (for example those with wheelchair access) will specify that they are only available for people assessed as needing them.
- Age restrictions: Some homes may have a minimum age requirement.
- Local lettings policies: In order to promote sustainable and settled communities, the Council, Brent Housing Partnership and Registered Providers may introduce specific lettings policies in some areas which will vary from this Housing Allocations Scheme. They may do this, for example, where there are too many vulnerable residents in an area or there is a need to reduce child density, tackle serious anti social behaviour or increase the proportion of tenants who are in employment, education or training.
- Pets: The advertisement will identify whether pets are allowed.
- Home type and facilities: The advertisement will show the type of home, the floor level, the type of heating, the service charges and any other relevant details.

## **6.5 EXPRESSING AN INTEREST IN AVAILABLE HOMES**

6.5.1 To be considered for an available home, applicants must apply for the home by the publicised deadline and meet the labelling criteria.

6.5.2 Applicants will generally be able to make expressions of interest each advertising cycle. The bidding cycle will be weekly.

6.5.3 In each weekly cycle, applicants will be able to express an interest in up to three properties for which they are eligible.

- 6.5.4 The number of homes in which an applicant may express an interest each bidding cycle, the length of the bidding cycle and the frequency with which details of newly available properties are added to the choice based lettings website may be changed after monitoring of the scheme and applicant consultation.
- 6.5.5 Support will be offered to applicants who require assistance in using the scheme.
- 6.5.6 Applicants will be able to express an interest in a property by the below two methods.
  - Using the website
  - By using an advocate for any of the above methods
- 6.5.7 In certain circumstances applicants may bid for properties by proxy. Council staff, support agencies and other providers may be used as proxies for this purpose, subject to the Council's agreement to any such request.
- 6.5.8 'Autobidding' may be activated for homeless households to place bids on their behalf once the household falls into the longest waiting 5% of households waiting for the relevant property size.

## **6.6 APPLICANTS WHO MAY BE SUSPENDED FROM BIDDING**

- 6.6.1 An applicant who is eligible for housing may be suspended from bidding through the choice based letting scheme (or any bid that they make may be disregarded during shortlisting) in any of the following circumstances:
  - Where the applicant has been assessed as being incapable of independent living or sustaining a tenancy;
  - Where the applicant is only capable of sustaining a tenancy if they are provided with support, but that support is not being provided;
  - Where the applicant's eligibility or level of priority is being reviewed because of, for example, a change of circumstances or concerns about possible fraud or the accuracy of the information that has been supplied in relation to their application for housing;
  - Where the applicant has already accepted an offer of another property or has been formally offered another property and has not yet confirmed whether or not they will accept that offer;
  - Where the applicant repeatedly fails to attend viewings of properties for which they have bid and been shortlisted;
  - Where the applicant repeatedly refuses, without good reason, formal written offers of properties for which they have made a successful bid under the choice based lettings scheme.
- 6.6.2 In deciding whether or not an applicant is ready for independent living and capable of sustaining a tenancy, the Council will be guided by its specialist housing teams, by support providers and the relevant health and social care professionals.
- 6.6.3 Where it is decided that the applicant is not yet ready for independent living (or is not receiving the support they need to live independently), their situation will be closely monitored by the Council's specialist housing teams and action will be taken to ensure that appropriate housing and support are provided as soon as practicable.
- 6.6.4 An applicant will normally be deemed to have 'repeatedly' failed to attend viewings or refused formal offers when, without good reason, they have failed to attend 2 viewings or accept 2 formal written offers.
- 6.6.5 Where it decides that an applicant should be suspended from bidding through the choice based lettings scheme, the Council will inform the applicant of the reasons why they are not able to take part, any conditions that will need to be met before they will again be entitled to take part, and the date that they may request reconsideration of the decision to suspend them from bidding for properties.

## **6.7 SHORTLISTING OF INTERESTED APPLICANTS**

- 6.7.1 Registered applicants, who submit an eligible bid for a property advertised in Locata, will appear on a "shortlist". The order on the shortlist is dependant on an applicant's priority band and priority date. Therefore, any registered applicant in band A that bids for a property will always come ahead of any registered applicant bidding for the same property in band B or C. However, if a number of applicants bid for a property and are all in the same band, then priority is decided by considering their priority date.

- 6.7.2 Once the advert deadline has passed, the shortlist of applicants expressing an interest in the home will be produced from those who are eligible and meet the labelling criteria.
- 6.7.3 Following production of the shortlist, arrangements will be made by the relevant landlord (Brent Housing Partnership (BHP) or a Registered Provider for the shortlisted applicants to view the property as soon as possible.
- 6.7.4 The landlord will decide whether the applicants view the property individually (with separate appointments) or all at the same time.
- 6.7.5 During the viewing and/or on the telephone, applicants will be given further information about the property, the repairs to be carried out, the date when the property is expected to be available, and any special conditions of tenancy.
- 6.7.6 After the viewing, the property will be offered to the eligible applicant who is highest in the shortlist and has confirmed their interest in being offered the tenancy.
- 6.7.7 When an applicant says that they are no longer interested in a property after the viewing, the applicant who is next on the shortlist will normally be considered for the tenancy.
- 6.7.8 In the event that all bids on a shortlist are ineligible, the Rehousing Team will decide whether the property is to be re-advertised at a later date or whether it would be suitable for a direct let to an identified emergency case.

## **6.8 FAILURE TO ATTEND A VIEWING**

- 6.8.1 If the applicant cannot be contacted via their contact details provided on their application, this will be deemed unreasonable and will constitute a refusal to accept a property. It is an applicants' responsibility to ensure their contact details are accurate and up to date.
- 6.8.2 If an applicant does not respond to the offer to view and subsequently does not attend the viewing, this will be considered as unreasonable. However, a decision maybe changed if the applicant makes contact within 48 hours and the reasons given for the non-attendance are considered to be reasonable.
- 6.8.3 If an applicant confirms attendance for a viewing but subsequently does not attend a viewing, an officer will contact the applicant to find out the reasons(s) for non-attendance. A decision will then be taken as to whether the failure to view was reasonable or not.
- 6.8.4 If an applicant fails to view twice, their application will be suspended for a period of 12 months and the applicant will not be able to place bids or be considered for direct offers of accommodation in this time.
- 6.8.5 For failure to attend a viewing, the following are acceptable grounds for a reasonable failure to attend a viewing:
  - You will need to demonstrate that no contact has been made by the London Borough of Brent to view the property
  - There is a language or literacy problem which means the applicant did not recognise the urgency of responding
  - There were unforeseen and urgent circumstances which resulted in the applicant being unable to inform the Council of their emergency:
    1. Hospitalisation of the applicant or their household members
    2. Death of a close family member
    3. Applicant was away on holiday but had informed the Council of this beforehand.

## **6.9 WHAT ARE ALLOCATIONS UNDER THIS SCHEME?**

- 6.9.1 The following are allocations under this Scheme:
  - The selection of a person to be a probationary (introductory) or secure tenant of the London Borough of Brent.
  - The grant of a new tenancy to an existing tenant by way of transfer upon the tenant's request.
  - Nomination of a person to be an Assured or an Assured Shorthold tenant of a Registered Provider via the London Borough of Brent's Nomination rights agreement
  - A direct offer of accommodation.

## **6.10 PROPERTIES NOT OFFERED THROUGH CHOICE BASED LETTINGS**

6.10.1 The following types of property will not be advertised and let through the Locata choice based lettings scheme:

- Council homes used as temporary accommodations which are then let to the existing resident as an introductory or secure tenancy
- Service tenancies
- Supported housing, including housing for older people
- Properties selected for 'direct lets'
- Shared ownership, rent-to-purchase and keyworker homes (although these will be publicised through the choice based lettings advertisements).
- 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, or
- Assignment of a tenancy by way of a mutual exchange, or
- Assignment of a tenancy to a person qualified to succeed to the tenancy on the tenant's death, or
- Transfer of the tenancy by a court order under family law provisions or under the Civil Partnership Act 2004, or
- A probationary (introductory) tenancy becoming a fixed term tenancy
- Rehousing due to being displaced from previous accommodation by the London Borough of Brent or being rehoused by London Borough of Brent pursuant to Land Compensation Act 1973
- A person granted a family intervention tenancy
- Allocations which Registered Providers make outside of nominations agreements.
- Allocations to an individual where there maybe public protection risks.
- Offers of tied accommodation made to Council employees
- Contractual duty owed by the Council (ex-service tenants) where stipulated in employment contracts by the London Borough of Brent
- Moves via the Pan London Scheme (Housing Moves)

## **6.11 PROPERTIES SELECTED FOR 'DIRECT LETS'**

6.11.1 Although most vacancies will be advertised through the choice based lettings scheme, the Council will make a direct offer of accommodation to applicants at the Council's discretion. All direct offers must be authorised by the Allocations Panel and recorded appropriately.

6.11.2 A 'direct let' may be considered for any applicant whose assessment results in them being placed in Band A of the Housing Register and where, in the judgement of the Council, a 'direct let' offers a much better prospect of securing a move than may be achieved by bidding for a suitable home.

