

# **Thurrock Council**

## **Housing Allocation Scheme**

**(Amended November 2014)**

## Introduction - What this document is about

This document is known as Thurrock Council's Housing Allocations Scheme and its purpose is to set out how the Council will allocate the housing stock that is available to it.

The demand for Social Housing in the Borough far outstrips the supply that Thurrock Council has available and therefore we must prioritise those with the greatest need.

This means that for most households the chances of being offered a property by the Council are extremely low and other housing options will need to be identified and considered.

Thurrock Council has a statutory duty to prioritise certain groups of people but the Council may also use its discretionary powers to meet the needs of other priority groups and local priorities. Following consultation, the Council has decided to have a closed waiting list, which means that only applicants who meet certain criteria will qualify to join.

The Allocations scheme lays out the rules and processes by which this will be achieved.

The scheme shows our commitment to achieving the Standards laid out by the Tenant Services Authority in 2010, which include

- Letting our homes in a fair, transparent and efficient way that takes account of the housing needs and aspirations of tenants and future tenants
- Having a clear application, decision making and appeals process
- Making best use of the available housing stock
- Contributing to Thurrock Councils strategic housing function and sustainable communities plan

The scheme has regard to Thurrock Council's homelessness strategy, Housing Strategy and Strategic Tenancy strategy.

The scheme will assist Thurrock Council in meeting its priorities within the Community which are:

- To improve the Education and Skills of local people
- To encourage and promote job creation and economic prosperity
- To ensure a safe, clean and green environment
- To provide and commission high quality and accessible services that meet, wherever possible individual needs
- To build pride, respect and responsibility in Thurrock's communities and its residents.

**Above all, the scheme's vision is to provide access to accommodation that is responsive to the needs of local people in a fair, consistent and transparent way.**

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## Section 1- Legal framework

### 1.1 Allocation of a tenancy

An “allocation” is defined as occurring when a local housing authority selects a person to be a tenant (introductory, secure or flexible) of its own housing stock or nominates a person to be a secure , flexible or introductory tenant elsewhere, or nominates a person to be an assured tenant of a Registered Provider.

The allocation of social housing, to both new and existing tenants, must comply with two provisions:

- The Statutory Regulations – found in the Housing Act 1996, part VI as amended by the Homelessness Act 2002 and the Localism Act 2011
- The Councils’ own Allocations Scheme

Social Housing includes the Councils’ own stock (i.e. Council houses, flats, maisonettes and bungalows), and properties belonging to our partner providers. When referring to the Councils available housing below, this will include the stock belonging to our partner providers.

Social Housing includes both sheltered housing (for older people only) and general needs (for everyone)

Partner providers are Registered Providers - often better known as Housing Associations or Housing Trusts - who have properties within the borough. Where an agreement has been set up with the Registered Providers so that the Council has nomination rights to these properties, the properties are then treated in the same way as the Councils own housing stock when allocating.

Thurrock Council uses a Choice Based Lettings system, known as *Thurrock Choice Homes*, to allocate properties however, there are certain circumstances when these normal allocation arrangements do not occur, and the most common of these are:

- Succession to a tenancy following the death of the secure tenant
- Assignment of the secure tenancy to a person who would be qualified to succeed to the tenancy
- Assignment of the tenancy by way of a mutual exchange
- Transfer of the tenancy by a court order under Family Law provisions or under the Civil Partnership Act 2004

This is not an exhaustive list.

Such lettings of properties are discussed below and are not deemed to be “allocations” for the purposes of this scheme.

*Thurrock Choice Homes* is used to allocate the majority of properties, and accounts for at least 90% of all allocations.

It may be necessary for Thurrock Council to let some properties via direct offers. These are discussed in Section 14 on Direct Offers and are usually at the discretion of the Councils' Housing Management panel. The number of properties allocated in this manner will be flexible depending on the requirements of applicants.

Where such allocations are made, the results will not be advertised in the usual manner.

## **1.2 The Allocations Scheme**

Thurrock Councils' previous housing allocations scheme was drafted in 2005 in readiness for the implementation of Choice Based Lettings. In 2010 a public review of the 2005 allocations scheme was held over a 12-week consultation period. The consultation included Councillors, applicants for housing and current tenants, as well as Registered Providers and other stakeholders.

A further consultation period of 12 weeks was held from 1<sup>st</sup> December 2011 to 29th February 2012, during which an amended draft scheme was available. Consultation was held specifically with local Registered Providers with whom the Council has nomination agreements, in line with statutory requirements. There was also wide consultation with other agencies including Social Services, Health Departments, Supporting People, and other relevant voluntary sector and statutory groups.

This Allocations scheme was then finalised from the outcome of the consultation and in the light of impending legal changes to be introduced by the Localism Act 2011.

The scheme has also taken into account the findings and conclusions of Thurrock Council's Homelessness review, undertaken in 2009/10 and Thurrock Council's Strategic Tenancy policy and the changes this is likely to implement to tenancies.

Once adopted, any subsequent major changes to the scheme will need to be brought to the attention of those likely to be affected by it, within a reasonable period of time. This includes Registered Providers and tenants or applicants.

"Major changes" include any amendment that would affect the relative priority of a large number of people, or any significant alteration to procedures.

## **1.3 Discrimination**

The scheme is drafted to ensure that it is compatible with the Council's equality duties under the Equality Act 2010, including the s.149 public sector equality duty



The Council has carried out an Equality Impact Assessment in relation to the scheme.

Following the consultation period the views of all participants were taken into account, including those representing minority groups and those under-represented in housing.

The scheme will be reviewed periodically once it is in force. If it is shown that particular groups are disadvantaged by the operation of the scheme, the Council will review it.

## **1.4 Requirements of Legislation and Codes of guidance**

This Scheme complies with the requirements of the Housing Act 1996 as amended by the Homelessness Act 2002 and Localism Act 2011, and takes into account the code of guidance issued by the Department for Communities and Local Government on 29<sup>th</sup> June 2012 – Allocation of Accommodation: guidance for local housing authorities in England.

Under the legislation and codes the Council has the following duties:-

- To publish a full copy of the Allocations Scheme and provide a copy to any member of the public who requests it.

We will do this by making available the full copy of the scheme on line for a free download at [www.thurrock.gov.uk](http://www.thurrock.gov.uk) . Hard copies will also be available for those with no access to the internet or computers, but a charge may be made.

We will also publish a shorter summary version, which will also be available online. If requested a printed copy will be available, free of charge, to members of the public at the Civic Offices.

- To provide advice, assistance and information about how a person can apply for an allocation.

We will provide material at the Civic Offices. Information will also be available on the Councils' website [www.thurrock.gov.uk](http://www.thurrock.gov.uk) and on the Thurrock Choice Homes website at [www.thurrockchoicehomes.org.uk](http://www.thurrockchoicehomes.org.uk) .

We will also provide face-to-face interviews at offices and through telephone contact with the Registration Team, *Thurrock Choice Homes* team and Housing Options team where deemed necessary.

- To identify and prioritise different needs by means of awarding reasonable preference within the scheme

We will identify individuals and prioritise according to their needs through the registration process. The way we will do this is detailed further below.

The House of Lords decision in the case of R (Ahmad) v Newham Borough Council [2009] UKHL, ruled that a composite assessment of housing needs is no longer required, but can still be made. We will continue to do so by offering additional preference where an applicant meets more than one priority group criteria.

- To determine an applicant's eligibility and qualification for an allocation

We will do this at the point of registration. Our rules on eligibility and qualification are clearly laid out in Section 3.

- To offer Choice so that applicants are empowered to make decisions over where they live

Our Choice based lettings scheme enables applicants to express their preference regarding the properties they would like to live in by bidding for properties of their own choice with regards to property type and area.

However, applicants may discover that by restricting their own choice the time they have to wait for a property may be increased.

For applicants who are prioritised, the time allowed to bid with their priority will be limited in order to achieve the urgent move that they require. In some circumstances applicants may need to widen their choices in order to achieve the move within the set timescale. See section 10.

In certain circumstances prioritised applicants choice may be restricted; this includes the following:-

- Where a medical priority is awarded and a specific type of property is recommended to meet that applicants medical need
- Where a priority has been awarded for an urgent move away from a particular area; applicants will be restricted from bidding for properties within that area and/or any other danger areas

We will also provide information regarding the outcome of the bidding process, which allows applicants to consider realistic timings and subsequently determine their best housing options.

## **1.5 Data protection**

### **How we will use your information**

We need to collect personal information about applicants, including details of their personal circumstances, in order to process their Housing Application. The lawful and correct treatment of personal information by Thurrock Council is essential in maintaining confidence between the Council and Applicants. We recognise the importance of ensuring that Thurrock Council treats personal information lawfully and correctly. To

this end we fully endorse and adhere to the principles of data protection detailed in the Data Protection Act 1998.

Thurrock Council has appointed an external organisation, East London Lettings Company (ELLC) , to manage online Housing applications for us. The information provided by applicants will be stored securely and confidentially within a Database managed by ELLC. Access to the Information provided will be on a strictly need to know basis, within ELLC and the Council's Housing Department. All data transfers between the Council and ELLC in relation to an application will be managed securely and in line with the Council's Information Security policies. The Council will need to continue to store some basic data about applicants (name and address etc.) within our own in-house system; purely for reporting purposes.

Any information collected as part of the application and re-housing process will not usually be divulged to third parties without the applicant's consent. This must be explicitly given either on the application form or subsequently either verbally or in writing. Sometimes consent will be obtained to share information, but there may be situations where information is shared without prior consent if the law allows - for example, information may be shared with agencies such as the police, housing benefit department, tenancy investigation team and department for work and pensions, where this would help to detect or prevent fraud.

When an applicant is housed through the Housing Waiting List or Transfer List, the application will be cancelled but the information will continue to be stored on the computer system until the tenancy ends.

When an application is cancelled or closed without the applicant being housed, electronic information will continue to be stored on ELLC's computer system for a period of 7 years, after which time it will be permanently deleted. The Council is working towards also permanently deleting any data held about applicants within our own in-house system, after the same time period (7 years).

When an applicant is nominated to a Registered Provider, information regarding the applicant's household will be provided to the Registered Provider but the applicant's permission will be sought. Where the applicant refuses permission the nomination will not be made.

## **1.6 Local Letting Plans**

A local lettings plan allows priority for properties in a certain area, to specific groups outside of the usual reasonable preference groups: for example where there is a village environment with low numbers of social housing, priority can be awarded to people with a local connection to that village, or where people are moved out of an area for redevelopment, a local lettings plan would allow those people priority to move back to the area once the redevelopment is completed.

A local lettings plan is permitted so long as the plan does not dominate the allocations scheme

Thurrock Council may determine local lettings plans for new development sites; the plans would be specific for each development and would be agreed via the Housing Overview & Scrutiny Committee

## **Section 2 - Transfers for Current Social Housing Tenants**

### **2.1 The Transfer List**

As a result of new provisions within the Localism Act 2011, the Council has decided that existing social housing tenants (Council and Registered Provider tenants) will not be eligible for the Housing Waiting list unless they have a reasonable preference (priority) (s159 (4A) Housing Act 1996). Tenants who meet the criteria for a priority will be able to bid for properties via the Housing Waiting List.

The Council recognises that there are tenants who have no housing needs but who still wish to move to alternative accommodation and the transfer list provides an opportunity for doing so.

The list will offer a transfer to tenants who have maintained their tenancy in an appropriate manner (see section 2.3). This promotes social and economic mobility, thereby making best use of social housing stock.

### **2.2 Entitlement to join the Transfer list**

The following applicants will normally be permitted to join the Transfer List, subject to the condition set out below in 2.3 and 2.4:

- Current secure tenants of Thurrock Council
- Current assured tenants of Registered Providers living in Thurrock.

### **2.3 Rent Arrears, Recharges & other Tenancy Breaches**

Because the transfer list is for tenants who have no housing needs i.e. they do not *need* to move but *would like* to move, the Council will require tenants, if they are to be admitted to the list, to have maintained their existing tenancies properly. Therefore tenants with no housing need and who do not meet the following criteria will normally not be permitted to join the transfer list.

#### **2.3.1. Rent Arrears & Recharges**

Thurrock Council expects tenants to meet their tenancy commitments and this includes paying their rent and any other housing related charges on time.

In order to encourage good tenancy behaviour Thurrock Council has decided that Tenants with rent arrears or other outstanding housing related charges (such as re-charges for previous works) will not normally be permitted to join the Transfer List.

In exceptional circumstances, the Council may use its discretion to allow an applicant to join the transfer list with arrears or money owed.

Where a decision has been made that a tenant cannot join the Transfer List on these grounds there will be a right of appeal, which will be considered by a senior officer.

### **2.3.2. Unacceptable Tenancy Management**

Where a tenant has breached their tenancy agreement, or has otherwise managed their tenancy in an unacceptable manner, they will not normally be permitted to join the Transfer List.