6.11.3 The following applicants may qualify for a direct offer of accommodation but only if approved by the Allocations Panel:

- Where an existing council tenant or partner housing association tenant in Brent has been approved by the Allocations Panel for an emergency management transfer because of harassment, domestic violence or hate crime.
- Where an applicant needs to move urgently because of an emergency medical or welfare need, including emergencies and situations where there are serious safeguarding implications.
- Where it is in the overriding interests of the Council to prioritise an allocation of housing to a particular household and/or it is necessary to comply with a Court Order and/or fulfil an urgent statutory or legal duty.
- Where a council tenant or housing association tenant in Brent is occupying a specially-adapted home or under-occupying a large family home and is willing to transfer to a home that is more appropriate to their needs.
- Where an applicant has been assessed by a Multi Agency Public Protection Panel (MAPPA) and it is decided by that Panel that the applicant should be offered social housing
- Where an applicant is being moved under a national witness mobility / protection scheme

- Where a specially adapted property has been built, acquired or adapted in order to meet the needs of a specific applicant
- Where a council tenant or housing association tenant in Brent requires extensive disabled facilities that can be provided more appropriately in alternative accommodation of a particular type
- Where a property is currently occupied by a homeless household (as temporary accommodation and on the basis of a non-secure tenancy) and that property is then offered to them as an introductory / starter tenancy or secure / assured tenancy
- Where an applicant is a former council tenant who has previously surrendered their tenancy (without the need for possession proceedings) on the understanding that, when they leave prison, hospital, rehabilitation or residential care, or have successfully completed a supported housing tenancy, they will be offered the tenancy of a bedsit or one-bedroom home
- Where any delay in providing the applicant with suitable accommodation is likely to prove costly to the Council.

6.11.4 Homeless home seekers, who occupy temporary accommodation and have been identified by the Allocations Panel maybe made one direct offer in line with scheme. If the offer is refused on unreasonable grounds, full housing duty will be discharged. Direct offers to approved homeless applicants are made in exceptional circumstances, where it is in the overriding interest of the Council to prioritise an allocation of housing to a particular household and/or it is necessary to comply with a Court order and/or fulfil an urgent statutory or legal duty.

6.11.5 Properties will be selected for direct offers on the basis of the assessed requirements of the applicants.

6.11.6 Where a 'direct let' is made, the property will not be advertised through the choice based lettings scheme. However, to ensure transparency, the Council will report that the property has been used as a 'direct let'.

## **6.12 SENSITIVE LETS ASSESSMENT**

6.12.1 The Council will make an assessment of risk to the community of any applicant who has been convicted of a criminal offence and is considered to present a significant risk to potential neighbours and/or communities. This will include applicants assessed as a risk through MAPPA panel arrangements.

6.12.2 At the time of registration, an applicant will be asked if he/she or anyone who will be residing with them has a conviction of a criminal offence or anti social behaviour order. The question is asked to all applicants. If the applicant answers yes, a supplementary set of questions is asked and permission sought from the applicant to contact the Police and/or Probation Service.

6.12.3 The result will be one of the following:

- Some applicants will be assessed as not qualifying due to evidence of past unacceptable behaviour
- Some applicants will be deemed lower risk providing they agree to and sign to a behaviour contract. On a case by case basis the Council may only make offers to certain applicants when an appropriate package of support is in place.
- Some applicants will be assessed as requiring a high priority in the interest of the public protection cases and under these circumstances will be awarded a direct offer, as agreed with the appropriate bodies/organisations.

## **6.13 MAKING AN OFFER OF ACCOMMODATION**

6.13.1 Before offering an applicant the tenancy of social housing, the Council will need to verify what the applicant has said in their housing application and ensure that the applicant is in the appropriate Band, has the correct priority date and is eligible for the size and type of the property available (see Section 4.7 for details of verification process).

6.13.2 If an applicant fails the verification process, they will not be offered the tenancy of the accommodation even if they are the highest in the shortlist of applicants who have confirmed an interest in being offered the tenancy. In such cases, the applicant will be told why they were not being offered the tenancy of the accommodation.

- 6.13.3 The successful applicant for each home will normally be the one who is eligible, meets any labelling criteria, and has been verified as being in the highest Band and having the earliest effective date.
- 6.13.4 The Offer letter describes the action the applicant must take to accept the offer of accommodation. The tenancy will commence on an agreed date after the property is ready for occupation. The tenancy commencement date (Rent Liability Date) will normally be the Monday after the sign up date. An alternative date maybe allowed in exceptional circumstances, and agreed between the landlord and the Council.

#### **6.14 REFUSING AN OFFER OF ACCOMMODATION**

- 6.14.1 When a shortlisted applicant views a home and says they are no longer interested in being offered the tenancy, the next applicant on the shortlist will be considered.
- 6.14.2 The consequences of refusing an offer of accommodation depend on the circumstances in which the offer is made. It is important for an applicant who is owed a rehousing duty under Part 7 of the Housing Act 1996 (as amended) to understand that the refusal of a suitable offer of accommodation is highly likely to result in the Council's duty to accommodate them under Part 7 being discharged, the loss of any temporary accommodation as well, and the loss of priority under this Housing Allocations Scheme.
- 6.14.3 If an applicant (who is not subject to 'auto-bidding') bids for a property through the choice based lettings scheme, they can withdraw their interest in that property without penalty.
- 6.14.4 However, if they refuse two written offers after making successful bids, the Council may suspend the applicant from bidding for homes through the choice based lettings scheme for a period of up to 12 months.
- 6.14.5 If an applicant is living in temporary accommodation and is made a direct offer of accommodation, they are expected to accept any suitable offer of accommodation that is made to them. If the offer is refused, the applicant will be invited to reconsider the offer within the specified time period but applicants are encouraged to accept offers. They have the right, however, to request a review of the suitability of that offer of accommodation. Where such an applicant refuses an offer of suitable accommodation, the Council's duty to accommodate them under Part 7 of the Housing Act 1996 (as amended) will be discharged. This means that, subject to the outcome of any review, the Council will stop providing the applicant with temporary accommodation. As well as losing their priority for housing (based on them being homeless), the applicant will have to make their own arrangements for housing.

#### **6.15 REFUSING A DIRECT OFFER OF ACCOMMODATION**

- 6.15.1 All applicants refusing properties offered directly must give their reasons for refusal. While the refusal is being investigated, the relevant team will hold the property for 48 hours. At the end of this period a decision will be made whether to enforce the offer on the applicant or whether the property should be withdrawn. Properties will not be held longer than 48 hours. If medical evidence or any other evidence is needed to substantiate refusal reasons than this information needs to be submitted and investigated within 48 hour time period. It is the responsibility of the applicant to provide this. The Rehousing Team Leader will consider reasons for refusals of direct offers and decide on appropriate action.
- 6.15.2 If an applicant is offered a 'direct let' (based on an individual assessment of their requirements), the Council will consider the applicant's reasons for refusing the offer and decide whether or not it was reasonable for them to refuse the offer:
- Where the Council decides that it was reasonable for the applicant to refuse the accommodation offered, the Council will make one further offer of a 'direct let' of suitable accommodation.
  - Where the Council decides that it was unreasonable for the applicant to refuse the accommodation offered, the Council will make no further offers of a 'direct let' and, if the applicant is living in temporary accommodation, consideration will be given to whether or not that offer discharges the Council's duty to accommodate them under Part 7 of the Housing Act 1996 (as amended).
- 6.15.3 If an applicant is living in temporary accommodation and is offered a 'direct let', they will be expected to accept any suitable offer of accommodation that is made to them. If the offer is refused,

the applicant will be invited to reconsider the offer within the specified time period but applicants are encouraged to accept offers. If they still refuse the offer, the Council's duty to accommodate them under Part 7 of the Housing Act 1996 (as amended) will be discharged. Applicants have the right to request a review of the suitability of that offer of accommodation (except in management transfer cases). Where the Council decides that the accommodation offered was not suitable (so it was reasonable for the applicant to refuse the offer), the Council will make one further offer of a 'direct let' of suitable accommodation. Where the Council decides that the accommodation offered was suitable the Council's duty to accommodate them under Part 7 of the Housing Act 1996 (as amended) will be discharged. This means that the Council will stop providing the applicant with temporary accommodation and the applicant will have to make their own arrangements for housing.

## **6.16 FAILING TO RESPOND TO AN OFFER OF ACCOMMODATION**

6.16.1 If an applicant fails to respond to a written offer of accommodation within the timescales specified, without good reason, they will be considered to have refused that offer of accommodation. In these circumstances, the Council will have discharged its duty under the law and no further offers of accommodation will be made.

## **6.17 DISCRETIONARY POWERS**

6.17.1 The Council recognises that there may be exceptional circumstances where the only way to an exceptionally urgent housing need can be resolved is through the use of management discretion. Discretionary decisions are made by the Operational Director for Regeneration and Growth who may delegate this responsibility to the Allocations Panel. In the interests of fairness to all these applicants these circumstances are to be kept to a minimum. Examples of exceptional circumstances include, but are not limited to:

- Emergency cases whose homes are damaged by fire, flood or other disaster maybe provided with another tenancy if it is not possible to repair existing home, or if any work to repair is to take such a long time that there will be serious disruption to family life.
- Households, who on police advice must be moved immediately due to serious threats to a one or more members of the household or whose continuing occupation pose a threat to the community, including the National Witness Mobility Scheme or Safe and Secure.
- An applicant who has an exceptional need that is not covered by the Allocations Scheme as authorised by the Operational Director for Regeneration and Growth. For example, where child or public protection issues require rehousing or for severe domestic violence where all other options to remain in the home or secure alternative accommodation have been considered but failed.

6.17.2 Such cases will generally be placed in Band A or maybe made direct offers of accommodation. A list of all cases given Band A and a subsequent let under management discretion will be kept, monitored and reported on annually for the purposes of monitoring this scheme.

## **6.18 ACCEPTING AN OFFER OF ACCOMMODATION**

6.18.1 The Offer letter describes the action the applicant must take to accept the offer of accommodation, including signing the tenancy agreement and collecting the keys.

6.18.2 If an applicant signs a tenancy agreement and then rejects the property, this does not count as a refusal of an offer of accommodation because, at this stage, they are the tenant of that property.

6.18.3 If they have already given notice on their previous home, it may not be possible for them to withdraw the notice. Also, as they have accepted a tenancy, it is likely that their landlord will insist on receiving 4 weeks' notice (and will be entitled to rent during that time) if the tenant decides that they do not want to continue with their new tenancy.

6.18.4 Where the applicant is living in temporary accommodation and refuses to move out of that accommodation after signing a tenancy agreement in respect of alternative, settled accommodation, they will be evicted from their temporary accommodation and the Council's duty to accommodate them under Part 7 of the Housing Act 1996 (as amended) will be discharged. This means that the applicant will have to make their own arrangements for housing.

## **6.19 WITHDRAWING AN OFFER OF ACCOMMODATION**

- 6.19.1 A written offer of accommodation can only be withdrawn from an applicant (before the tenancy agreement is signed) where one or more of the following situations applies:
- The applicant has made a false declaration or failed to provide the Council with up-to-date information and that, after reviewing their housing application, the Council has determined that the applicant is not eligible for the property;
  - The property details available at the time that the written offer was made were incorrect and it was subsequently discovered that the size and type of the property is not, in fact, suitable to the applicant's needs;
  - The applicant's eligibility has changed, since the written offer of accommodation, following a review of the application;
  - The Operational Director for Regenerations and Growth decides that, taking all factors into account, the property should not have been offered to the applicant.

## **6.20 FEEDBACK ON THE LETTING OF SOCIAL HOUSING**

- 6.20.1 After each advertising cycle, the Council will provide feedback on the outcomes of the bids it has received in respect of the social housing advertised through the choice based lettings scheme.
- 6.20.2 For each letting, the Council will provide the following information:
- The size, type and location of the home
  - The number of applicants who bid for the property
  - The Band and priority date of the successful bidder
- 6.20.3 In order to ensure transparency, the feedback will also include any homes that were let as 'direct lets' and were not advertised through the choice based lettings scheme
- 6.20.4 Feedback is important because it helps applicants to assess their housing prospects and make informed choices about their future housing.

## **6.21 HOMES IN LOWER DEMAND**

- 6.21.1 Where there are no expressions of interest from eligible applicants, a home will be re-advertised or the criteria for selection will be reviewed.

## 7. OFFERING HOUSING TO APPLICANTS WHO OWE RENT

- 7.1 Tenants on the Housing Register will not normally be offered a new tenancy if they are in arrears with their rent. This includes current and former rent arrears (including temporary accommodation arrears), damage to a former social housing property or legal costs arising from court action in connection with current or former tenancy.
- 7.2 Where a tenant owes no more than four times their weekly rent (less any housing benefit payable), they may still be offered housing if they are willing and able to pay all of the rent owing before they sign the tenancy or, if they are a housing association tenant, before they are offered the tenancy. This is checked with the Registered Provider at the time.
- 7.3 If they are a housing association or council tenant, they may still be offered a new tenancy (despite owing more than four weeks' rent) if:
- They need to move urgently because of a critical medical or welfare need, including emergencies and situations where there are critical safeguarding implications;
  - They have been approved for an emergency transfer because of harassment, domestic violence or hate crime;
  - They need to move out of their home (temporarily or permanently) in order to allow repairs or redevelopment to take place;
  - They are under occupying a family home that has three or more bedrooms and they are willing to transfer to a home that has at least two fewer bedrooms;
  - They are under occupying a specially adapted home and are willing to transfer to a home that is more appropriate to their needs.
- 7.4 Where an applicant is under occupying their home and is entitled to receive a financial incentive for transferring to a smaller home, the transfer incentive payment will be used to reduce or clear any arrears.
- 7.5 If the applicant is living in temporary accommodation provided by the Council under part VII of the Housing Act 1996, as amended by the Homelessness Act 2002 and Localism Act 2011, they may still be offered housing if they have been paying their rent regularly, reducing their arrears to the satisfaction of their landlord and entered into an agreement to pay all outstanding rent, by affordable instalments, over an agreed period of time.
- 7.6 Applicants who have successfully bid for a property will be bypassed if they are found to be in rent arrears unless:
- Their rent arrears do not equate to more than four weeks' of their eligible rent
  - The applicant has an arrangement to pay the arrears and have demonstrated that they have done so for a period of six months and the amount payable is under £1000
- 7.7 In exceptional circumstances, where there is an urgent need for a housing association or a council tenant to move on social or housing management grounds, a new tenancy may still be approved, despite the arrears. Approval would be subject, however, to the support of the appropriate Operational Director and the applicants landlord.

## **8. TENANCY MATTERS**

### **8.1 INTRODUCTORY AND FIXED TERM TENANCIES**

- 8.1.1 The Council intends to take full advantage of the freedoms and flexibilities afforded by the Localism Act 2011. The Council's approach to flexible tenancies is set out in the Tenancy Strategy document.
- 8.1.2 In summary, applicants who are offered permanent housing where the landlord is the Council will be offered an introductory tenancy followed by five year fixed term tenancies (in some instances two year tenancies). Where the landlord is a Registered Provider a starter tenancy or fixed term assured tenancy will be offered, according to their scheme.
- 8.1.3 Introductory tenancies are 'probationary tenancies' and provide reduced security of tenure during the first year. If the tenancy is conducted to the landlord's satisfaction, it will automatically convert to a fixed term tenancy or fixed term assured tenancy after 12 months have elapsed.
- 8.1.4 Tenants with an introductory or starter tenancy cannot mutually exchange their home or assign their tenancy but are eligible to transfer.

### **8.2 FRAUD INVESTIGATION**

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

### **8.3 SUSTAINING A TENANCY**

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

### **8.4 JOINT TENANCIES**

- 8.4.1 The council will normally only offer joint tenancies to applicants (including existing tenants) who have satisfied the Council of their intention to live together on a long term basis.
- 8.4.2 There is no right to a joint tenancy and a request for one will not be agreed in the following cases:
- Where there is a current Notice of Seeking Possession or Notice to Quit against the tenant;
  - Where Brent Housing Partnership is contemplating serving or re-serving a Notice of Seeking Possession or Notice to Quit;
  - Where there are management problems such as nuisance or anti-social behaviour;
  - Where an acceptable agreement is not being maintained in respect of rent arrears;
  - Where one of the proposed joint tenants is ineligible for an allocation of housing due to their immigration status or behaviour.
- 8.4.3 Brent Council tenants who hold a joint tenancy but who have experienced a relationship breakdown can apply to the housing register. Should one or other party be successful in securing an offer of accommodation, s/he will be required to serve notice to terminate the joint tenancy. The Council

will then make a decision on the future of the remaining joint tenant in accordance with succession of tenancy rules. In cases of proven domestic violence the Council will always seek possession of the property.

# 9. LOCAL LETTINGS POLICIES

## 9.1 INTRODUCTION

- 9.1.1 It is important that, in most circumstances, priority for accommodation goes to those households in greatest need. Consideration needs to be given, however, to whether or not it may also be possible to:
- Achieve a balance between meeting the housing needs existing tenants and new applicants; and
  - Promote more sustainable and balanced communities by ensuring a mix of households and widening the opportunities for those who are not in greatest housing need.
- 9.1.2 In exceptional circumstances, the council and its partners may decide to allocate properties on a slightly different basis from normal, in the interests of building strong and sustainable communities or to deal with particular local issues. This is done through a Local Lettings Policy.

## 9.2 LEGISLATION AND GUIDANCE

- 9.2.1 Section 167 (2E) of the Housing Act 1996 (as amended) enables housing authorities to allocate accommodation to people of a particular description, whether or not they fall within the reasonable preference categories.
- 9.2.2 The decision to apply a Local Lettings Policy will be made jointly by the Council and the landlord of the property. Such policies should not directly or indirectly discriminate against any particular person.
- 9.2.3 Agreed for a specific period of time, a Local Lettings Policy will only be approved if it forms part of a strategy to tackle identified problems or contribute to sustainable communities.
- 9.2.4 Local Lettings may be dealt with by restrictive labelling of vacancies advertised through the choice based lettings scheme.