For the purposes of this policy, unacceptable tenancy management is defined by means of the “fault grounds” for eviction found in Grounds 1 to 8 of Schedule 2 to the Housing Act 1985 as follows

*Ground 1: breaches of tenancy agreement (for rent arrears and other unpaid charges, see section 2.3.1 above)*

*Ground 2: anti-social behaviour*

*Ground 2A: domestic violence*

*Ground 3: waste and damage caused to the property*

*Ground 4: damage to furniture*

*Ground 5: tenancy obtained by false statements*

*Ground 6: assignment by payment of premium*

*Ground 7: inappropriate conduct in non-housing accommodation*

*Ground 8: temporary accommodation provided during works.*

These grounds only define the kinds of behaviour that the Council will take into account when deciding whether a tenant should be disqualified from joining the transfer list. They do *not* mean that a tenant will only be disqualified from joining the transfer list if a possession claim has been brought against them.

The Council will normally only decide that a tenant has breached his/her tenancy agreement or managed the tenancy in an unacceptable manner where the Council or the tenant’s landlord has taken formal action against the

tenant or a member of their household in respect of conduct, under any of the above headings, by the tenant, a member of his or her household, or a visitor to the tenant's property.

Formal action includes

- the obtaining of any legal remedy;
- the service of a notice of seeking possession or any like notice or a pre-action protocol letter or other letter before claim;
- the entry into an agreement for the purpose of avoiding, or settling, legal proceedings, including an agreement to pay arrears by instalments, an acceptable behaviour agreement, and an agreement to undertake works.

The Council will not normally permit a tenant to join the transfer list where formal action has been taken on any of the bases set out above, within the period of 2 years prior to their application to join the transfer list.

The tenant will be able to reapply at the end of the 2-year period. Where, however, the tenant has not complied with the terms of the formal action taken (such as complying with a suspended possession order, or with an agreement to avoid or settle legal proceedings), or where new breaches of tenancy agreement or new grounds of unacceptable tenancy management have arisen (whether or not further formal action has been taken in respect of them), the Council will normally continue the disqualification for a further period of 2 years.

A person who is not permitted to join the transfer list for these reasons will have a right of appeal to the Housing Solutions Manager.

In exceptional circumstances, the Council may use its discretion to allow a tenant guilty of breach of tenancy or unacceptable tenancy management to join the transfer list, whether by deciding not to disqualify the tenant, or by imposing a shorter period of disqualification, or by allowing a further application to be made before the end of a period of disqualification. The Council will take into account all the circumstances when deciding whether or not exceptional circumstances exist.

Before the Council will use its discretion in this way, the tenant is likely to have to demonstrate, as a minimum, that there is good reason for the Council to believe that the breach of tenancy or unacceptable tenancy management will not be repeated e.g. by reason of a change of circumstances or a change of the composition of the household. The Council is unlikely, however, to consider that the demonstration of this factor alone will be sufficient to amount to exceptional circumstances.

### ***Temporary accommodation during works (Ground 8)***

Where a person is living in accommodation made available to them temporarily during works to their main home, and where they have been notified that their main home is now available for them to return to, they will not normally be permitted to join the transfer list until they have returned to their main home.

The Council may allow a tenant to join the transfer list, or may allow them to join the waiting list, before they have moved back to their main property, or without requiring them to do so, where there is a good reason, relating to their housing circumstances, not to require them to return.

### ***Tenants already on the transfer list***

If a tenant is already on the transfer list when formal action is taken against them on one of the grounds set out above, their application will be removed from the transfer list for the two year disqualification period. In exceptional circumstances, the Council may use its discretion to allow an application to remain on the transfer list.

### ***Tenants in temporary accommodation already on the transfer list***

If a tenant in temporary accommodation during works to their main home (Ground 8) is already on the transfer list, when they are informed that their main home is available for them to return to, their application will be suspended until they have returned to their main home. The Council may allow a tenant to remain on the transfer list, or may move their application to the waiting list, before they have moved back to their main property, or without requiring them to do so, where there is a good reason, relating to their housing circumstances, not to require them to return.

Where the Council takes formal action against them to obtain possession of the temporary accommodation, (*i.e.* in the absence of a good reason) their application will be removed from the transfer list for the two year disqualification period. In exceptional circumstances, the Council may use its discretion to allow an application to remain on the transfer list.

If a decision is made to remove an application from the transfer list, the tenant will have a right of appeal to Housing Solutions Manager

### **2.3.3. Transfer Inspections**

Council tenants transferring to alternative accommodation should not represent a cost to the Council, and therefore tenants will be expected to pass a pre-transfer inspection of their property before any new tenancy is offered. The inspection will determine whether or not the property needs any works carried out, including redecoration, to bring it up to a standard whereby it can be re-let.

The inspection will be carried out by an officer from the Council who will check that the property has been maintained in a reasonable condition and that no

unauthorised alterations have been made to the property. This includes internal decoration, any damage to fixtures or fittings and external features such as fencing, sheds, gardens, trees etc.

Where a tenant fails the inspection, any offer will be withdrawn. The tenant will be given a reasonable period of time to rectify the fault during which time no further offers will be made.

Failure to rectify the fault within a reasonable period of time will result in the transfer application being cancelled, with the loss of any accumulated waiting time. The tenant would only be able to join the transfer list again once the works have been completed.

In exceptional circumstances the Council may use its discretion to allow a tenant to transfer to alternative accommodation without passing the transfer inspection.

Where a decision has been made that a tenant cannot join the Transfer List on these grounds there will be a right of appeal, which will be considered by the Housing Solutions Manager.

Where a tenant does move to alternative accommodation and it is subsequently found during the void inspection that works, including redecoration are required to repair their old property, a recharge will be applied.

## **2.4 Transfer List applicants with a priority**

If a transfer list applicant, either at the point of registration or subsequently, meets the criteria for a priority, they will be offered the option to move over to the Housing Waiting List, with the appropriate priority. This is in line with the Council's policy to offer choice.

Their effective date for priority will be the date the priority was awarded – in line with all other applicants on the Housing Waiting List.

Should the applicant decide to remain on the Transfer List, the priority will not be awarded since the Transfer List is only for applicants with no priority.

## **2.5 Properties advertised for Transfer List applicants**

25% of all available properties will be allocated only to applicants on the Transfer List.

The quota will consist of a mixture of property types and sizes representing 25% of all available property types advertised. *Thurrock Choice Homes* will determine the properties within the quota and will endeavour to provide properties across the geographical areas within the borough. The quota may include properties owned by Registered Providers in the borough.



Such properties will still be advertised through *Thurrock Choice Homes* but only existing Transfer List applicants, with no priority, will be able to bid for those properties. The properties will be clearly identified as such and the results of the bidding cycle will also show which properties were only advertised in this way.

The property will only be advertised for one bidding cycle and should there be no bidders, the property will then be advertised to applicants on the Housing Waiting List.

## **2.6 Prioritising Transfer List applicants**

Transfer List applicants will be prioritised solely on the basis of waiting time.

Applicants who bid for a property will be short-listed in the order of their application date with the earliest date being at the top of the list. The application date will be the date that their transfer application form was received by Thurrock Council. All application forms will be date stamped upon receipt and a written receipt will be given to the applicant.

## **2.7 Application and Offer Procedure**

Application will usually be made via the Council's online application form. However, provision will be made for those applicants who cannot access the internet or who need assistance in completing the form.

All sections of the form need to be completed honestly. Supporting documentation will not be required at the point of registration but will be checked when an applicant is successful in bidding and an offer is to be made.

At the point of registration the applicant's tenancy history will be checked in line with section 2.3 above.

Only original documents will be accepted at the point of offer and applicants will be expected to produce the documentation within 2 working days of being notified of the offer. Exceptionally more time may be given to produce documents.

## **2.8 False statements and withholding information**

Applicants are expected to provide Thurrock Council with accurate information, both at the time of the initial application and during any subsequent dealings with officers. This includes changes to circumstances and re-registration.

Where an applicant knowingly or recklessly provides false information or withholds information, which misrepresents their housing needs they could be committing housing fraud.

Those committing housing fraud may invalidate their secure tenancy and could face civil action from the Council to recover their property. They may also be prosecuted for criminal offences contained within the [Prevention of Social Housing Fraud Act, Fraud Act and the Housing Act](#).

## **2.9 Assessment Process**

Following the online application, checks will be made to determine the following:

- Eligibility to join the Transfer List – see above
- Assessed bedroom need – See Annex 1- Bedroom Standard

Once assessed, applicants will be notified, usually via email, of their application number and the date of their application along with information about the bidding process.

The application date will be the date that the application form was first received by Thurrock Council.

## **2.10 Assessed bedroom need**

Applicants can include on their application all family members and other people who would reasonably be expected to live with them, provided they are currently living with them at the time of the application. At the point of registration a calculation will be made, based on the household make-up to determine how many bedrooms the household requires. The assessment is based on the bedroom standard policy, which can be found at Annex 1

Exceptionally it may be possible to include family members who do not currently live with the applicant, but this will need to be assessed on a case-by-case basis, depending on the household circumstances and the reasons why the family members do not currently reside together. This may include foster children.

It is sometimes the case that, grown-up children wish to join their parents' application. In such circumstances the applicant will need to provide evidence that the grown-up child is residing with the applicant and that this is envisaged to be a long-term arrangement.

Grown-up children who are living away from the household on a temporary basis – e.g. because they are studying at university – will be able to join the application. Evidence will be required at the point of offer.

## **2.11 Shared care of Children**

Council accommodation is a scarce resource, and therefore ensuring that properties are not being under occupied is important.

Where an applicant shares the care of children, (i.e. he/she does not live with the applicant 100% of the time) a calculation will be made to determine whether or not the children will be included in the household for the assessment of bedrooms.

#### **2.11.1 - Less than 50% shared care**

Where an applicant has shared care of one or more children, and that care is for less than 50% of the week, the child/ren will not be included in the assessment for bedroom entitlement.

#### **2.11.2 - 50% or more shared care**

Where an applicant has shared care of one or more children, and that care is for at least 50% of the week, the Council will further assess whether or not the child/ren will be included in the assessment for bedroom entitlement.

The starting point will be to determine whether or not the Council is already adequately accommodating the child/ren in another of its properties or if they are adequately housed in private accommodation.

“Adequately accommodating” means that the child either has his/her own bedroom or is sharing appropriately in line with the Bedroom Standard.

Where the child/ren are already adequately accommodated the applicant may bid for one extra bedroom only, regardless of the number of children. This will enable the child/ren to stay over whilst still being principally housed with the other parent.

If it is established that the child/ren are not already adequately housed the child/ren can be counted as part of the bedroom entitlement.

In all cases applicants will need to provide evidence of the shared care of any child/ren. This will need to be in the form of

- A copy of the child’s birth certificate AND
- Evidence of parental responsibility for the child/ren AND
- Proof of a Court Order or written agreement by the sharing parent evidencing shared care AND
- Evidence of benefits received for the children e.g. Child Benefit or Child Tax Credits. It is expected that parents with shared care will also share any State Benefit provided for the child.

When assessing an application, officers will need to inspect original documentation relating to the residence of the children.

It may be necessary to interview the applicants and make further enquiries with other agencies.

## 2.12 Change of Circumstances

There will be no annual review of the Transfer List but applicants will be expected to notify the Registration team of any changes that will affect their application – for example when the number of people in their household changes.

When an applicant is successful in bidding, their circumstances will be checked to ensure that their bedroom entitlement has not changed. If the entitlement has changed, the offer will be withdrawn.

## 2.13 Offers and Refusals

Applicants who are successful in bidding and are made an offer of accommodation will be able to refuse three properties. **Following this, the application will be cancelled. Any new application would not benefit from the accrued waiting time.**

Applicants refusing an offer will be asked to complete a refusal form giving the reasons for the refusal.

Where it is determined that the offer was not a reasonable or suitable offer then this will not count towards the three refusal criteria.

The Thurrock Choice Homes team will determine this based on information provided by the applicant, the viewing housing officer and any subsequent representations. The Housing Needs manager will determine any disputes.

Transferring tenants will be expected to give notice on their current tenancy and Thurrock Council tenants will have to pass a tenancy inspection before any new tenancy agreement is signed. Failure to pass the inspection will result in the offer being withdrawn and any future successful bids being bypassed until the required works are completed. If the works are not completed within a reasonable time, the transfer list application will be cancelled (see above, section 2.3.3).

Where a tenant is successful in bidding for a property but is found to have rent arrears or other housing related debt, or where they have been guilty of unacceptable tenancy management, their application will normally be bypassed and their transfer application cancelled with the loss of any waiting time accrued since they will no longer be eligible for the transfer list – see sections 2.3.1-2.3.2.

However, in exceptional circumstances the Council may use its discretion to allow such a tenant to remain on the Transfer List or take up the offer.

## Section 3 - The Housing Waiting List, Eligibility and Qualification

Any application to join the Housing Waiting list will be assessed via a 2-stage test:

Stage One - Applicants will be assessed for Eligibility

Stage Two - Eligible Applicants will then be assessed for Qualification

Only where an applicant passes these two stages will they be able to join the waiting list. Applications will not usually be accepted from applicants under the age of 18 years except where there are exceptional circumstances and the applicant is approaching their 18<sup>th</sup> birthday.

Eligibility and qualification criteria will still apply even where an applicant meets the criteria for a reasonable preference.

Existing Tenants with a priority will automatically meet the requirements for these two stages.

### 3.1 Stage One - Eligibility

Eligibility for social housing is not determined by Thurrock Council but is governed by Central Government via legislation and subsequent amending instruments. The rules are complicated and eligibility will depend on a number of factors. More information is available at [www.housing-rights.info](http://www.housing-rights.info)

A flow chart can be found at 3.2.8 but this is a very basic outline and each case will be assessed on the individual circumstances in line with the legislation in force at the point of application.

Housing Allocations is governed by The Housing Act 1996 (HA 1996), as amended by the Homelessness Act 2002. This is further clarified by SI 2006 No 1294 which determines the following:-

#### 3.1.1 Persons subject to Immigration Control and not Eligible for Social Housing

Persons subject to immigration control within the meaning of the Asylum and Immigration Act 1996, unless they fall into a class prescribed as eligible by regulations made by the secretary of state

Such a person requires leave to enter or remain in the UK. Only the following categories of persons **do not** require leave to enter or remain

- British Citizens
- Certain Commonwealth citizens with a right of abode in the UK
- Citizens of an EEA country and their family members – depending on their economic status

- Persons exempt from immigration control including diplomats and their family members based in the UK and some military personnel.

Any person not falling into one of these categories will be subject to immigration control and will be ineligible for the waiting list unless they fall within a class of persons prescribed as eligible by the secretary of state under regulation 3 of the eligibility regulations.

### **3.1.2 Persons subject to immigration control who are eligible**

The following classes of person fall within regulation 3:-

- A person granted refugee status
- A person granted exceptional or discretionary leave to remain – subject to certain conditions
- A person granted indefinite leave to enter or indefinite leave to remain – subject to certain conditions
- A person who has humanitarian protection granted under the Immigration rules

### **3.1.3 Persons not subject to Immigration Control but treated as ineligible**

Applicants who are not subject to immigration control but who are prescribed by regulations as being “persons from abroad”

Persons who are not subject to immigration control will be treated as ineligible if they fall into one of the following categories:-

- A person who is not habitually resident in the Common Travel area – subject to certain exemptions
- A person whose only right to reside in the UK is derived from his status (or as a family member) as a Job Seeker – as defined in the EEA regulations
- A person whose only right to reside in the UK is an initial right to reside for a period not exceeding 3 months under regulation 13 of the EEA regulations
- A person who’s only right to reside in the Common Travel area is a right equivalent to the above which is derived from EU treaty rights.

### **3.1.4 Habitual residence**

Applicants, who have been continuously resident in the UK for the two-year period preceding the application, are considered to be habitually resident.

Where an applicant has not been resident for two years, further enquiries will be carried out to establish a degree of permanency. This includes applicants who are British Citizens. The overall circumstances of the applicant will be considered.

Members of the armed forces will not be disqualified on residency grounds due to the nature of their work. This extends to ex-service personnel where an application is made within five years of discharge.

### **3.1.5 Eligibility Assessment Process**

When assessing an application, officers will need to inspect the applicants' original passport and any other documentation relating to their eligibility to remain in the UK.

It may be necessary to interview the applicant and make further enquiries with other agencies.

Applicants may be asked to produce further documents and evidence.

### **3.1.6 Right of appeal**

If the decision is reached that a person is ineligible for the Housing Waiting List, the person will be notified in writing and the grounds for making the decision will be clearly stated. Any decision will be based on the relevant facts and clear grounds will be identified.

The person will have a right to appeal the decision - see section 11 on appeals and reviews for the process

## **3.2 Stage 2 – Qualification**

The Council may only allocate social housing accommodation to qualifying persons. Qualification is determined by local policy and Thurrock Council has determined that qualification will be determined as follows:-

### **3.2.1 Closed Waiting List**

Following a wide consultation Thurrock Council has decided to close its waiting list to people who do not fall into one of the classes of people who qualify by virtue of

- Their local connection to the borough AND
- Their financial means AND
- Their behaviour

A three-stage test will be applied and only where an applicant meets all three tests will he/she qualify for the waiting list.

### **3.2.2 Local connection qualification**

Applicants must first meet the local connection criteria by falling into one of the following qualifying classes:

#### **3.2.2.1. Residence**

Qualifying applicants must currently live in the borough and have done so for at least the past 5 years.

Members of the armed forces (including former service personnel making an application within 5 years of discharge) will not be disqualified on residence grounds if they do not meet the 5 year residence rule.

Where an applicants' residence in the Borough is not by choice, for example through a period of detention or hospitalisation, a local connection will not be achieved.

Applicants housed in temporary accommodation in the borough by another Local Authority will not be able to count this period of time as residence for the purposes of local connection.

### **3.2.2.2 Employment**

Qualifying applicants (not household members) must work in the borough for a minimum of 16 hours per week and have done so for at least the past 5 years.

The employment must be of a permanent nature i.e. evidenced by means of a permanent contract of employment, or of at least one year's temporary contract with the same employer, which is envisaged to continue.

Where an applicant loses employment they will no longer qualify for the List. However, if further employment is gained within the borough within the next 12 months the application can be reinstated with no loss of accrued waiting time.

### **3.2.2.3 Family Connection**

Qualifying applicants must have a family member who currently lives in the borough and who has done so for at least the past 5 years.

"Family member" means mother, father, grandmother, grandfather, son, daughter, grandson, granddaughter, brother or sister.

### **3.2.2.4 Other Special reason**

Discretion can be used to allow applicants to qualify under local connection where it is evidenced that they do not meet any of the criteria listed above but have an urgent need to move to the borough. For example, where an applicant needs to move to the borough to receive specialist treatment or education, or to flee violence and no other borough is deemed safe. The Council's Re-Housing Panel, on examination of all the facts, will make such decisions.



Where an applicant meets the criteria under the Housing Act 1996 Part VII and Thurrock Council has a duty to re-house the applicant under s193 or s195 of that Act, but the applicant does not meet the local connection criteria under any of the other headings, the special reason category may be applied to enable an offer of social housing in order to discharge that duty. This exception will be used to minimise the use of temporary accommodation.

### **3.2.3 Financial qualification**

Qualifying Applicants will not have savings, assets or an annual income above the set caps. Applicants with savings, assets or an annual income above these levels will be expected to meet their own housing needs.

The thresholds are set at different levels and are dependent on the type and size of housing that the applicant needs. They are related to the costs of renting a suitable property. The three different levels are:

- General Needs Housing – different levels according to household size
- Sheltered Housing (for more details see section 12.1 and 12.2)
- Extra Care Housing (for more details see sections 12.3 and 14.3)

The levels are much higher for sheltered and extra care housing because it is recognised that older applicants, and those who are in need of sheltered housing due to a disability, will usually not be in employment and will therefore not have the capacity to obtain a mortgage.

Whilst they may be able to rent accommodation, rented sheltered and extra care accommodation in the borough is currently only available through Thurrock Council and it involves higher service charges for the extra support provision.

Those requiring a higher level of sheltered housing, i.e. extra care housing, will also have to pay for their extra care provision, where their savings are above a certain level. Therefore a higher limit will be required in order to take this into account.

The general needs cap will apply where an applicant

- Meets the age criteria for sheltered or extra care housing but does not require the support OR
- Meets the age and support criteria but chooses not to take sheltered or extra care housing

For members/former members of the armed forces, where financial compensation has been received due to injury sustained on active service, that element will be disregarded from any financial assessment.

The assessment will include assets, savings and income of the applicant and joint applicants only. Applicants who deliberately deplete savings or move

them into the accounts of other family members may be disqualified under the financial qualification criteria.

When assessing the relevant cap for general needs housing a calculation of the bedroom need will be made in line with the Bedroom Standard at annex 1.

The table below sets out the Caps for savings and assets

<b>Property size – according to household make-up</b>	<b>Net Annual Income Required</b>
Single Person	£18,000
1 Bedroom (couple)	£24,500
2 Bedrooms (Single/couple plus child/ren)	£30,000
3 Bedrooms (Single/couple plus children)	£40,000
4 Bedrooms (Single/couple plus children)	£53,500
Sheltered Housing	£158,000
Extra Care Housing	£225,000

Qualifying Applicants must not have a total household income above the cap set for their household size. In order to determine the levels the following information has been used:

- It is generally recommended that a household should spend no more than one third of its total net income on housing
- It follows that for housing to be affordable, a households' net monthly income (i.e. after deductions for tax and national insurance) needs to be three times the monthly cost of their housing
- Housing costs vary according to the area, type of property etc. so in order to be consistent, average costs for renting and purchasing have been used.

### **3.2.3.1 Assessment of financial criteria**

Using the above tables, applicants will be able to determine whether or not their income is above the levels set according to their bedroom need. When assessing a household's net income, account will be taken of the following:

- Any income such as salary/wages, child benefit, child maintenance payments, bank interest, tax credits, contributions from non-dependent children, lodgers etc.
- The net income of all joint applicants
- The net income of any partners who are not joint applicants
- No account will be taken of Disability Living Allowance or a War Pension

Where there are non-dependents living in the household it is expected that they will contribute to the household income. The amount of contribution will be determined using the applicable amounts set for housing benefit purposes and these may therefore change year-on year.

Any applicant with a total net income (after tax) or savings or assets above the appropriate levels set in 3.2.3 will be expected to meet their own housing needs and will not qualify to join the Housing Waiting list unless there are special reasons why they cannot meet their own housing needs – for example if they need a specific type of accommodation such as extra care accommodation that is not available to purchase or rent.

### **3.2.3.2 Homeowners**

Applicants who own property will only qualify to join the Housing Waiting List if they do not have sufficient funds to maintain the property and/or the property is inadequate for their needs and they do not have sufficient assets to be able to meet their housing need in alternative accommodation or through adaptations to their current property.

Applicants will need to supply information regarding the details of all properties they own. This will include a recent independent valuation (usually by an estate agent) and recent copies of statements regarding any mortgage or charges against the property. The application will be assessed to determine whether or not the applicants are adequately housed in their own property and this may require medical or other specialised information.

Where a homeowner is able to meet their own housing needs by selling their property, they will be expected to do so and will not qualify for the Housing Waiting list.

If the homeowner is not adequately housed and does not have sufficient assets or access to sufficient benefits to meet their own housing needs elsewhere, they may qualify under the financial test.

Where this is the case, homeowners who are made an allocation will be expected to sell their property and a written undertaking that they will do so will need to be signed before an offer of accommodation is made. The Thurrock Choice Homes team will be responsible for ensuring the undertaking is given at the point of an offer.

Only in exceptional circumstances will an offer be made whilst an applicant still owns a property

### **3.2.4 Behaviour qualification**

Where there has been evidence of an applicant's unacceptable behaviour, they will normally be disqualified from joining the Housing Waiting List.

For the purposes of this policy, unacceptable behaviour is defined by means of the “fault grounds” for eviction found in Grounds 2 to 8 of Schedule 2 to the Housing Act 1985 as follows:-

*Ground 2: anti-social behaviour*

*Ground 2A: domestic violence*

*Ground 3: waste and damage caused to the property*

*Ground 4: damage to furniture*

*Ground 5: tenancy obtained by false statements*

*Ground 6: assignment by payment of premium*

*Ground 7: inappropriate conduct in non-housing accommodation*

*Ground 8: temporary accommodation provided during works.*

These grounds only define the kinds of behaviour that the Council will take into account when deciding whether an applicant should be disqualified from joining the Housing Waiting list. They do *not* mean that an applicant will only be disqualified from joining the waiting list if a possession claim has been brought against them.

The Council will normally only decide that an applicant has been guilty of unacceptable behaviour where the Council or a current or former landlord of the applicant has taken formal action against the applicant or a member of the applicant’s household in respect of conduct, under any of the above headings, by the applicant, a member of his or her household, or a visitor to the applicant’s property.

Formal action includes

- the obtaining of any legal remedy;
- the service of a notice of seeking possession or any like notice or a pre-action protocol letter or other letter before claim;
- the entry into an agreement for the purpose of avoiding, or settling, legal proceedings, including an agreement to pay arrears by instalments, an acceptable behaviour agreement, and an agreement to undertake works.

The Council will normally disqualify an applicant from joining the waiting list where formal action has been taken on any of the bases set out above, within the period of 2 years prior to their application to join the waiting list.

The applicant will be able to reapply at the end of the 2-year period. Where, however, the applicant has not complied with the terms of the formal action taken (such as complying with a suspended possession order, or with an agreement to avoid or settle legal proceedings), or where new unacceptable behaviour has, in the Council's view, arisen, (whether or not further formal action has been taken in respect of it), the Council will normally continue the disqualification for a further period of 2 years.

A person who is not permitted to join the waiting list for these reasons will have a right of appeal to Housing Solutions Manager.

In exceptional circumstances, the Council may use its discretion to allow a person guilty of unacceptable behaviour to join the waiting list, whether by deciding not to disqualify the applicant, or by imposing a shorter period of disqualification, or by allowing a further application to be made before the end of a period of disqualification. The Council will take into account all the circumstances when deciding whether or not exceptional circumstances exist.

Before the Council will use its discretion in this way, the applicant is likely to have to demonstrate, as a minimum, that there is good reason for the Council to believe that the unacceptable behaviour will not be repeated e.g. by reason of a change of circumstances or a change of the composition of the household. The Council is unlikely, however, to consider that the demonstration of this factor alone will be sufficient to amount to exceptional circumstances.

### ***Applicants already on the waiting list***

If an applicant is already on the Housing Waiting List when formal action is taken against them on one of the grounds set out above, any offer made to them will be withdrawn, any offer that would otherwise be made to them will be bypassed, and their application will be removed from the Housing Waiting list for the two year disqualification period.