## 9.3 PURPOSE OF LOCAL LETTINGS POLICIES

- 9.3.1 The purpose of Local Lettings Policies is to ensure a balance between housing priority (in accordance with legal duties and responsibilities) and the longer term sustainability of local communities.
- 9.3.2 Local Lettings Policies may be used to achieve a wide variety of housing management and other policy objectives, including:
- Reducing the incidence of anti-social behaviour
  - Dealing with concentrations of deprivation
  - Improving difficult-to-let estates
  - Protecting existing stable communities
  - Preventing future problems occurring on newly developed estates or in relation to recently modernised properties
  - Helping to create balanced communities and achieve wider community objectives, such as a broader social mix and supporting and encouraging people into employment
  - Making best use of the Council's housing stock.

## 9.4 LOCAL LETTINGS POLICIES – PROPERTIES

- 9.4.1 Local Lettings Policies may be used, for example, in an area or a block of flats with serious management problems, which put other tenants at significant risk and where other action has failed.
- 9.4.2 If a Local Lettings Policy is applied to an area due to history of anti-social behaviour, applicants applying for such properties may be asked to supply a tenancy reference and confirm that they, or a member of their household have no history of criminal convictions (this does not cover those convictions that are legally spent or are covered by the Rehabilitation of Offenders Act 1974).
- 9.4.3 **For existing social housing**, action against the perpetrators must be identified and agreed if possible with the other involved agencies before a decision is made as to whether or not Local Lettings Policy should apply.
- 9.4.4 Where it is proposed to introduce such a policy, there will need to be clear evidence that it is desirable and a time limit for a review of not more than 2 years will apply. The implications for equal opportunities and the 'reasonable preference' criteria of the law will be considered.

9.4.5 **For new social housing**, the landlord in agreement with the Council may decide to let properties under a Local Lettings Policy. The reasons for doing so need to be clearly stated and should fall into one or more of the following categories:

- Targeting some properties to lower need bands on first lettings. Equal opportunities and legal issues would need to be taken into account;
- On first lettings the landlord, in consultation with the Council, may consider under-occupying properties to achieve lower child densities;
- On first lettings, the landlord in consultation with the Council may consider restricting the number of vulnerable applicants with high support needs from being offered a property.

9.4.6 Sometimes registered social landlords may have agreed that they will allow a certain amount of their stock to go to their own tenants. If this happens, homes may be advertised accordingly, subject to the Council's agreement.

## **9.5 LOCAL LETTINGS POLICY – PEOPLE**

9.5.1 A Local Lettings Policy may be used if the Council knows that an applicant has committed serious offences that restrict where they can live. This may include Registered Sex Offenders or those identified as posing a serious risk to a specific community. In such cases, the Council will consult fully with the Police, the Probation Service and other interested parties.

9.5.2 There may also be occasions when it is necessary and appropriate to make sensitive lettings to a property that has become vacant following a period of serious nuisance or anti-social behaviour that has been caused by the drug, alcohol or mental health issues of the former tenant and/or their associates. In such instances, applicants who have such issues (and are likely to cause similar problems to arise) will be prevented from being considered for the property.

9.5.3 Local Lettings Policies may also be used to support the delivery of local initiatives set up to strengthen local communities and improve communities and improve residents' life chances. This may involve, for example, prioritising key workers or setting aside a proportion of available lettings in the locality for applicants who are in employment, education or training.

## **9.6 MONITORING AND REVIEW**

9.6.1 To ensure that housing allocations continue to comply with the duty to give reasonable preference to applicants in the reasonable preference category, and also with the Council's equalities duties, the Council will record and monitor the number of local lettings that result from the use of Local Lettings Policies.

# 10. REVIEWS, APPEALS AND COMPLAINTS

## 10.1 RIGHT OF REVIEW

- 10.1.1 Applicants have the right to ask for a review of certain decisions that the Council has made about their application for housing or an offer of accommodation. This includes a review of:
- Decisions about refusing an application to join the Housing Register because they are treated as ineligible or not qualifying to be a registered applicant under the Allocations Scheme.
  - Removing an application from the Housing Register
  - Offers of housing
  - The facts of an applicant's case which are likely to be or have been taken into account in considering whether or not to allocate accommodation to them
- 10.1.2 An applicant may request a review, for example, if the Council decides to exclude them from the Register, or remove them from the Register, or where they dispute a fact that is taken into account when deciding whether or not to make an allocation of accommodation.
- 10.1.3 Homeless applicants may also have a statutory right of review on certain homelessness decisions, including on the suitability of accommodation offered and any discharge of duty.

## 10.2 HOW TO REQUEST A REVIEW

- 10.2.1 Applicants who disagree with a decision that the Council has made must request a review, in writing, within 21 days of the date of letter that informed them of that decision. The review request must outline the reasons why the applicant thinks the decision is wrong.
- 10.2.2 If an applicant is unable to put the request in writing, they may be offered an interview to explain why they disagree with the decision.
- 10.2.3 Where an applicant has requested a review, the Council is required to respond to it, in writing, within 56 days. This period starts from the date that the Council receives the applicant's request for a review.
- 10.2.4 Where the Review Officer finds in favour of an applicant who has been prevented from joining the Housing Register or has been given 'reduced preference', the original decision will be cancelled and the housing application will be awarded the correct 'priority date' and priority band.
- 10.2.5 The London Borough of Brent's decision on review is final and any challenge to that decision can only be made through judicial review proceedings.
- 10.2.6 Reviews will be carried out by a senior member of staff at London Borough of Brent or delegated to an appropriate officer who was not involved in the original decision.

## 10.3 REQUESTING A REVIEW OF THE SUITABILITY OF AN OFFER OF HOUSING

- 10.3.1 Under the choice based lettings scheme, there are generally no penalties for most applicants who refuse an offer of permanent accommodation. However, if applicants receive a direct offer, the Council may discharge its homelessness duty if they refuse an offer of suitable accommodation.
- 10.3.2 Where an applicant refuses an offer of accommodation, the Council may ask them to complete a form to record the reasons why the property has not been accepted. This information will be used to monitor the lettings process and the standard of accommodation, and to inform future decisions on the way in which services are delivered.
- 10.3.3 If an applicant wishes to request a review of the suitability of an offer of housing, they must submit their request to the Council in writing within 21 days of the offer being refused. The Council will normally confirm, in writing, the outcome of the review within 56 days and, in its reply, it will describe any further rights of appeal that the applicant has if they are still not satisfied with the decision.
- 10.3.4 Where the Review Officer decides that the offer of accommodation was not suitable, any penalty that has been imposed (including the discharge of the Council's homelessness duty) will be cancelled:
- Applicants who have not accepted the offer will be entitled to another offer of accommodation (through choice based lettings or a direct offer, as appropriate)
  - Applicants who have accepted the offer and taken on the tenancy of that accommodation will be placed in Band A of the Housing Register and will be given an effective date that matches the date that they accepted the tenancy.

## **10.4 THE COUNCIL'S COMPLAINTS PROCEDURE**

- 10.4.1 If an applicant is dissatisfied with any aspect of the way in which their application for housing is dealt with (other than one of which a review can be requested), they should contact the Council and, if the matter is not resolved to their satisfaction, complete a complaints form.
- 10.4.2 Complaints will be dealt with in accordance with the Council's Corporate Complaints Scheme. The Council operates a two-stage complaints procedure:
- 10.4.3 **Stage 1 – Local Resolution**, investigated by the service manager about which the complaint is made. A written response will be sent within a maximum of 20 working days from the date the complaint was received by the department. For more complex enquiries, requiring further investigation, a holding response may be sent informing the customer of the date they can expect a full response.
- 10.4.4 **Stage 2 – Final Review**, investigated by a corporate complaints officer. A written response will be sent within a maximum of 30 working days from the date the complaint was received.
- 10.4.5 If, after stage 2 investigations, the customer remains dissatisfied, the complaint should be made to the Local Government Ombudsman. Details of how the complaint can be escalated to the Local Government Ombudsman, including contact details, will be included in the Final Review response.

## **10.5 LOCAL GOVERNMENT OMBUDSMAN**

- 10.5.1 The local Government Ombudsman investigates complaints of injustice and unfairness resulting from maladministration by local authorities and other organisations. They can be asked to investigate complaints about most council matters including housing.
- 10.5.2 The ombudsman normally asks complainants to give the Council an opportunity to deal with a complaint first, before agreeing to investigate. However, if the complainant remains dissatisfied with the action that the Council has taken, they can send a written complaint to the Ombudsman.

# 11. THE BANDING SCHEME

- 11.1 Each application for housing will be assessed and placed in the appropriate Housing Needs Band, based on individual circumstances of each case. Reasonable preference, where appropriate, is awarded in accordance with legislation and guidance.
- 11.2 The following is a description of the main provisions of the Housing Needs Bands and is intended to provide a summary of these provisions. Applicants should refer to the relevant sections of this Scheme for further information on the provisions of each Band.