In exceptional circumstances, the Council may use its discretion to allow an application to remain on the waiting list. The Council will take account of all the circumstances in exercising this discretion.

If a decision is made to remove an application from the waiting list, the applicant will have a right of appeal to the Housing Solutions Manager.

### **3.2.5 Qualification Assessment Process**

When assessing an application for qualification, officers will need to inspect documents including evidence of local connection and financial means. This will be carried out at the point of an offer being made.

It may be necessary to interview applicants and make further enquiries with other agencies and applicants may subsequently be asked to produce further documentation.

Failure to provide such documentation will deem an applicant unqualified.

### **3.2.6 Right of appeal**

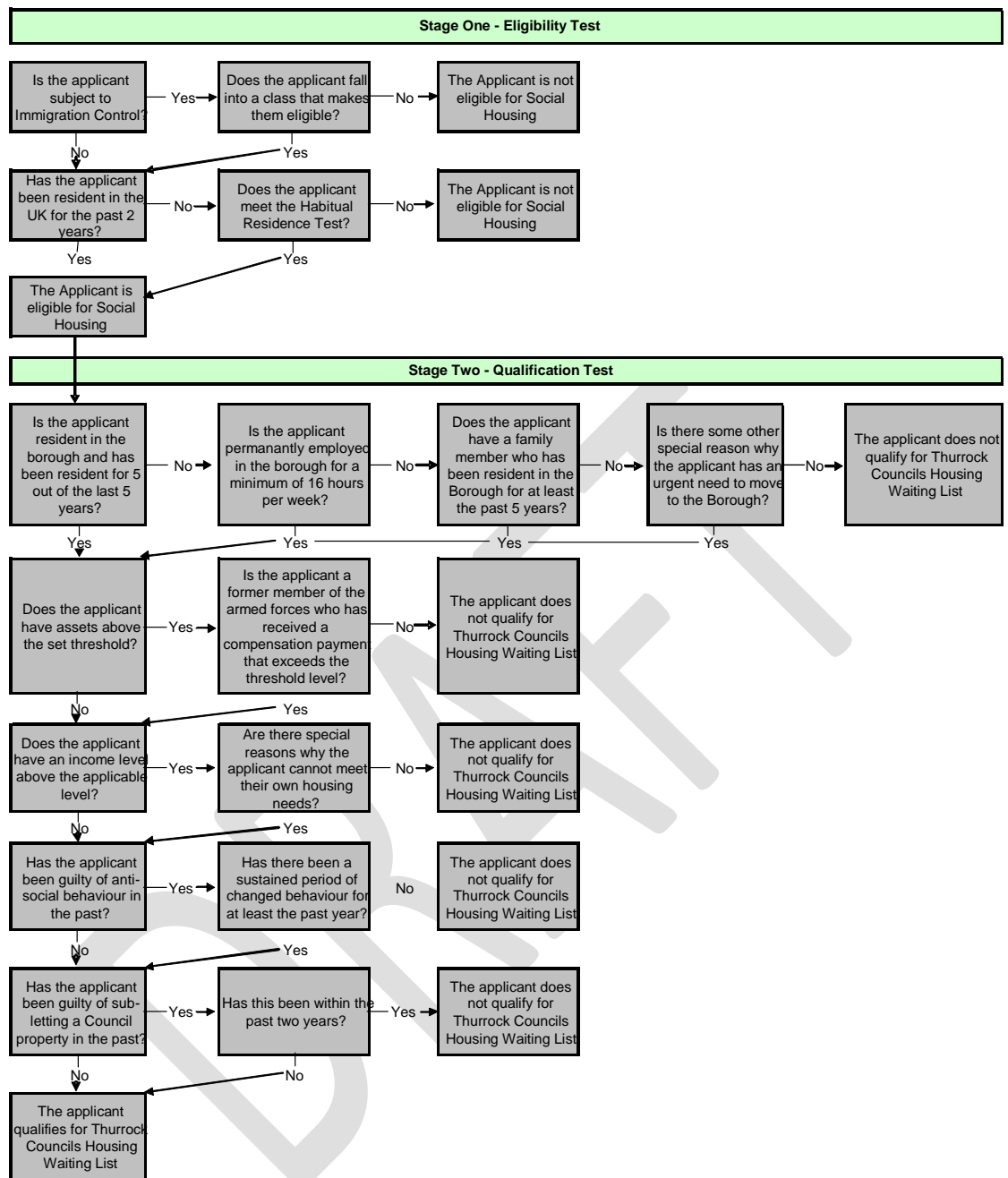
If the decision is reached that a person is not qualified to join the Housing Waiting List, the person will be notified in writing and the grounds for making the decision will be clearly stated. Any decision will be based on the relevant facts and clear grounds will be identified.

The person will have a right to appeal the decision - see section 11 on appeals and reviews for the process.

### **3.2.7 Fresh Applications**

Except in cases of disqualification for unacceptable behaviour (for which see section 3.2.4) applicants who are refused qualification to join the Housing Waiting List may re-apply via a fresh application where their circumstances have changed. It is the responsibility of the applicant to evidence the change in circumstances.

### 3.2.8 Summary Flowchart of Eligibility and Qualification Process



## **Section 4 - Assessment of Housing Need**

In order to allocate its properties, Thurrock Council will keep a Housing Waiting List of applicants. This will include non-social housing tenants and social housing tenants with a priority.

Thurrock Council tenants and tenants of Registered Providers who do not meet the priority criteria will not be eligible to join the Housing Waiting List but may join the Transfer List – see Section 2.

### **4.1 Application procedure**

Application will be made via the Council's online application form. However, provision will be made for those applicants who cannot access the internet or who need assistance in completing the form.

All sections of the form need to be completed honestly. Supporting documentation will not be required at the point of registration but will be checked when an applicant is successful in bidding and an offer is to be made.

At the point of registration the applicant's tenancy history may be checked.

Only original documents will be accepted at the point of offer and applicants will be expected to produce the documentation within 2 working days of being notified of the offer. Exceptionally more time may be given to produce documents.

Applicants will be advised on what documentation is required. This will include, but is not limited to

- ID for both applicants,
- Evidence of children's residence and any other members of the household
- Proof of household income
- Evidence of clear rent account

Except in exceptional circumstances, applicants who cannot provide the correct documentation to support their application within 2 working days of the offer of accommodation will be bypassed for that offer.

It is therefore vital that applicants ensure that their documentation is kept up to date. This means that it will be the responsibility of the applicants to prove that they meet both the eligibility and qualification criteria.



## **4.2 False statements and withholding information**

Applicants are expected to provide Thurrock Council with accurate information, both at the time of the initial application and during any subsequent dealings with officers. This includes changes to circumstances and re-registration.

Where an applicant knowingly or recklessly provides false information or withholds information, which misrepresents their housing needs they could be committing housing fraud.

Those committing housing fraud may invalidate their secure tenancy and could face civil action from the Council to recover their property. They may also be prosecuted for criminal offences contained within the Prevention of Social Housing Fraud Act, Fraud Act and the Housing Act.

## **4.3 Assessment Process**

Upon an applicant making an application, officers will determine:-

- Assessed bedroom need – See Annex 1 Bedroom Standard
- Entitlement to a priority – this may involve further enquiries and investigation, and whilst these are carried out the applicant may be placed in the Band 5 – See section 10 on priority bands

Once assessed, the applicant will be notified of their application number and the band in which they have been placed. Applicants have the right to request a review of that banding and will be advised of this right and the procedure to follow.

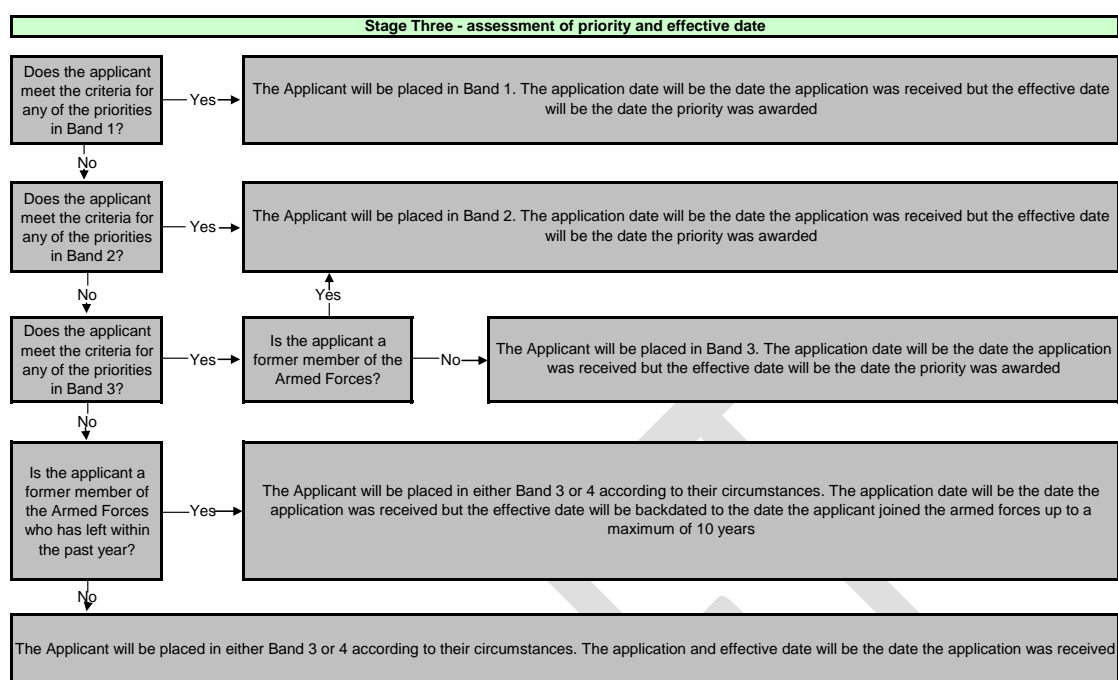
The applicant will also be given an application date and an effective date. If the applicant has no priority then these two dates will be the same. Where an applicant is awarded a priority it is likely that this will be after their application date and therefore their effective date will be the date upon which the priority was awarded.

When applicants are shortlisted for priorities (see section on short listing) it is the effective date that determines their position on the list within the appropriate band.

Former members of the Armed Forces, who have registered an application within one year of leaving the Force, will be entitled to have their application date backdated for the number of years in which they served in the Forces – up to a maximum of ten years. Evidence of their service dates will be required.

Applicants will also be advised of the bidding process.

## Summary of process for assessing priority



### 4.4 Assessed Bedroom need

Applicants can include on their application all family members and other people who would reasonably be expected to live with them, provided they are currently living with them at the time of the application. At the point of registration a calculation will be made, based on the household make-up to determine how many bedrooms the household requires. The assessment is based on the bedroom standard, which can be found at Annex 1.

Exceptionally it may be possible to include family members who do not currently live with the applicant, but this will need to be assessed on a case-by-case basis, depending on the household circumstances and the reasons why the family members do not currently reside together. This may include foster children.

It is sometimes the case that, grown-up children wish to join their parents' application. In such circumstances the applicant will need to provide evidence that the grown-up child is residing with the applicant and that this is envisaged to be a long-term arrangement.

Grown-up children who are living away from the household on a temporary basis – e.g. because they are studying at university – will be able to join the application. Evidence will be required.

It is the responsibility of applicants to notify the Council of any changes to their application – see Section 4.6.

## **4.5 Shared care of Children**

Council accommodation is a scarce resource, and therefore ensuring that properties are not being under occupied is important.

Where an applicant shares the care of children, (i.e. he/she does not live with the applicant 100% of the time) a calculation will be made to determine whether or not the children will be included in the household for the assessment of bedrooms.

### **4.5.1 Less than 50% shared care**

Where an applicant has shared care of one or more children, and that care is for less than 50% of the week, the child/ren will not be included in the assessment for bedroom entitlement.

### **4.5.2 50% or more shared care**

Where an applicant has shared care of one or more children, and that care is for at least 50% of the week, the Council will further assess whether or not the child/ren will be included in the assessment for bedroom entitlement.

The starting point will be to determine whether or not the Council is already adequately accommodating the child/ren in another of its properties or if they are adequately housed in private accommodation.

“Adequately accommodating” means that the child either has his/her own bedroom or is sharing appropriately in line with the Bedroom Standard.

Where the child/ren are already adequately accommodated the applicant may bid for one extra bedroom only, regardless of the number of children. This will enable the child/ren to stay over whilst still being principally housed with the other parent.

If it is established that the child/ren are not already adequately housed the child/ren can be counted as part of the bedroom entitlement.

In all cases applicants will need to provide evidence of the shared care of any child/ren. This will need to be in the form of

- A copy of the child’s birth certificate; AND
- Evidence of parental responsibility for the child/ren; AND
- Proof of a Court Order or written agreement by the sharing parent evidencing shared care; AND
- Evidence of benefits received for the children e.g. Child Benefit or Child Tax Credits. It is expected that parents with shared care will also share any State Benefit provided for the child.

When assessing an application, officers will need to inspect original documentation relating to the residence of the children.

It may be necessary to interview the applicants and make further enquiries with other agencies.

#### **4.6 Change of Circumstances**

Where applicants' circumstances change – e.g. change of address, contact details or number of people in the household – the applicant must notify the Council immediately, so that the application can be re-assessed.

Failure to do so may result in an offer being withdrawn or the applicant being incorrectly assessed.

#### **4.7 Annual Review**

In order to ensure that the Housing Waiting list is accurate, applicants may be asked to re-register their application. Where an annual review is carried out it will usually be instigated on the anniversary of the original application.

Failure to re-register an application within the requested timescale may result in the application being cancelled and the loss of any accumulated waiting time.

Following any review, it may be necessary to change an applicants' bedroom entitlement or priority banding.

It is the responsibility of the applicant to ensure that their application remains active by completing any re-registration requests or updating their application due to a change of circumstances.

## **Section 5 - Allocating Properties**

### **5.1 Choice based lettings**

Thurrock Council uses a process known as Choice Based Lettings for allocating properties, where the applicant chooses which property s/he is interested in and registers that interest via a "bid".

Because applicants are allowed to choose the areas and types of properties that they can bid for, this leads to more sustainable communities.

There are some situations however, where the choice is limited to a particular property type or area – see section below on priorities.

The “bidding” system does not involve a payment for property – placing a bid merely indicates that an applicant would like to be considered for that property.

## **5.2 Thurrock Choice Homes**

The allocation scheme used is called *Thurrock Choice Homes* and the *Thurrock Choice Homes* team are responsible for administering it. Responsibilities include:

- Ensuring that applicants have the correct banding
- Administering and monitoring the priorities
- Advertising properties
- Allocating properties
- Administering the mutual exchange process
- Assisted bidding

Thurrock Choice Homes will prepare an annual report to the Overview and Scrutiny committee outlining how properties have been advertised and who has been successful. The report will also include details regarding who is on the waiting lists, number of priorities awarded, average waiting times and other statistical information as deemed necessary.

## **5.3 Weekly Bidding Cycle**

Every week *Thurrock Choice Homes* advertise all the properties available for allocation in either the Thurrock Enquirer and/or on the TCH Website at [www.thurrockchoicehomes.org.uk](http://www.thurrockchoicehomes.org.uk)

The advertising cycle begins on a Thursday and ends at midnight on the following Monday. Applicants with an active bidding number are able to place bids on up to two properties of their choice, but only for properties that match their assessed bedroom entitlement and any requirement relating to any priority they have been awarded - see priorities in Section 10.

## **5.4 Division of advertised properties**

25% of all advertised properties will be only for applicants on the Transfer List and all other applicants will be unable to bid for these.

The Thurrock Choice Homes team will endeavour to ensure that the 25% allocated to transfer applicants represents a fair mix of property types and areas. This may mean that not all advertising cycles will have a 25/75% split of properties since this may vary from week to week.

At the end of the bidding cycle the advertised properties are allocated according to the ranking of the bidders.

For properties advertised for Waiting List applicants (the remaining 75% of properties) the ranking will automatically shortlist by order of priority. Where there is more than one applicant in a priority band the short-listing within that band will be in date order – effective date will be used.

For properties advertised for Transfer List applicants (25% of properties) the ranking will be solely by date order since no applicants within this list will have a priority.

If a property is advertised for Transfer applicants only and there are no successful bidders, then the property will be re-advertised for all applicants on the Housing Waiting List – i.e. it will only be advertised in this manner for one bidding cycle. The property will still count towards the 25% quota for transfer applicants only and no substitution will be provided.

## **5.5 How to bid**

Applicants can bid in any one of the following ways and will be prompted what to do:

- Call the 24 hour automated Thurrock Choice Homes bidding line on 0800 2700 558
- Place a bid on the internet at [www.thurrockchoiceshomes.org.uk](http://www.thurrockchoiceshomes.org.uk)
- Text 07781 486526

Bids can be placed at any time between Thursday morning and midnight on Monday (the “bidding cycle”); the timing of the bid does not determine any priority.

Once a bid has been placed an applicant can check their position in the queue. If they wish, they can remove the bid for that property and place the bid on another at any time during the bidding cycle.

Applicants may find that there are no properties for which they can bid in a particular cycle. This could be for a number of reasons, including the following:-

- There may be no properties advertised for which the applicant is eligible to bid
- The application may be suspended – this could be for a number of reasons including that the application has been cancelled, the applicant is under offer for a property or there is a problem with the application

Applicants should contact the Thurrock Choice Homes team on 01375 652311 or 652200 to discuss any bidding problems.

The Council reserves the right to place a bid on behalf of an applicant where a priority has been awarded but the applicant is failing to bid, despite suitable

properties being available. A definition of “suitable properties” is found at 10.2.1.

## **5.6 Assisted Bidding**

Thurrock Council is committed to equality for all and is determined to ensure that all applicants are able to bid for properties of their choice.

In order to ensure that vulnerable applicants are not disadvantaged, officers will operate an assisted bidding scheme.

A list of such applicants is kept and reviewed weekly. The service offered will be determined by the specific needs of each applicant but may involve posting out a printout of the adverts weekly, telephoning an applicant to discuss an advertised property and/or placing bids for applicants.

In order to join the assisted process an applicant will need to complete an assisted bidding application form outlining their needs. Alternatively, a support worker or the applicant themselves, can contact the *Thurrock Choice Homes* team to discuss joining the list. Forms are available at the Civic Offices and Local Housing Offices.

Thurrock Choice Homes will notify applicants when they have been added to the Assisted Bidding list.

## **5.7 Properties to be advertised**

Thurrock Choice Homes will advertise properties that become available to them either through void Council properties or through a Registered Provider property being offered as part of a nominations agreement.

Properties belonging to a Registered Provider may attract some restrictions that Council properties do not and will be subject to the individual Registered Provider’s own allocations policy. This will be made clear on the advertisement.

The Council will endeavour to ensure that at least 90% of all available properties will be allocated through the Thurrock Choice Homes system. However the Council reserves the right to use a number of available properties as direct offers – these are discussed in Section 14.

25%\* of all advertised properties will be only for applicants on the Transfer List and all other applicants will be unable to bid for these.

This figure\* will be reviewed annually by the Housing Needs manager and may be increased or decreased accordingly in order to ensure that transfer applicants have a greater or equal chance of being re-housed in comparison to Housing Waiting List applicants with no priority.

The Thurrock Choice Homes team will endeavour to ensure that the 25% allocated to transfer applicants represents a fair mix of property types and areas. This may mean that not all advertising cycles will have a 25/75% split of properties since this may vary from week to week.

An annual report will be provided to the Housing Overview and Scrutiny Committee outlining how properties have been advertised to ensure a fair mix has been achieved.

This scheme reflects an overwhelming view voiced during the consultation and review periods to reward good current tenants living in flats and maisonettes for a long time and is in line with current codes of guidance. The impact of this provision has been examined in the Equality Impact Assessment.

## 5.8 Working Households

The Consultation indicated a majority view that working households should be entitled to an extra priority and this is in line with provisions in the Localism Act 2011 and current government view.

Thurrock Council has decided to allocate **a maximum of 15%\*** of its advertised properties only for applicants with a member of the household who is working. The 15% would include properties advertised for the Waiting List and for the Transfer list and only those deemed eligible would be able to bid for these properties.

This represents:

- **Maximum** of 11.25% of all properties advertised – only for working Waiting List applicants
- **Maximum** of 3.75% of all properties advertised – only for working Transfer applicants.

This figure\* will be reviewed annually by the Housing Needs manager and may be increased or decreased accordingly in order to ensure that working applicants have a greater or equal chance of being re-housed in comparison to non-working applicants.

*Thurrock Choice Homes* will endeavour to spread the mix of these properties across the property types and areas within the borough.

An annual report will be provided to the Housing Overview and Scrutiny committee outlining how properties have been advertised to ensure a fair mix has been achieved.

The Council recognises that some households have no family members who are able to work due to age, disability etc. Therefore consideration will also be given to an applicant who has shown a contribution to the community - for example through voluntary work or caring for someone else.



In order to be eligible to bid for one of these properties an applicant would need to show that someone within their household meets the following criteria:

- In permanent employment for at least the past 12 months and that employment is for at least 16 hours per week

OR

- Involved in voluntary work (or other contribution to the Community such as caring for someone else) for at least the past 12 months and the time spent volunteering involves at least 16 hours per week.

If there are two working people within the household, their combined working hours can be counted – for example two adults working 8 hours each would qualify.

If a property is advertised for working households only and there are no successful bidders, then the property will be re-advertised for all applicants on the Housing Waiting List – i.e. it will only be advertised in this manner for one bidding cycle. The property will still count towards the quota for working households only and no substitution will be provided.

## **5.9 Adapted Properties**

Some properties will already be adapted to meet the needs of a disabled applicant. In such circumstances the property will be advertised so that preference is given to applicants where a member of the household is requiring that particular type of adaptation.

The Council operates an Accessible Housing Register alongside the Housing Waiting List that records the details of waiting list applicants who have been awarded a priority for, or are in need of, adapted properties. Applicants on this register are assisted by the officers to look for adapted properties that meet their particular needs.

Viewings of adapted properties are usually accompanied by the Housing Occupational Therapist or Housing Adaptations officer, who will determine whether or not the property meets the particular needs of the applicant it has been offered to. Where the officer determines that it does not meet those needs, the offer will be withdrawn, unless it is reasonable and practicable to adapt the property through minor or major adaptations. This will be discussed with the applicant at the time of the viewing / offer. Any agreed adaptations will be carried out in due course but this may not be immediately. Subsequently, an applicant may be required to move into the property before adaptations are completed. However, where an immediate risk to the applicant is identified, it will be eliminated by the installation of minor adaptations.

Where a property with major adaptations is advertised it will be restricted to applicants on the Accessible Housing Register. The Housing adaptation team

will identify properties where there are major adaptations and try to match them up with suitable applicants. Some flexibility will be needed since it may not always be possible to exactly match applicants with adaptations.

Such properties will initially be advertised to Housing Waiting List applicants but if no suitable applicants are successful in bidding, the property may be offered to Transfer List applicants.

If subsequently there are no bidders requiring those adaptations an assessment will be made to determine if the property should be advertised again or offered to a bidder who does not need the adaptations.

However, bidders who accept a property with adaptations they do not require will not be able to have those adaptations removed and must accept the property with the adaptations in place. For example – where a property has a shower or wet room and is advertised as such, the shower will not be removed and replaced with a bath at a later date.

In exceptional circumstances it may be necessary to allow a family to under-occupy a property where there are extensive adaptations, in order to make best use of public funds. This may involve advertising a property again and extending the bidding to applicants with a lesser bedroom need.

Decisions regarding when this should be done will involve agreement between the Thurrock Choice Homes manager and the Housing Occupational Therapy team. The Housing Needs manager will determine any disputes.

Because of the extra time that may be required for advertising such properties, and to avoid extended void times, these properties may be advertised as soon as a valid notice to quit is received.

Applicants who are allocated a property that results in an under-occupation will need to be aware of restrictions in Housing Benefit payment under the Welfare Reforms. This will be discussed with any such applicant when the offer is made.

## **Section 6 - Short-listing and offers**

### **6.1 Housing Waiting List properties**

75% of properties advertised will be for Housing Waiting List applicants only – see section 5.4.

Once the bidding cycle ends, all the bids received for any one property are prioritised in order of the banding, with the Band 1 first, followed by applicants in Band 2, then Band 3, then Band 4 and finally Band 5. Where there is more than one applicant within a band, the applications within that band are prioritised in date order. The date used is the Effective Date – which is the

date that the priority was awarded. Where there is no priority the effective date will be the same date as the application date.

## **6.2 Transfer list properties**

25% of properties advertised will be for Transfer List applicants only – see section 5.4.

Once the bidding cycle ends all the bids for any one property are prioritised in date order. The appropriate date is the date of the application.

Being the top bidder for a property does not automatically guarantee that the property will be offered to the applicant. It is still the responsibility of the Council to make a final judgment on whether or not it is appropriate to allocate a certain property to a particular applicant.

Popular properties will attract large numbers of bidders and therefore it is likely that such properties will be allocated to applicants with a priority or a longer waiting time.

## **6.3 Short listing process**

At the end of each bidding cycle, the *Thurrock Choice Homes* team will draw up the lists of bidders for each property and then assess the applications to determine if they meet the criteria for the property – in terms of bedroom size, clear rent account, adaptations etc. – see section 6.5.

A shortlist of the top three successful bidders will be sent over to the appropriate estate officer or Registered Provider, once the *Thurrock Choice Homes* team has checked on all documentation to support the application.

Subsequently a local area officer will arrange for viewings of the property with the top three bidders. If the top bidder refuses, the offer will be made to the 2<sup>nd</sup> bidder on the shortlist. If the 2<sup>nd</sup> bidder refuses, the offer will be made to the 3<sup>rd</sup> bidder and so on.

A housing officer will accompany viewings for Council properties. A housing officer will also accompany viewing for Registered Provider properties. Multiple viewings may be arranged for both Council and Registered Provider properties. This means that the top three bidders may be invited to view the property at the same time. Where this is the case the property will still be offered in the order of the bidders' final position.

Registered Providers may also require applicants to complete their own particular application form. If this is the case the Registered Provider will contact the applicant to advise them. It is important that applicants complete and return the application forms immediately to avoid the Registered Provider moving on to the next bidder on the shortlist.