## 11.3 DEMAND GROUPS

DEMAND GROUP	BAND	QUALIFICATION CRITERIA
<b>Band A: Applicants placed into Band A have been assessed as having a high priority and therefore having an urgent need to move or those applicants releasing larger or adapted properties. The London Borough of Brent will endeavour to review Band A cases every six months or where appropriate from the date of award to ensure there is still an urgent need to move.</b>		
<b>Decants</b>	A	Brent Council tenants where the property is imminently required (within 9 months) because of lease expiry or for essential work (e.g. Redevelopment scheme) as agreed by the Assistant Director of Housing.  Brent Council tenants who need to be moved to allow major repairs or full scale rehabilitation/conversion work to be carried out.
<b>Emergency Medical</b>	A	Emergency banding granted only in exceptional circumstances as recommended by the Medical Officer, when the applicant/tenant or member of their household has a life threatening condition, which is seriously affected by their current housing.
<b>Management Transfer</b>	A	Agreed in exceptional circumstances by the Allocations Panel due to significant and insurmountable problems associated with a Brent tenant's occupation of a dwelling and there is imminent risk to the tenant or their family if they remain in the dwelling.
<b>Exceptional Social Grounds</b>	A	Agreed in exceptional circumstances by the Allocations Panel due to significant and insurmountable problems associated with the applicant's occupation of a dwelling and other avenues to housing have been exhausted.  This will include Homeless households who are owed a homeless duty by Brent under Housing Act 1996 Part VII section 193(2).
<b>Statutory Duty</b>	A	Private sector tenants where the Council's Private Housing Services has determined that the property poses a Category 1 Hazard and a Closing Order has been issued. Furthermore the Allocations Panel is satisfied that there is no alternative solution and that the problem cannot be resolved by the landlord within 9 months.
<b>Social Services (Children in need)</b>	A	To enable fostering or adoption by Brent residents where agreement has been reached to provide permanent accommodation on the recommendation of the Director of Brent's Children Services and agreed by the Assistant Director of Housing.
<b>Release Adapted Property</b>	A	Where a Brent Council or RP tenant is willing to transfer to a suitable non-adapted property and is releasing an adapted property and where the vacant property is given to Brent Council under a reciprocal agreement..
<b>Under occupation Incentive Scheme</b>	A	Where a Brent Council tenant is willing to move to an alternative property and is giving up one or more bedrooms.  Where a RP tenant is resident in Brent under an assured tenancy and is willing to move to smaller accommodation and where the vacant property is given to Brent Council under a reciprocal agreement.
<b>Succession to tenancy</b>	A	Where succession has occurred and the succeeding tenant is willing to move to alternative smaller accommodation in line with succession scheme as agreed by the Allocations Panel.
<b>Housing Register</b>	A	Urgent need to move agreed by housing in liaison with social services/ police/other welfare agency, to give or receive care or support for child protection reasons or other urgent social/welfare reasons as assessed and agreed by the Allocations Panel.

<b>Former Service Tenants</b>	A	Council employees who have been a service tenant for at least five years prior to August 1st 1990 and need to be moved from accommodation which goes in accordance with the job but who retire due to old age or medical reasons, or who are made redundant as part of a Council decision.
<b>Band B: Applicants placed into band B have been assessed as having a medium priority and therefore have a less urgent need to move than those in Band A. The London Borough of Brent will endeavour to review Band B cases every six months from the date of being awarded to ensure there is still a need to move.</b>		
<b>Urgent Medical</b>	B	An urgent medical need as recommended by the Medical Officer where the current housing of an applicant or a member of the applicant's household is having a major adverse effect on their medical condition.  It will not apply where the effect of housing conditions on health is comparatively moderate, slight or variable.
<b>Management Transfer</b>	B	Agreed in certain circumstances by the Allocations Panel due to fear of violence or reasonable fear of violence, and/or due to exceptional social, educational or economical circumstances associated with a Brent tenant's occupation of a dwelling and there is a serious risk to the tenant or their family if they remain in the dwelling.
<b>Statutory Overcrowding</b>	B	Where Brent Council tenants have been assessed as being statutorily overcrowded in accordance with Part X of the Housing Act 1985
<b>Stonebridge Regeneration</b>	B	Tenants of the Stonebridge Regeneration Scheme nominated to the Council through the nominations agreement.
<b>Sheltered Housing</b>	B	Those who require sheltered housing or designated older person accommodation
<b>Armed Forces</b>	B	Ex-member of Armed Forces in accordance with regulations
<b>Quotas</b>	B	As agreed under the Quota scheme for the following services (employment exceptions may apply):  <b>Children Leaving Care</b> - Young people referred by Brent Social Services who are unable to make alternative arrangements. <b>Probation Service</b> - Applicants nominated to Brent Council by the Probation Service to avoid the risk of reoffending and where housing is a particular issue as judged by the Probation Service in Brent. <b>Children Services</b> - Existing tenants and non-tenants referred by Brent Social Services where accommodation is needed on grounds of children's welfare e.g. child protection cases. <b>Adult Social Care</b> - To release supported housing and approved for independent living by Brent Social Services and The Housing Department. <b>Voluntary Sector</b> – To release supported housing but not known to Adult Social Care, and approved for independent living by Brent StartPlus and Housing Needs. <b>Young People</b> in employment or apprenticeships
<b>Band C: applicants placed into Band C who have been assessed as having a low priority and therefore have a less urgent need to move than those in Bands A or B.</b>		
<b>Homeless</b>	C	Homeless households who are owed a homeless duty by Brent who are occupying long term temporary accommodation provided under Housing Act 1996 Part VII section 193(2).  Other homeless households where the above duty applies but the customer is not in temporary accommodation.
<b>Qualifying Offer</b>	C	Households whose acceptance date precedes 9th November 2012, who have voluntarily accepted a Qualifying Offer into the Private Rented Sector discharging the Homeless Duty will retain their Band C and their Homeless acceptance date as a priority date.
<b>Severe Overcrowding</b>	C	Where an applicant is lacking 2 or more bedrooms
<b>Poor conditions</b>	C	Where a Brent resident is living in poor accommodation and this has been assessed and accepted by the Private Housing Services.
<b>Band D – Inactive</b>		
<b>All other households</b>	D	Band D clients will be able to log in and view their available housing options. However, they will be restricted to place bids on Locata for any properties.

## 12. EXPLANATION OF DEMAND GROUPS

Applicants will be placed in the relevant Housing Needs Band, defined by their specific circumstances. Reasonable preference, where appropriate, will be awarded in accordance with legal responsibilities.

### 12.1 MEDICAL ASSESSMENTS

- 12.1.1 Applicants who have an illness or disability which is adversely affected by their current housing situation are required to complete an online Medical self assessment form on the Locata website. Assistance in completing this form can be sought from the Rehousing Team or Brent Housing Partnership officers for transfer applicants.
- 12.1.2 Medical priority is awarded following an assessment and recommendation from the Council's District Medical Officer (DMO).
- 12.1.3 Medical Forms should be fully completed including as much detail as possible to enable an accurate assessment. It is not enough for an applicant to describe a medical condition; applicants should describe how their current housing situation is having an adverse effect on their medical condition. Incomplete medical forms may not be assessed.
- 12.1.4 The completed medical forms together with any supporting evidence from a GP, Hospital Consultant or Occupational Therapist, as appropriate, are considered by the Council. Medical self assessment forms will only be referred to the Council's DMO for an assessment and recommendations if the Council is satisfied that there is a serious medical problem that is made substantially worse by their current housing situation. If the information in the form does not warrant any further priority or the same information has been received and assessed before (with no substantial change in circumstances) then it will not be referred to the Council's DMO for an assessment and recommendation.
- 12.1.5 Medical priority will be awarded depending on the extent the health of the applicant or a member of their household is affected by their current housing situation and the expected benefits of providing suitable alternative settled accommodation. The Council's DMO will take into account all the housing circumstances (including any element of overcrowding, current floor level, requirement of additional bedrooms etc.) when making his recommendations. The DMO may defer his/her recommendations pending further information from the applicants' GP, Consultant or other professionals.
- 12.1.6 Applicants accepted for rehousing under the homelessness legislation and residing in temporary accommodation provided by the Council, will not normally be eligible for medical priority because if their temporary accommodation is detrimental to their health, or a move to more suitable accommodation would have a positive effect on their health, the Council will first look to provide alternative temporary accommodation.
- 12.1.7 If the DMO has made a recommendation for a specific type of property, i.e. ground floor only, and medical priority is awarded but the client consistently bids for properties that do not meet this requirement, the priority of the applicant will be reviewed and maybe lowered. Before this action is taken, the bidding process will be discussed with the applicant and the property recommendation will be explained to ensure that they are aware that they should bid for specific types of properties and how to submit bids.
- 12.1.8 The DMO's recommendation is not final and will be reviewed by the Rehousing Team to ensure that the Council's Housing Allocations Scheme has been observed. If it is established that the DMO's recommendation does not comply with the Allocations Scheme, the Rehousing Team Leader has discretion to override the recommendation. Recommendations for award of Band A on medical grounds will always be reviewed by the Council's Rehousing Team to either approve or reject the recommendation.
- 12.1.9 Where an applicant is placed in Housing Band A because of the seriousness of their medical conditions and their urgent need for rehousing, their application and bidding history will be reviewed by the Council's Rehousing Team at least every six months. If the applicant has not secured suitable accommodation within six months, the Council will interview the applicant and decide whether or not they should remain in Housing Needs Band A.
- 12.1.10 Medical Assessments are an assessment of the impact of the applicant's current housing on their

medical condition. Applicants are required to inform the Council of all changes in the circumstances relating to their housing application, including their health and the health of members of their household. Such changes may result in an increase or decrease in the level of priority they are awarded.