Thurrock Council local area officers and Registered Providers will be expected to complete CORE statistics at each sign up, to enable the Council to monitor lettings in the borough.

## **6.4 Transfer Inspections**

Transferring tenants will be expected to give notice on their current tenancy and Thurrock Council tenants will be required to pass a tenancy inspection before any new tenancy agreement is signed – see section 2.3.3. Failure to pass the inspection will result in the offer being withdrawn.

Registered Provider tenants may also need to undergo an inspection and should advise their housing officer as soon as an offer is made.

## **6.5 Bypassing successful bidders**

Being the top bidder for a property does not automatically guarantee that the property will be offered to the applicant. It is still the responsibility of the Council to make a final judgment on whether or not it is appropriate to allocate a certain property, to a particular applicant.

There are a number of reasons why an applicant could be bypassed for a property even though s/he is the top bidder. These include the following:-

### **6.5.1. No longer eligible or qualifies for the offer**

The *Thurrock Choice Homes* team will check on the bidders' eligibility for the property at the short-listing stage and request sight of appropriate documents to support this. This will include the eligibility and qualification test set at the onset of the application and the bedroom entitlement of the current family make-up. Where these criteria are not met or original documentation produced in time to support the application, the applicant will be bypassed.

### **6.5.2. Rent arrears owed to a current landlord**

Where an applicant owes money for rent on a current Council, Registered Provider or Private tenancy, then an offer of accommodation will not usually be made until the debt is cleared or in the case of a private tenant, an arrangement has been made with the landlord and kept to for 6 months.

Applicants will be expected to provide evidence of a clear rent account with their current landlord. The *Thurrock Choice Homes* team will check on the current position when an offer is due to be made.

Applicants on the Transfer List i.e. with no priority will not usually be eligible to join the Transfer List where they have rent arrears. If arrears have accrued after joining the list the applicant will not be made an offer if successful in bidding. The application will also be cancelled since applicants are not eligible for the Transfer List whilst they have arrears. The circumstances in which a

tenant with outstanding arrears and/or other charges may be permitted to join and/or remain on the transfer list are set out above at section 2.3.1.

Where applicants on the Housing Waiting List have arrears they will usually be placed in the Band 5 until the arrears are cleared and a clear rent account is maintained for at least 3 months, or an arrangement with the Landlord has been agreed and kept to for at least 6 months.

In exceptional circumstances (for cases with a high priority) it may be possible for an offer to be made where tenants do have arrears but these will be assessed on a case-by-case basis and the applicant will be expected to make a commitment to clear the arrears as soon as possible.

### **6.5.3 Rent arrears owed to a former Landlord**

Where an applicant owes money for rent on a former Private, Council or Registered Provider tenancy, and the debt has accrued within the past six years, then an offer of accommodation will not usually be made until the debt is cleared or an arrangement has been made that has been kept to for at least the past 6 months.

Where applicants have arrears owing they will usually be placed in the Band 5 until the arrears are cleared or an arrangement with the Landlord has been agreed and kept to for at least 6 months.

In exceptional circumstances (for cases with a high priority) it may be possible for an offer to be made where tenants do have arrears but these will be assessed on a case-by-case basis and the applicant will be expected to make a commitment to clear the arrears as soon as possible.

### **6.5.4 Adequately Housed**

Where applicants are already housed in accommodation that meets their needs, both in terms of size, property type and cost, they will be deemed adequately housed. If an applicant disputes this, they will need to provide information regarding the size and cost of their accommodation and any other applicable information to enable the assessing officer to make a decision.

Information to determine whether or not an applicant is adequately housed is discussed further in the Priority section.

Adequately housed applicants will usually be placed in the Band 5 and are not likely to be housed unless there are no other eligible bidders for the property – e.g. “hard to let” properties

### **6.5.5 Unsuitability of property**

Where an applicant has been awarded a priority for a specific type of property and that property type is not met by the property on offer (e.g. an applicant awarded a medical priority for a level access property and the property type is

a house with internal stairs), or if the property is deemed unsuitable on other grounds for example because its location is unsafe for this particular applicant, an offer will not be made. This includes where a property has been specified as being a disabled adapted property but the bidder does not require those adaptations.

## 6.6 Offers of Accommodation

When an applicant is identified as the successful bidder for a property, and there are no reasons for bypassing that applicant, the applicants' details will be sent to the appropriate Housing Officer, or Registered Provider for the property involved.

The Housing Officer will contact the applicant and arrange a mutually convenient time to view the property. At that time the applicant will be shown around the property and will need to decide whether or not to accept it.

Applicants will be encouraged to make a decision regarding whether to accept or refuse the offer at the time of viewing. In order to minimise void periods for properties, a maximum period of 24 hours will be allowed for an applicant to make the decision, although exceptionally a longer period will be given.

If the applicant accepts the offer, a tenancy agreement will need to be signed with an agreed tenancy start date - usually the Monday following the viewing.

The applicant will be expected to pay 4 weeks rent in advance, unless they are already in receipt of Housing benefit **or can prove that they are eligible for Housing benefit. In all cases, the applicant will have to pay the 4 weeks water rates in advance.**

This is a legally binding contract.

Upon the tenancy starting, the current application for housing will end (i.e. be cancelled). Should the applicant decide that he/she wishes to transfer to another property, a transfer application will need to be completed and the whole application process will start again. This can be done immediately but it is the responsibility of the applicant to complete a new online application form – it will not automatically happen.

## 6.7 Refusing an Offer

Applicants may decide to refuse a property that is offered to them.

All applicants in Bands 4 and 5 and Transfer List applicants are entitled to three offers of accommodation. Should such an applicant refuse a third offer their application will be cancelled.

Applicants in Bands 1, 2 and 3 will only be made one offer of suitable accommodation with the priority banding. Should the applicant refuse that offer, the priority will be removed and they will be placed back in Band 4 or 5

depending on their circumstances. **There is an exception for applicants with a priority for under occupation, who will be entitled to three refusals.**

All offers are subject to suitability and reasonableness and if the applicant can show that the property was not suitable for their needs or it was unreasonable to accept, then the offer will not count.

Where an applicant in Bands 1, 2 or 3 is the successful bidder for two properties, an officer will contact the applicant to discuss which offer the applicant would prefer.

Where the priority awarded specified a certain type of property (e.g. level access property), and only one of the two successful bids meets the specified property type, only that property will be offered.

## **6.8 Acceptance of an offer**

Once an applicant accepts a property their current housing application will be cancelled. The applicant can apply to join the transfer list from the new property, but the application will start again i.e. the applicant will have a new application date and number.

In limited circumstances an applicant may be awarded their old application date – see priorities below – but this is only the case where an applicant has been limited on their choice of area and/or property type. An applicant will be advised if this is the case when their priority is awarded.

## **6.9 – Reporting Results**

After each bidding cycle, the results will be advertised on the Thurrock Choice Homes website. They will also be available when the next group of properties are advertised in the newspaper. This will enable applicants to see how properties have been advertised and the banding and effective dates of the successful bidders.

Thurrock Choice Homes will prepare an annual report to the Overview and Scrutiny committee outlining how properties have been advertised and who has been successful. The report will also include details regarding who is on the waiting lists, number of priorities awarded, average waiting times and other statistical information as deemed necessary.

# **Section 7 - Tenancies**

## **7.1 Joint Tenancies**

Where members of the same household have a long-term commitment to the home, the Council will usually grant a joint tenancy. This includes same sex partners, siblings, unpaid live-in carers and long-term friends.

This is subject to the eligibility and qualification of both applicants.

However, the Council must ensure that there are no adverse implications to the good use of their housing stock. Whilst the Council prefers to give joint tenancies there may be circumstances where this is not appropriate. Where the Council refuses a joint tenancy clear written reasons will be given for the refusal.

All joint tenants need to be aware of the implications of a joint tenancy, including the following:

- Both tenants are jointly and severally liable for the full rent of the property
- Either tenant can end the tenancy on behalf of both tenants by giving notice to quit
- Applicants are advised to seek further advice if they are uncertain about the legal implications of a joint tenancy.

## **7.2 Thurrock Council tenancies**

Applicants who accept a Council tenancy will be subject to the terms and conditions of the tenancy agreement signed. Initially the tenancy will be an introductory tenancy, but provided the tenancy is maintained in a satisfactory manner, the tenancy will automatically convert to a secure tenancy after twelve months. Introductory tenants will not be permitted to transfer except in exceptional circumstances, but they may join the transfer list.

Sheltered Housing tenancies will not usually be introductory tenancies. The Council's Tenancy Policy will influence the types of tenancies that will be awarded.

Certain property types may have restrictions with regards to pets.

## **7.3 Registered Provider tenancies**

Where applicants are nominated to Registered Providers they will be subject to the letting criteria of the Registered Provider concerned. This can vary from Thurrock Council's scheme with regards to the number of people suitable for the property and policies regarding pets. There may be other minor variations.

Some Registered Providers allow multiple viewings whereby a number of applicants view the property at the same time, but the property is offered to the top bidder first. Therefore, in such cases, applicants may be invited to view a property that they are subsequently not offered.



Nominees to Registered Provider tenancies are usually offered an assured tenancy; however, some Registered Providers offer a “starter” tenancy, which converts to an assured tenancy after one year, provided that the tenancy has been conducted in a proper manner.

Registered providers may also offer an alternative tenancy – for example an “affordable rent” tenancy or “market rent” tenancy – which may have a higher rent than assured tenancies and clauses in the tenancy agreement, which may affect the length of tenancy.

Where such tenancies are being offered, information will be found within the adverts for the property.

## **7.4 Giving notice on a current tenancy**

Transfer applicants will be required to give notice to surrender their current tenancy as soon as they sign their new tenancy agreement. The amount of notice required will depend on the terms of their current tenancy agreement. This applies to both Council and Registered Provider tenants.

Non-social housing tenants will also be required to give notice to their current landlord where applicable. The type and amount of notice required will be determined by their tenancy agreement.

Where the applicant is offered a tenancy whilst they are still within the period of a fixed term tenancy, they may still be liable for the rent on the property for the rest of the term. Applicants should discuss this with their landlord before viewing the property to enable them to make an informed decision before signing up to the tenancy.

## **Section 8 - Allocations to Thurrock Council Employees, Members and their families**

This Scheme is designed to ensure that Thurrock Council is fair and transparent when letting homes to all applicants and this includes staff or Council Members and their relatives.

The Allocations Scheme is open to any eligible applicant and there are checks in place for all applications. These include checks on eligibility, qualification and the applicants’ circumstances.

Staff and Council Members and their relatives are treated as any other applicant and will not be awarded any advantage or preferential treatment in the course of their application; neither will they be disadvantaged.

Therefore, the following procedure will be undertaken to ensure that any letting can be subject to a high level of scrutiny:

- A staff member or Council Member who is applying for housing will have no direct input into any decision regarding their re-housing. This includes authorising the original application onto the Computer System, maintaining that application or adding any priority at any time onto the application.
- The same rule applies for any relative of the Staff member or Council Member.
- Applications will be clearly marked on the computer system as that of a staff member, Council Member or relative.
- When such an applicant has bid for a property and is short listed at the top of a list the allocation must be checked by a member of the *Thurrock Choice Homes* team and countersigned by the *Thurrock Choice Homes* manager and Housing Needs manager.

Elected members are prohibited from taking part in any decisions on an individual allocation if the accommodation is in their electoral ward or if the person subject to the allocation decision has a sole or main residence in their electoral ward - *Allocation of Housing (Procedure) regulations 1997 SI 1997/483*.

Elected members can seek and obtain information on behalf of their constituents and participate in more general policy decisions that affect their wards.

## **Section 9 - Prioritising Applicants**

### **9.1 Legal Framework**

In framing an allocations scheme, the housing authority must ensure that reasonable preference is given to certain categories of people, as set out in the Housing Act 1996 amended by the Homelessness Act 2002 and Localism Act 2011. These include the following:

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

These are referred to as the Reasonable Preference Groups.

The Council can also give additional preference to people who fall within the reasonable preference categories and have an urgent need to move. Additional preference is recognised within the Council's priority criteria.

These are referred to as the Additional Preference Groups.

In seeking to meet these requirements, Thurrock Council has framed its Allocations Scheme to identify those in the greatest housing need by means of an initial assessment at Registration. Once identified, preference is given by means of placing applicants into a band. The banding can be reassessed at any point, and changed according to the applicants housing needs at any given time.

The housing need will also be checked at the point of an offer of accommodation.

Applicants who are not eligible or do not qualify for the Housing Waiting List will not be assessed for priority.

Tenants of Thurrock Council and Registered Providers (where Thurrock Council nominated the tenant to the property) with no assessed priority will only be able to join the Transfer List.

## **9.2 Worsening circumstances deliberately**

Applicants, who have deliberately worsened their circumstances in order to achieve a priority, will have the priority removed and any offer made withdrawn.

## **Section 10 - Bands**

### **10.1 Prioritising via Banding**

The Council has five bands for prioritising applicants on the Housing Waiting List

- Band 1
- Band 2
- Band 3
- Band 4
- Band 5

Priorities will be assessed under a number of headings, which reflect the Reasonable, and Additional Preference groups, and depending on their urgency, will determine which band an applicant is placed in.

Applicants in Band 1 will have the highest priority whilst applicants in Band 5 will have the lowest priority.

Once placed in a band, the applicant will be able to bid using the designated banding priority.

Once an applicant is registered s/he will be advised in writing of their bidding reference number, their band and the types and size of properties that they can bid for. An applicant has the right to request a review of their banding at the point of registration, and also at any point prior to an offer of accommodation, where their circumstances have changed.

Officers will also consider whether a change in banding is necessary whenever they are made aware of changes in the applicants' circumstances, for example upon receipt of a re-registration form or letter from a supporting agency.

If an applicants' banding is changed, the applicant will be notified of the changes and how these were assessed.

The Transfer List will not have bands and will only consist of transferring tenants with no priority.

Where a Transfer List applicant is assessed as meeting the criteria for a priority, their application will move over to the Housing Waiting List. If the priority is subsequently removed the application will move back to the Transfer List.

## **10.2 Time limits and suitability**

Priority bands may be restricted to a time limit – see Priorities at Section 10 and the Chart at Annex 2 for time limits.

This reflects the urgency of the applicants' housing need. Where a time restriction is placed on an application, the *Thurrock Choice Homes* Team will undertake monitoring of bidding activity. If an applicant fails to bid for suitable properties (see 10.2.1 for definition of suitable properties) that have been advertised within the time limit period, then the priority may be removed or suspended, or a direct offer made (e.g. for homeless applicants – see section 10.7.1) The applicant will be notified of this.

Time limits must be reasonable and appropriate and where there have been no suitable properties advertised, or there are special circumstances for not bidding within the time limit period, an extension may be granted. The *Thurrock Choice Homes* team, following an investigation of the case, will determine this.

### **10.2.1 Suitable Properties**

“Suitable property” means a property that will meet the housing need of the applicant's household and it will be the Council's determination of suitability.

When considering if a property is suitable the following factors will be taken into account:-

- The number of bedrooms available – do these meet the bedroom standard for the applicants' household size?
- The area of the property – is there any reason why it would be unsafe for the applicant's household to live in a certain area?
- The affordability of the property – is the property rent higher than other properties of a similar size in the area such that it makes it unaffordable for the household?
- The type of property – is the property unsuitable because it does not meet the needs of a disabled person within the household?

A suitable property may be a house, flat, maisonette or bungalow.

Due to the shortage of social housing applicants are unlikely to be able to choose houses or bungalows in preference to flats or maisonettes. Where an applicant has a time restriction, they will be expected to bid for all suitable property types and not restrict themselves to one property type - e.g. only houses. This may involve a compromise on preference in order to meet urgent housing need.

Applicants will have the right of appeal against a decision to remove or suspend priority or make a direct offer. Any appeal against the removal of a priority should be made to the *Thurrock Choice Homes* manager. The decision on whether or not to extend the priority will be made by the Re-Housing panel.

### **10.3 Property Restrictions**

A restriction may also be placed on the type of property that an applicant can bid for with their priority.

This may reflect a recommendation for a property type, for example where a medical priority is awarded. It may also restrict an applicant from bidding for properties within a certain area, for example where an applicant has received a priority to move away from an area where he/she has experienced violence.

### **10.4 Process for assessing priorities**

Once an applicant has been deemed eligible and qualifies to join the Housing Waiting List, the Registration Team will initially assess the application for any priority. During this time the applicant is placed in Band 5.

Upon assessment, the team will determine whether or not any priority applies to the application and/or if further enquiries are necessary. If so, the appropriate enquiries will be initiated depending on the type of identified possible priority.

It may be the case that other agencies or Council departments identify a priority and contact the *Thurrock Choice Homes* team or Registration team accordingly.

In order to be transparent, consistent and fair, all priorities are determined against defined criteria, and wherever possible, officers and other professionals outside of the *Thurrock Choice Homes* and Registration teams will contribute to, or in some cases, award the priority. These are identified in the annexe of priorities.

Where two or more priorities in Band 3 are identified, an extra priority will be awarded to recognise the cumulative needs of the applicant. This is met by awarding a priority for Additional Preference and placing the applicant in Band 2.

The chart at Annex 2 lays out the priorities that can be awarded and gives a brief description of the criteria, how it is assessed, any time limits and restrictions of property types.

An extended description is given below: -

### **10.5 Band 1 – Urgent Need to move**

This band is used to recognise applicants with the highest priority

#### **10.5.1 Violence or Threats of violence**

Where applicants are facing violence or threats of violence that are life threatening and an immediate move is required. This includes domestic violence and sexual violence.

This priority will not be available for Thurrock Council tenants since any need for an urgent move would be dealt with as a management move – Section 14.1.

The decision to award the priority will be made by the Council's Housing Management panel and usually in conjunction with a recommendation from a senior police officer or the Housing Anti-Social Behaviour (HASB) panel.

Due to the urgency of the need to provide alternative accommodation, a direct offer of suitable accommodation will be made in line with the applicants' assessed bedroom need and outside of the area of danger.

Once re-housed, the applicant may choose to register a transfer application and this will be awarded the date of the original Housing Waiting List application.

## **10.5.2 Decants for redevelopment or refurbishment**

This priority only applies to Thurrock Council tenants or Registered Provider tenants where the Council has agreed to re-house tenants. The priority is awarded where the tenant needs to be moved out of their current property to allow the building to be refurbished or demolished. It will be applicable where a group of properties is involved i.e. more than one, and a permanent decant is required. (For individual Council tenant and temporary decants the management move procedure will be applicable – Section 14.1).

The decision to award this priority will be made by the Head of Housing Services following confirmation that the current property is to be refurbished or demolished.

The time limit for the priority will be dependent on the timescale for the refurbishment or demolition but will be either 6 weeks or 3 months. If applicants fail to bid for suitable properties during that period, bids will be placed on their behalf by the *Thurrock Choice Homes* team or a direct offer will be made.

Applicants will be restricted to bid for a property of the same type that they currently occupy, but appropriate to the assessed bedroom entitlement. However, should no similar property type be available an alternative type may be offered where it is deemed too urgent to wait for a similar property type to become available.

Once re-housed, the applicant may choose to register a further transfer application and this will be awarded the date of the original transfer application if the applicant has been restricted on property type.

## **10.6 Band 2 – Additional Preference Groups**

This band includes applicants within the reasonable preference groups who are assessed as requiring additional preference because of their urgent need to move.

Thurrock Council has also chosen to use this band to move certain people on policy grounds i.e. to free up larger and resident staff, accommodation.

### **10.6.1 Cumulative Need**

Thurrock Council will continue to recognise cumulative need i.e. where an applicant meets the criteria for more than one reasonable preference group (Band 3) an additional priority is awarded.

Evidence for the appropriate priorities within the Band 3 must be met. The Housing Needs Manager will award the priority upon evidence of the criteria being met.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

Applicants will be restricted to moving to a property type which meets the needs of both priorities, e.g. an adapted or level access property

### **10.6.2 Armed forces**

Under SI2012 2989 extra priority will be given to certain members and former members of the Armed Forces who meet any of the Reasonable Preference categories i.e. categories in Band 3.

The priority applies to the following groups of people:

- A serving member of the armed forces who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the persons service
- A former member of the armed forces
- A person who was living in accommodation provided by the ministry of defence, where the accommodation is no longer available to them because of the recent death of their spouse or civil partner, and that spouse or civil partner's death was attributable (wholly or partly) to their service in the armed forces
- A serving member or former member of the reserve forces who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the persons service

Applicants will only be entitled to the additional preference when they already meet the criteria for a reasonable preference (Band 3), therefore this priority will only be considered if a priority has already been awarded.

Applicants will be expected to provide evidence of their service.

Definitions of Armed Forces and Reserve Forces are found in the Armed Forces Act 2006 s 374 as follows:-

The Armed Forces -

- the Royal Navy
- the Royal Marines
- the Royal Air Force
- the Regular Army - any of Her Majesty's military forces other than the Army Reserve, the Territorial Army and forces raised under the law of a British overseas territory.

The Reserve Forces -

- the Royal Fleet Reserve



- the Royal Naval Reserve
- the Royal Marines Reserve
- the Army Reserve
- the Territorial Army
- the Royal Air Force Reserve
- the Royal Auxiliary Air Force

The Housing Needs Manager will award the priority upon evidence of the extra criteria being met.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

Applicants may be restricted to moving to a property type, which meets their assessed medical needs e.g. an adapted or level access property.

### **10.6.3 Delayed Hospital Discharge**

Priority can be awarded to an applicant who is in a hospital or care home and ready for discharge, but the applicant cannot be discharged to their current home due to its unsuitability or because they face a homeless situation. The hospital will need to confirm that the applicant is a delayed discharge and that they are holding up a bed that is needed for other patients.

Where appropriate the hospital Occupational Therapists will liaise with the housing Occupational Therapists to determine that the current accommodation is unsuitable

Due to the urgency of the need to provide accommodation, a direct offer of suitable accommodation will be made in line with the applicants' assessed bedroom need. When making the offer the advice of both the housing and the hospital occupational therapists will be taken into account.

### **10.6.4 Medical Priority 1**

This priority is awarded where an applicants' quality of life is compromised because of their current housing.

When assessing medical priority, the Council will only award a priority where the medical condition is severe or chronic AND that condition is being affected by the applicants' current accommodation.

The process for requesting an assessment is via a Housing Health Questionnaire, which can be obtained from any of the housing offices.

The medical priority service is responsible for the assessment of medical priority and may take advice from an independent medical service and a doctor may review the application.

When a decision is made, the applicant will be advised in writing and where applicable a copy of the doctors' advice is attached. If a medical priority is awarded, a recommendation for the most suitable type of accommodation may also be made, for example, ground floor or a property with a lift. Where such a recommendation is made, applicants will be restricted to bidding for only that property type.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

Applicants may be restricted to bidding for a property type, which meets their assessed needs e.g. an adapted or level access property

Applicants will be advised by the priority medical service of properties being advertised that appear to meet the applicants' needs and encouraged to place bids accordingly. When a property is subsequently offered, the Housing Occupational Therapist may attend the viewing to consider the suitability of the property and/or any adaptations that will be required.

It is not usual for an applicant to be seen by a doctor or other medical advisor at the Council when undergoing the medical assessment.

#### **10.6.5 Carers - Priority 1**

Priority is awarded where an applicant needs to be moved to alternative accommodation either to give care to, or receive care from, another person. The higher priority is awarded where an urgent need to move is identified. The priority is awarded where it is shown that regular care is needed for a person who is unable to care for him/herself within the home. This can be evidenced by, but is not limited to, proof of benefit received for caring for someone such as Carers Allowance and/or copies of social care, health or caring agencies support plans.

The priority is applied to allow the applicant to live closer to the person giving or receiving the care, and consideration will be taken of the wishes and circumstances of both the carer and the person receiving care, and of the likely wait for suitable properties, should the priority not be awarded.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

Where the priority is awarded to the person being cared for Applicants may be restricted to bidding for a property type which meets their assessed needs e.g. an adapted or level access property. In these circumstances Applicants will be advised by the priority medical service of properties being advertised that appear to meet the applicants' needs and encouraged to place bids accordingly. When a property is subsequently offered, the Housing Occupational Therapist may attend the viewing to consider the suitability of the property and/or any adaptations that will be required.

Where the priority is awarded to the carer, no restrictions will apply.

The priority is assessed and awarded by the manager of the medical priority service.

#### **10.6.6 Housing Adaptation Panel (HAP)**

This priority only applies to Thurrock Council tenants and is in line with the Housing Adaptation Scheme.

All cases where recommendations have been received to install major adaptation works, totalling over £5,500, go through an evaluation process, called an 'options appraisal'. The Housing Adaptation Panel (HAP) will carry this out.

HAP will look separately at the circumstances of each application and balance against the resource implications a number of factors, including the likely availability of more appropriate alternative accommodation.

A HAP decision priority will be awarded if the panel decide in consultation with the tenant(s), that it will be more appropriate for an alternative suitable property to be found.

An appeal process is in place for all residents.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

Applicants will only be able to bid for properties which meet, or can be adapted to meet their needs, as assessed by the Housing Occupational Therapist. All bids must be within the bedroom requirement for the size of the household.

### **10.6.7 Under-occupation by more than 1 bedroom**

This priority only applies to Council or Registered Provider Transfer Applicants who are moving to a smaller property and thereby freeing up a property with two or more bedrooms extra to their bedroom entitlement.

Applicants will be identified at the Registration stage, or at the point of a change of circumstances, and the *Thurrock Choice Homes* team, upon confirmation that the property meets the criteria, will award the priority.

There is no time restriction, but applicants will only be entitled to bid for properties that meet their bedroom entitlement.

However, Couples down-sizing from a 3 or 4 bedroom houses will be eligible to bid for a two bedroom bungalow or flat even though their assessed need is only for 1 bedroom – they will be entitled to the appropriate priority for under-occupation depending on the number of bedrooms they are giving up.

In such circumstances applicants need to be aware that changes in welfare benefit may mean they are not entitled to benefit for a property that is larger than their assessed bedroom need and therefore there may be a shortfall in benefit received.

Where down-sizing would result in children of the opposite sex sharing a bedroom when they previously did not, a priority will not be awarded since this would be setting up a future over-crowding situation.