12.1.11 Where it is decided that the applicant has a medical condition but it is decided that this is not being significantly worsened by their current housing, no medical priority will be awarded.

12.1.12 The decision made on the Medical Self-Assessment Form of medical priority will be notified to the member concerned in writing. Applicants who indicate dissatisfaction with the recommendations made by the DMO may request a review of that decision. All medical reviews should be made within 21 days of receipt of the decision letter. Reviews submitted outside of this period will not be considered.

12.1.13 The medical review requires that the applicant states the reason(s) for submitting an appeal and to supply any additional evidence to support the appeal. The appropriate manager will consider the appeal and if necessary may seek advice from DMO. Medical appeals will not be forwarded to the DMO if the information contained within only duplicates information previously supplied and has already been considered. The applicant will be informed of the decision made regarding their appeal in writing. There is no further right of appeal.

## 12.2 OVERCROWDING

12.2.1 When assessing overcrowding, the Council will only take into account those people who are part of an applicant's household. Applicants who require a larger property than they currently reside in due to a level of overcrowding will be categorised as either statutory or severely overcrowded, as defined by the following:

### 12.2.2 Statutory Overcrowding

12.2.2.1 The Government's minimum standard of space which it considers a family requires to live in is defined by part X of the Housing Act 1985. London Borough of Brent tenants will be assessed using the following to decide if statutory overcrowding exists. This is determined by using two separate calculations:

- How many "people" are considered to be part of the household
- How many of those people are expected to sleep in each of the rooms available for this purpose.

12.2.2.2 The definitions are set by the legislation for these two calculations are as follows:

#### People

An adult living in the property	One unit
A Child aged 10 or over	One unit
Children aged between 1 and 10 years	Half a unit
Children under 1 year	Not Counted/Not considered for room standard

#### Room Occupancy

FLOOR AREA OF THE ROOM	NUMBER OF UNITS
110 sq foot or more	2
More than 70 but less than 110 sq foot	1.5
More than 70 but less than 90 sq foot	1
More than 50 but less than 70 sq foot	0.5

As a general rule, the following applies:

- 1 Room = 2 units
- 2 Rooms = 3 units
- 3 Rooms = 5 units
- 4 Rooms = 7.5 units
- 5 Or more rooms = 2 units per room

### **Rooms available for sleeping:**

- All Bedrooms and living rooms in the accommodation are taken into account in the calculation, whether or not the household is or wishes to use them for sleeping
- Open plan kitchen/living rooms are included as sleeping accommodation
- Bathrooms and kitchens are not included as sleeping accommodation
- Rooms with a floor area

12.2.2.3 Statutory overcrowding exists when the numbers of room occupancy units are less than the calculated person units. Statutory overcrowding will only be awarded to tenants of the London Borough of Brent (managed by Brent Housing Partnership).

### **12.2.3 Overcrowding by the bedroom standard**

12.2.3.1 The Council will consider overcrowding where applicants are lacking 2 (two) or more bedrooms than they require in line with the bedroom standard. Priority will not be given for severe overcrowding if the overcrowding is the result of someone moving into the applicants' household. If applicants need an extra room for medical or welfare/hardship reasons, they will instead be assessed for medical or welfare priority. If applicants need an extra room for any other circumstances, this will be assessed and the Council will exercise discretion in these cases. Due to the high demand for housing, it is likely that this discretion will only be exercised in exceptional cases.

12.2.3.2 Where an applicant is pregnant and will be entitled to a larger property, priority may only be given for overcrowding when that baby is born.

12.2.3.3 Where the applicant is not the main person who cares for the children named in their housing application, the children may not be taken into account in the assessment of overcrowding.

12.2.3.4 A second reception room will be counted as a bedroom in the assessment of overcrowding where it could reasonably be used as such.

12.2.3.5 As the Council has a responsibility to provide suitable temporary accommodation, homeless households will be provided with a home that is of the appropriate size when they first become homeless and, if the subsequently become 'severely overcrowded', they will be offered alternative temporary accommodation as soon as practicable. They will not, therefore, attract any additional priority for overcrowding.

### **12.3 UNDER-OCCUPATION**

12.3.1 The Council is aware that many of its family homes are currently under occupied and that there are many properties where only one bedroom is used. Whilst we appreciate the rights of secure tenants the Council is aware of the needs of families registered on the on the Housing Register that are in need of more suitable housing.

12.3.2 Brent Council tenants that are under occupying their properties and are willing to move to smaller properties thus giving up one or more bedrooms will be placed in Band A. Additionally, they are entitled to benefit from the under occupation incentive scheme.

12.3.3 Registered Provider (RP) tenants who are resident in the borough and where there is an agreement that the London Borough of Brent receives full nomination rights to any property that is vacated by an RP under occupier will be awarded band A priority to enable them to move. RP tenants are entitled to the underoccupation scheme offered by the Council.

12.3.4 If an applicant is an Underoccupier applying to transfer to a smaller home (downsizing) and will be awarded Band A priority as an Underoccupier, then adult family members may be included on the application.

12.3.5 Where the applicant has rent arrears, any financial incentive that they are due to receive from moving to smaller accommodation will be used to clear or reduce those arrears. After this has been done, the balance will be paid to the applicant.

12.3.6 The scheme is not open to those tenants that are required to downsize in regards to succession of tenancy. This includes tenants who:

- Have succeeded a tenancy and are required to downsize by their landlord
- Have no right to succeed but discretion has been issued by their landlord to allow a tenant to move into a smaller property.

## **12.4 POOR HOUSING CONDITIONS (PRIVATE SECTOR PROPERTIES)**

- 12.4.1 This applies to applicants who are residing in privately rented accommodation. Poor Housing Condition is assessed by the Council's Private Sector Housing Service and is determined that:
- The applicants' current property contains category 1 hazards under the Housing Health and Safety Rating System, and
  - The problem can not be resolved by the landlord within a reasonable period having regard to the severity and extent of the defects, and
  - Continued occupations of the accommodation by the applicant poses a severe risk to health and/or a member of their household taking into account the applicability if any, of the vulnerable age group under the hazard(s).
- 12.4.2 This includes a property that has a severe damp; major structural defects including subsidence; flooding; collapse of roof or has living conditions which are statutory nuisance so far as there is no prospect of the problem being resolved to an acceptable level within a reasonable period having regard to the severity and extent of the defects.
- 12.4.3 A private sector property, either owned or rented, where a Demolition Order has been issued and is operative under section 165 of the Housing Act 1985.
- 12.4.4 A private sector property either owned or rented, where a Prohibition Order is operative and recovery of premises is required in order to comply with the order as defined under section 33 of the Housing Act 2004.
- 12.4.5 Applicants who only have access to shared facilities within shared accommodation will not qualify under these criteria.

## **12.5 PERMANENT COUNCIL DECANT OF COUNCIL TENANTS WHERE DEMOLITION, REFURBISHMENT OR SALE IS APPROVED**

- 12.5.1 This relates to Brent Council tenants (managed by Brent Housing Partnership on Council's behalf), that are required to move because their home will be demolished because of the lease expiry or for major works and the tenant will not be returning (e.g. development schemes). This may also be necessary if the freehold of the property belongs to another landlord, the lease is due to end and the Council is obliged to return the property with vacant possession.
- 12.5.2 Applicants are expected to bid actively within the specified time period (usually between 6 and 12 months). Priority is awarded for the period of time during which applicants will be expected to bid. If they fail to bid or bid inappropriately or unreasonably refuse properties, priority maybe withdrawn and a direct offer, under "one offer only" basis will be made.

## **12.6 APPLICANTS FOR WHOM BRENT COUNCIL HAS ACCEPTED A REHOUSING DUTY UNDER THE HOMELESSNESS LEGISLATION**

- 12.6.1 This applies to applicants who are considered to be homeless under the terms of part VII of the Housing Act 1996, as amended. The Council has a legal duty to secure temporary accommodation for households who are eligible, unintentionally homeless and in priority need. However, the Localism Act 2011 provides that the Council has the power to end any homeless duty in the privately rented sector with a 12 month suitable fixed tenancy for applicants that are approved as homeless after 9 November 2012. Once a suitable offer of privately rented accommodation has been made the full homeless duty will end (be discharged) as will the applicant's statutory reasonable preference status under this scheme. Given the length of time households have to wait for an offer of public rented housing it is anticipated that the vast majority of accepted homeless households will have their duty ended with a Private Rented Sector Offer (PRSO).
- 12.6.2 Homeless households residing in temporary accommodation provided by the Council will be actively encouraged to bid for properties through the choice based lettings scheme.
- 12.6.3 In order to minimise the cost of temporary accommodation (and the amount of time that homeless households spend in temporary accommodation), the Council may bid for properties on behalf of homeless households or, exceptionally, make them a 'direct offer' of suitable accommodation.
- 12.6.4 Households whose acceptance date precedes 9th November 2012 and who have voluntarily accepted a Qualifying Offer into the Private Rented Sector discharging the Homeless Duty will retain their Band C and their Homeless acceptance date as a priority date.

## **12.7 EMERGENCY MANAGEMENT TRANSFERS**

- 12.7.1 In exceptional circumstances, tenants of Brent Housing Partnership and tenants of certain registered providers (where Council has nomination rights) may be provided with an emergency management transfer. This will occur when the Allocations Panel has determined that a transfer to alternative social housing offers them a more appropriate way of ensuring the personal safety of the tenant, members of their household and/or the local community.
- 12.7.2 Although most of the transfer requests that are approved relate to extremely serious incidents involving domestic violence, intimidation and harassment, hate crime or threats to kill, the Allocations Panel will only approve a transfer where it is satisfied that all other ways of resolving the problem have been exhausted and that it would not be reasonable to expect the tenant to continue living in their home.
- 12.7.3 Where the Allocations Panel approves the transfer, the tenant will be placed in Housing Needs Band A and maybe be made a 'direct offer' of alternative accommodation on a like-for-like basis in terms of number of bedrooms.
- 12.7.4 Given the urgency of the situation, it is essential that the transfer takes place quickly. For this reason, the Council and the relevant housing officer will work closely with the tenant to ensure effective communication and that all available options are fully explained and properly considered.

## **12.8 DECANT MOVES (FOR ESSENTIAL REPAIRS / REDEVELOPMENT)**

- 12.8.1 A decant is where the landlord needs to do major repairs to their property or redevelop the area and the property needs to be vacant for this work to be carried out.
- 12.8.2 Decants will only apply to tenants of local authorities or tenants of housing associations who allocate all their properties through the Brent Council Allocations Scheme. Moves will usually be temporary but in some circumstances consideration will be given to permanent moves arising from a decant.
- 12.8.3 All such cases will be dealt with outside the Choice Based Lettings Scheme to enable the landlord to move applicants as quickly as possible. To ensure full transparency, these moves will be included in the feedback given in relation to lettings outcomes.
- 12.8.4 Decants occur when the Allocations Panel has decided that a transfer to alternative accommodation offers the best way of ensuring that essential repairs and redevelopment take place without causing huge disruption or hardship to the tenants.
- 12.8.5 If a tenant does not want to be permanently decanted to alternative accommodation, they have the right to return to their existing home.
- 12.8.6 When reaching a decision on whether or not a tenant should be offered another property, the Allocations Panel will consider the likely impact of the planned repairs and improvements and whether they will be so disruptive that it would be unreasonable to expect the applicant to remain in the property while the works are carried out.
- 12.8.7 The Allocations Panel will also consider whether or not, for technical or safety reasons, it is feasible for the applicant to remain in their home while the works are carried out around them.
- 12.8.8 For the tenant to be awarded decant priority, the Allocations Panel will need to be satisfied that the work is so disruptive that it cannot be completed with the tenants remaining in occupation and either:
- The work is likely to take more than 3 months to complete; or
  - The health of the tenant or a member of their household will be severely affected if they have to leave their home and then move back again at a later date.
- 12.8.9 If the work is estimated to take less than three months but cannot be completed with the tenants in occupation, the tenant will be expected to move into temporary accommodation and to return to their permanent home after the work has been completed.
- 12.8.10 In the event of the tenant refusing a reasonable offer of temporary accommodation, their decant priority will be removed and possession proceedings will be commenced.
- 12.8.11 If the work is likely to take more than 3 months to complete and/or it would not be reasonable for the tenant to have to leave their home and then move back again at a later date, the tenant may be awarded priority for a transfer to suitable alternative accommodation.
- 12.8.12 If the work is estimated to take less than three months but then runs on for longer, the tenant will be awarded decant priority.

## 12.9 WORKING HOUSEHOLDS (APPLICANTS)

12.9.1 The Council's Housing Allocations Scheme aims to support economic growth in the area. We want to encourage people who can, to work and want to raise levels of aspiration and ambition. We will offer increased priority date to applicants who are working but are on low income and will therefore have difficulty in accessing outright home ownership or low cost home ownership. Applicants who have reasonable preference and are eligible to join the Council's Housing Register will be awarded an extra five years on their priority date. For example if applicant A and Applicant B apply to join the register on 1 January 2014 and applicant A is working but applicant B is not, then applicant A priority date will be backdated to 1 January 2009 whereas applicant B will retain priority date as 1 January 2014. Table below illustrates:

	WORKING STATUS	APPLICATION DATE	PRIORITY DATE
Applicant A	Working	1 January 2014	1 January 2009
Applicant B	Not working	1 January 2014	1 January 2014

12.9.2 Definition of a working household: Households where at least one adult household member is in employment, and that employment to satisfy the DWP criteria for claiming Working Tax Credit (or equivalent) ie:

- working 30 hours per week for a single person
- working 16 hours per week for a lone parent
- working 24 hours per week for a couple, where one party must be working at least 16 hours

12.9.3 Applicants can apply for the additional waiting time:

- at the time of applying to the register, or
- Submitting a change in circumstances form online if the applicant already has a live application

12.9.4 Verification will be sought at point of applying for the additional waiting time as well as point of offer under the same terms. Applicants must provide payslips, P60, bank statements and any such other documents as evidence confirming that they have been working as described.

12.9.5 The following criteria for working households apply:

- **Permanent contract:** working continuously for 9 out of the previous 12 months
- **Temporary work / Self employed;** applicants will only qualify if the worker has been employed continuously for 2 years

## 12.10 MOVE-ON FROM SPECIALIST OR SUPPORTED ACCOMMODATION

12.10.1 Applicants who are nominated for move on accommodation by named agencies (in accordance with Move-On Strategy and an approved nomination agreement that includes a commitment to provide rehousing for an agreed number of residents) will be placed in Housing Needs Band B. Applicants will be awarded this priority for certain listed projects in accordance with protocols agreed between the Housing Needs service and other services within the Council as well as voluntary organisations. There must be vulnerability and urgent housing need that is best met by the provision of long term, settled housing.

12.10.2 If the applicant has not been rehoused within six months of being placed in Housing Needs Band B, the Council may interview the applicant and decide whether or not they should remain in Band B. It (the Council) may also decide to make one direct offer of accommodation, as approved by the Allocations Panel.

12.10.3 The need to move on will be assessed by the referring organisation and the following needs to be complied:

- An applicant is ready to move to independent settled housing
- The applicant is in need of medium to long term rather than short term ongoing tenancy
- That support package has been assessed and is in place
- An applicants' vulnerability is such that accommodation in the private sector through its short term nature would have a detrimental effect on their vulnerability

## **12.11 MOVE ON FROM CARE**

12.11.1 Applicants are awarded this category in accordance with protocols between the Council's Housing Needs Service and Children Services Departments. Applicants must be a former "Relevant Child" as defined by the Children Leaving Care Act 2002. They must have vulnerability and urgent housing need that is best met by the provision of long term settled housing:

- A care leaver is ready to move to independent settled housing and is genuinely prepared for a move to independent living
- They possess the life skills to manage a tenancy, including managing the rent account.
- The care leaver is in need of either long term or medium term tenancy support.
- That support package has been assessed and is in place
- Their needs are such that accommodation in the private rented sector would through its short term nature have a detrimental effect on their transition to independent living.

## **12.12 REGISTERED FOSTER CARERS AND ADOPTERS**

12.12.1 We recognise the contribution that Brent foster carers and adopters make towards ensuring that children that are under the Council's care receive a good service. In order for housing applicants to be awarded priority under this category they will require evidence from the Council's Children Service confirming that they have been approved as a Brent foster carer and/or adopter and that they are in a position to take one or more placements. Any re-housing requirements will be dealt with on a case by case basis by working closely with Children's Service.

## **12.13 APPLICANTS IN PRISON**

12.13.1 Applicants in prison will be placed in Housing Needs Band D and therefore they will be unable to place bids through the choice based lettings scheme (Locata). However, in exceptional circumstances (where they have negotiated the surrender of their former council tenancy and Brent Council has given them an undertaking to make them one offer of social housing upon their release from prison, they will be placed in Housing Needs Band A six months immediately prior to their scheduled date of release from prison.

## **12.14 HOUSING FOR OLDER PEOPLE**

12.14.1 The Council has designated housing schemes for older residents. These units are offered via the choice based lettings scheme to eligible registered applicants. The main scheme is Sheltered Housing.

12.14.2 Sheltered housing is designated for registered applicants aged 60 years of age or over. Properties are located within a unit managed by a sheltered scheme manager. The units are in low rise blocks no more than three floors in height and all units have lift access.

12.14.3 Sheltered accommodation is suitable for older persons who have some support needs due to frailty or ill health but are capable of independent living with little or no assistance from care/support services. Each sheltered unit comes with a twenty-four hour alarm system which can be accessed in an emergency. Sheltered units comprise of self contained mainly 1-bed flats.

## **12.15 BRITISH ARMED FORCES**

12.15.1 Priority will be given to members of the British Armed Forces if they have previously served in the last five years or are due to be discharged in the following six months from registration. This includes:

- Former members of the British Armed Forces
- Serving members of the British Armed Forces who need to move because of a serious injury, medical injury or disability sustained as a result of service
- Bereaved spouse and civil partners of the British Armed Forces leaving Services Family Accommodation following the death of their spouse or partner
- Serving or former members of the British Reserve Forces who need to move because of serious injury, medical condition or disability sustained as a result of their service.

## **12.16 TENANTS WITH A SPECIALLY ADAPTED HOME THAT THEY NO LONGER NEED**

- 12.16.1 This applies to Council tenants (managed by Brent Housing Partnership) and to the tenants of certain registered social landlords (where Brent Council has nomination rights) who are occupying a specially adapted home and are willing to transfer to a home more appropriate to their needs as they no longer need it.
- 12.16.2 These applicants are given high priority for rehousing because it will free up specially adapted homes to meet the housing needs of applicants who require disabled facilities and are currently living in unsuitable accommodation or unable to leave hospital or residential care. To assist their move, such tenants will be placed in Band A.

## **12.17 TENANCY SUCCESSION**

- 12.17.1 When a Council tenant dies, it may be possible for someone living with them to take over the tenancy. This is known as succession and the person who takes on the tenancy is called a 'successor'.
- 12.17.2 To be a 'successor tenant' the applicant has to meet certain rules – they must usually be related to the tenant, or be their partner, and have lived in the property a certain time. The rules for this are in the tenancy conditions for the property.
- 12.17.3 Succession can only occur following the death of the tenant. If the deceased tenant was a joint tenant, the only person who may be able to succeed the tenancy is the surviving joint tenant.
- 12.17.4 A succession can only happen once. This means that, if the deceased tenant was a 'successor' to the tenancy, the tenancy cannot be succeeded, again, by a partner or another family member.
- 12.17.5 The Council's scheme on succession reflects the legal position and the rights of successors as laid out in the Housing Act 1985 and the amendments made in the Localism Act 2011. The law on council tenancy succession has changed for secure tenants (and household members) where a tenancy was created before 1 April 2012 and those created after that date. The scenarios below are based on where a tenant or a joint dies and the remaining joint tenant (if applicable) and/or household member wish to remain in the property.
- 12.17.6 Where a tenancy was created before 1 April 2012, family members will retain their existing rights to succeed to the tenancy. This maybe the tenant's spouse or registered civil partner or could be a co-habiting partner or another family member(s). Family members seeking to succeed the tenancy will need to have lived at the property for at least twelve months before a succession is sought.
- 12.17.7 Where a tenancy was created on or after 1 April 2012, only a spouse, civil partner or a person who lives with the tenant as if they were a spouse or civil partner will have a statutory right to succession.
- 12.17.8 Succession may only take place when all of the following apply:
- The deceased tenant had been using the property as their only or principal home before their death.
  - The person wishing to succeed to the tenancy is a partner or a member of their family.
  - If the person wishing to succeed to the tenancy is the husband, wife or civil partner of the deceased tenant, they must have been living with them at the time of the death.
- 12.17.9 If the person wishing to succeed to the tenancy is a member of the deceased tenant's family (but not their husband, wife or civil partner), they must have lived with the deceased tenant for at least 12 consecutive months before the date of death.
- Succession will not be allowed when:
- The deceased tenant had previously succeeded to the tenancy (including a person who was joint tenant and later became a sole tenant after the other joint tenant died).
  - The deceased tenant had been living alone.
  - The deceased tenant had left the property and was not using it as their only home.
  - The deceased tenant had left the property and been admitted to hospital or a residential home for long-term care or treatment.
  - There had previously been an assignment of the tenancy or property adjustment order under the Family Law Act.
  - The person asking for succession is unable to prove their relationship to the deceased tenant, or their period of residence at the address.

#### 12.17.10 Statutory Succession

If the tenancy is succeeded by the husband, wife or civil partner of the deceased tenant, they have a right to stay in the property on a permanent basis, subject to the terms and conditions of the tenancy.

12.17.11 Due to the severe shortage of family-sized and specially adapted accommodation, members of the deceased tenant's household (including partners who are not civil partners and have not married) will not be allowed to stay where they are if their existing home is bigger than they need or it has been specially adapted and they do not require those adaptations. Instead, they will be offered an alternative home that is more suited to their assessed needs.

12.17.12 Where the Council decides that the applicant should move to alternative accommodation, the applicant will be required to join the Housing Register and bid for accommodation through the choice based lettings scheme. To assist their early rehousing, their housing application will be placed in Housing Needs Band A and, where appropriate, they will be made a 'direct offer'.

12.17.13 If the applicant does not secure alternative accommodation within six months, the Council will review their situation and bidding history and may decide to make a 'direct offer'.

12.17.14 If a suitable offer is made and refused, or if the applicant refuses to join the Housing Register, or fails to bid, the Council may commence possession proceedings. On a claim for possession the Council would have to secure alternative accommodation for the applicant and also satisfy the Court that it was reasonable to make an order for possession.

### 12.18 DISCRETIONARY TENANCY

12.18.1 If an occupant has no legal right to succeed to a Council tenancy when the tenant dies, they may still be granted a tenancy at the Council's discretion if there has already been a statutory succession and they have lived in the property continuously for the past 10 (ten) years as their main and principal home immediately prior to the death of the tenant and the individual is not under occupying or residing in an adapted property they no longer require. When the applicant is residing in one of the above types of properties, they may be offered a property appropriate to their needs. This will be offered via a direct offer. The grant of a discretionary may happen in the following situations and will be agreed by the Allocations Panel:

- They are the tenant's partner, civil partner or spouse;
- They are the tenant's child or sibling;
- They were a member of the tenant's household and named on the tenancy agreement when the tenancy began.

12.18.2 A discretionary tenancy may also be granted to an occupant if:

- They were the tenant's carer (they must have lived in the property continuously for at least 2 (two) years immediately prior to the death of the tenant and would not be an under occupier or have use of a adaptations that are not required and have been in receipt of Carer's Allowance); or
- They would be entitled to rehousing under the homelessness legislation if they have to leave the property.

12.18.3 In cases where more than one person satisfies the above requirements and they cannot agree between themselves who is to be the tenant, the Council will exercise discretion and select the tenant.

12.18.4 If a suitable offer is made and refused, or if the applicant refuses to join the Housing Register, or fails to bid, the Council may commence possession proceedings. On a claim for possession the Council would not have to secure alternative accommodation for the applicant or show that it was reasonable to make an order for possession.

### 12.19 APPLICANTS OFFERED HOUSING BECAUSE OF A SECURE JOINT TENANCY ENDING

12.19.1 This category applies to secure tenants who have a joint tenancy. If a joint tenant ends the tenancy when moving out, the property is not automatically offered to the tenant remaining.

12.19.2 For joint tenants deciding to separate, the Council has no duty to house one or both parties. One partner is able to assign the tenancy over to the other partner, however the Council owes no duty to house the partner assigning the tenancy. All tenants must seek the division of the property via the Courts. If one partner retains the property, the other may choose to register for housing on the Council's Housing Register and will be assessed according to the relevant legislation.

- 12.19.3 The Council does not automatically rehouse a tenant who surrenders or assigns their tenancy to a partner. If both tenants surrender the tenancy, the Council has no duty to rehouse both or either applicants and they can make a housing application to the Council and the application will be assessed according to the relevant legislation.
- 12.19.4 When one of the joint tenants moves out and the joint tenancy is ended, the remaining former tenant may be offered a sole tenancy of that property or, if appropriate, of an alternative, smaller property.
- 12.19.5 If the remaining former tenant qualifies to be offered the same property, the Council will offer them the tenancy of that property, which will not be part of the choice based lettings scheme.
- 12.19.6 If the remaining former tenant qualifies to be offered a smaller property, they will be placed in Housing Needs Band A and will be able to express an interest in properties advertised through the choice based lettings scheme. However, if they have not been rehoused within six months of being placed in Housing Needs Band A, the Council will interview the applicant and decide whether or not to make them a 'direct offer'.
- 12.19.7 If the applicant subsequently refuses a suitable offer, they will have no right to remain in their current accommodation.

## **12.20 APPLICANTS WHO HAVE NEGOTIATED THE SURRENDER OF THEIR FORMER COUNCIL TENANCY**

- 12.20.1 At the Council's discretion, former tenants of Brent Council may be placed in Housing Needs Band A where they have negotiated the surrender of their tenancy on the understanding that they will be offered accommodation upon their release from prison, hospital, rehabilitation or residential care.
- 12.20.2 Before agreeing to tenancy surrender, Brent Housing Partnership must satisfy itself that the tenant meets the following conditions:
- They were a Brent council tenant when taken into custody and the offence did not mean that they had broken their tenancy; and
  - They have, or are likely, to be sent to prison for more than 13 weeks (including the time spent on remand) and
  - They have conducted their tenancy in a reasonable way and have not broken their tenancy agreement and
  - Their rent is up to date and
  - They have not been served with a 'notice seeking possession' and
  - They were living alone, require only a bedsit or one bedroom home and offer to end their tenancy.
  - They are entering residential care, hospital or rehabilitation on a long term basis
- 12.20.3 Applicants in this category will be placed in Housing Needs Band A six months before their scheduled release from prison. They will receive only one offer of suitable accommodation, after which they will lose their priority under this category.
- 12.20.4 If accommodation is not available at the time the applicant is released from prison, they will have to make their own housing arrangements until they receive their 'direct offer'.

## **12.21 DISCRETIONARY POWERS**

- 12.21.1 The Allocations Scheme cannot cover every eventuality. In special cases with exceptional needs the applicable Operational Director has discretionary power to award additional priority and approve offers of housing.