Should an applicants' assessed bedroom need change such that they would no longer be under-occupying, then the priority will be removed.

Because down-sizing frees up larger family sized properties the Council may offer a financial incentive scheme and / or assistance with moving. These schemes will be advertised separately and will only apply to Thurrock Council tenants.

### **10.6.8 Retiring Thurrock Council Resident Staff**

This priority only applies where applicants are staff members of Thurrock Council with at least two years continuous service and have been living in tied accommodation with the Council for at least two years.

The priority will be awarded where the applicant is retiring from the Council, or leaving the post to take up another non-residential post within the Council, and the new member of staff taking over the role requires the current accommodation.

The *Thurrock Choice Homes* team will require written confirmation from the applicants' line manager before an assessment is made.

The priority will not be awarded where the applicant is dismissed from the post on disciplinary grounds.

The priority is time limited to 3 months and will be regularly monitored by the *Thurrock Choice Homes* Team to ensure that the applicant is bidding appropriately. The 3 month time-limit reflects the need for the applicant to move quickly in order to free up the tied accommodation. However, there may be circumstances where the priority is awarded in advance of the retirement, in which case the 3 month time limit can be extended.

Where the applicant fails to bid for suitable properties a direct offer of suitable accommodation may be made.

The Council may also take formal action to re-possess the tied accommodation. Should a re-possession take place, the priority will no longer be relevant and will be removed.

### **10.6.9 Domestic Violence & Sexual Violence**

The Government defines Domestic Violence<sup>1</sup> as:

*Any incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have been intimate partners or family members regardless of gender or sexuality. This can encompass but is not limited to the following types of abuse:*

- *psychological*
- *physical*
- *sexual*
- *financial*
- *emotional*

*Controlling behaviour is: a range of acts designed to make a person subordinate and/or dependent by isolating them from sources of support, exploiting their resources and capacities for personal gain, depriving them of the means needed for independence, resistance and escape and regulating their everyday behaviour.*

*Coercive behaviour is: an act or a pattern of acts of assault, threats, humiliation and intimidation or other abuse that is used to harm, punish, or frighten their victim.*

*This definition, which is not a legal definition, includes so called 'honour' based violence, female genital mutilation and forced marriage, and is clear that victims are not confined to one gender or ethnic group.*

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<sup>1</sup> Home Office 19<sup>th</sup> September 2012

Thurrock Council is committed to preventing Domestic violence and sexual violence, and is working with other agencies to deliver on its own strategy of ending violence against women and girls.

Housing plays an important role in most cases of abuse and often, alternative accommodation is vital in ensuring the safety of the victim.

The homelessness legislation recognises Domestic Violence as a priority need category and reasonable grounds for leaving a home that would otherwise be available.

Often victims will approach the Council as homeless and a duty under the homelessness legislation is accepted. Homeless applicants may be prioritised for Council accommodation within Band 3 of this policy and would qualify for temporary accommodation.

However, not all victims will make a homeless application. Council tenants may approach their landlord directly for assistance and an assessment needs to be carried out to determine whether an urgent move to alternative accommodation is required.

Non-Council tenants on the Housing Waiting list may also approach the local authority for priority rather than making a full homeless application.

The Council will support victims in making the most appropriate decisions to prevent further abuse and we will work closely with supporting agencies such as Women's Aid and South Essex Rape and Incest Crisis Centre (SERICC) to determine this.

In some cases the best option will be to remain in the current property and to put in place legal measures such as non-molestation orders and injunctions and/or Sanctuary Schemes.

In other cases it may be necessary for the victim to be moved to alternative accommodation.

When assessing cases for this priority the relevant considerations are

- Whether or not continued occupation would lead to further abuse/violence
- Whether any threat of abuse/violence is likely to be carried out

Assessment must be made on the facts of the case and not based on any actions the victim has or has not carried out. It is not a value judgment.

The procedure for facilitating a move via the Housing Waiting list will depend on the applicant's current tenure.

- Thurrock Council tenants
  - Sole tenants

Where the victim is a sole tenant and there is an indication that a move is necessary and no other measures are preferable (e.g. Sanctuary scheme, non-molestation order etc.) then the process for moving will be via a management move i.e. moving the victim to alternative accommodation. See Section 14.1

Thurrock Council tenants being re-housed via a management move will be able to bid for the same property type that they currently occupy. Should they choose to join the transfer list following the move, they will be awarded their original application date.

- Joint tenants

Where the applicant is a joint tenant with the perpetrator a transfer to alternative accommodation will not be possible since this will involve transferring the perpetrator also.

In such circumstances the applicant will need to be assessed as if she/he were not a tenant of the Council.

- Non- Thurrock Council Tenants

This group will include applicants living in private rented and Registered Provider accommodation, but may also include applicants living with family or friends. It will also include Thurrock Council tenants with a joint tenancy where the joint tenant is the perpetrator of the Domestic Abuse.

The applicant, or someone on his or her behalf, will need to request an assessment of the case by the *Thurrock Choice Homes* team. Account will be taken of the views of supporting agencies and police where appropriate. This may involve some investigation and safe alternatives such as refuge will be considered during the investigation period.

A priority will be awarded where it is determined that an urgent move to alternative accommodation is in the best interests of the applicant. The Council's Re-Housing panel will award the priority.

The applicant will be placed in Band 2 and will be able to bid for properties outside of the area that they currently reside or any other "danger" area – i.e. areas where the perpetrator is known to have links.

Where police or other agencies strongly support an immediate move because of the severity of the case, the applicant may be placed in Band 1 and a direct offer of accommodation made see section 10.5.1. The Re-Housing panel will determine the level of banding following the assessment based on the facts.

The priority is time limited to 4 weeks (in line with the limits for homelessness) If the applicant fails to bid for suitable properties (see definition of suitable properties at 10.2) within the 4 week time limit period, Thurrock Choice

Homes will place bids on suitable properties on behalf of the applicant and/or make a direct offer of accommodation. This recognises the urgency of the need to move.

Where the applicant is a Thurrock Council joint tenant he/she will be expected to give notice on the current property when a new tenancy is offered. This will end the tenancy on behalf of the joint tenants and the perpetrator will be expected to leave the property at the expiry of the notice.

Should the perpetrator fail to leave, Thurrock Council will usually commence eviction proceedings, except in exceptional circumstances where a sole tenancy may be awarded to the perpetrator. It is anticipated that such circumstances will be extremely rare but may include cases where the perpetrator is elderly or ill, or remains at the property with children (subject to confirmation from Children's Social Care that the situation will continue). The tenancy will not be awarded where it involves an under-occupation and the decision will be made by the Council's Housing Management panel which is a Member/Officer forum – see section 13.1.

#### **10.6.10 Change of tenancy**

The procedures and rules regarding successions, and changes to tenancies following relationship breakdown, are found in the annexes below. This priority is awarded only on the specified grounds:-

- Where an applicant has the right to succeed to a tenancy, but the succession would result in the property being under-occupied, the Council will seek to make good use of its housing stock by offering more suitable alternative accommodation – see annex 5

Under Ground 16 of Schedule 2 Housing Act 1985, the Council may seek possession of a secure tenancy where the property is more extensive than is reasonably required by the tenant.

In such cases the Council will award a priority to the new tenant to enable a move to a suitable property that meets his/her bedroom entitlement.

- Where the applicant does not have the right to succeed to a tenancy that is under-occupied, the Council may use its discretion to allow a priority for alternative accommodation – see annex 5

In making such a decision, consideration is taken of the amount of time an applicant has lived at the property, the make up of the household and whether the applicant has any particular vulnerability.

- Where a joint tenant has ended the tenancy but the applicant remains at the property and the property is under-occupied – see relationship breakdown at section 13



Thurrock Council may use its discretion to award a priority so that the applicant moves to smaller accommodation in line with their assessed bedroom need

- Where a relationship breakdown involves joint tenants who wish to move to separate one-bedroom properties and a larger property (2 or more bedrooms) would be vacated – see relationship breakdown at section 13

A priority may be awarded to both parties.

In all of the above situations, the Area Housing Manager makes the decision to award the priority as part of the Change of Tenancy procedures

The procedures for these circumstances are defined below in the appropriate sections or annexes.

### **10.7 Band 3 - Reasonable Preference Groups**

This band recognises and awards priority to applicants who meet the criteria for Reasonable Preference

#### **10.7.1 Homeless Applicants - owed the main housing duty**

Homeless applicants fall into the reasonable preference group but Local Authorities may distinguish between groups of homeless applicants when determining whom they prioritise within their housing allocation scheme.

Thurrock Council has decided to make a distinction between those homeless people who are owed the main housing duty under the Housing Act 1996 and those who are not.

This priority only applies to applicants who have been assessed by a Homeless Officer and meet the criteria for the main housing duty by the Council and it has been decided to discharge that duty through an offer of social housing, i.e. for applicants to whom a homeless duty has been accepted under s193 or s195 Housing Act 1996. Therefore this priority will not be awarded to every homeless applicant.

Where an applicant qualifies for the homeless duty but only because of a restricted person within their household – i.e. someone who is subject to immigration control and not eligible for assistance in their own right - this homeless priority cannot be awarded.

The Council intends to use the full range of housing options available to it in order to discharge its homeless duty and this includes making use of private housing instead of social housing where the relevant conditions are met.

**Decisions regarding how the duty is discharged are in the Council's policy on the discharge of the homeless duty into the private sector.**

If this priority is awarded, the priority will have a time limit of 4 weeks; however, where there are exceptional circumstances or no suitable properties have been advertised, for example where an adapted property is required for a disabled applicant, the period may be extended in order to find a suitable property.

The *Thurrock Choice Homes* team will monitor the bidding process.

If the applicant fails to bid for suitable properties (see definition of suitable properties at 10.2) within the 4 week time limit period, Thurrock Choice Homes will place bids on suitable properties on behalf of the applicant and/or make a direct offer of accommodation.

The Council has a duty to accommodate homeless households, which often involves temporary accommodation, before a final offer is made. The Council will ensure that temporary accommodation usage is minimised by offering any available suitable accommodation in line with the criteria at 10.2.

Any offer made will be considered an offer to discharge the homeless duty (subject to suitability) – this means that applicants will only receive one offer of accommodation.

All homeless applicants who are owed a statutory re-housing duty by the Council, have the right to request a review of the suitability of any accommodation offered to them as a discharge of that duty. This right is a statutory right under Part VII of the Housing Act 1996 and applies whether the property is accepted or not.

### **10.7.2 Medical - Priority 2**

Where an applicants' quality of life is compromised but the applicant does not meet the criteria for the (higher) level 1 priority see 10.6.4.

When assessing medical priority, the Council will only award a priority where the medical condition is severe or chronic AND that condition is being affected by the applicants' current accommodation.

The process for requesting an assessment is via a Housing Health Questionnaire, which can be obtained from any of the housing offices.

The medical priority service is responsible for the assessment of medical priority and may take advice from an independent medical service and a doctor may review the application.

The medical priority service may take advice from an independent medical service and a doctor may review the application. When a decision is made, the applicant will be advised in writing and where applicable a copy of the doctors' advice is attached.

If a medical priority is awarded, a recommendation for the most suitable type of accommodation may also be made, for example, ground floor or a property with a lift. Where such a recommendation is made, applicants will be restricted to bidding for only that property type.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

Applicants may be restricted to bidding for a property type, which meets their assessed needs e.g. an adapted or level access property.

Applicants will be advised by the priority medical service of properties being advertised that appear to meet the applicants' needs and encouraged to place bids accordingly. When a property is subsequently offered, the Housing Occupational Therapist may attend the viewing to consider the suitability of the property and/or any adaptations that will be required.

It is not usual for an applicant to be seen by a doctor or other medical advisor at the Council when undergoing the medical assessment.

### **10.7.3 Carers Priority 2**

Priority is awarded where an applicant needs to be moved to alternative accommodation either to give care to, or receive care from, another person, but the need to move is not so urgent as to meet the (higher) level 1 priority see 10.6.5.

The priority is awarded where it is shown that regular care is needed for a person who is unable to care for him/herself within the home. This can be evidenced by, but is not limited to, proof of benefit received for caring for someone such as Carers Allowance and/or copies of social care, health or caring agencies support plans.

The priority is applied to allow the applicant to live closer to the person giving or receiving the care, and consideration will be taken of the wishes and circumstances of both the carer and the person receiving care, and of the likely wait for suitable properties, should the priority not be awarded.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

Where the priority is awarded to the person being cared for Applicants may be restricted to bidding for a property type which meets their assessed needs e.g. an adapted or level access property. In these circumstances Applicants will be advised by the priority medical service of properties being advertised that

appear to meet the applicants' needs and encouraged to place bids accordingly. When a property is subsequently offered, the Housing Occupational Therapist may attend the viewing to consider the suitability of the property and/or any adaptations that will be required.

Where the priority is awarded to the carer, no restrictions will apply.

The priority is assessed and awarded by the manager of the medical priority service.

#### **10.7.4 Care Leavers Move-on**

Where an applicant is a former child who has been looked after Thurrock Council, a priority may be awarded to enable the applicant to move into Council accommodation in order to live independently.

Any priority will be subject to the agreed protocol between the Housing Department and the Children's Leaving and After Care team. Priority is only awarded after the applicant has lived in semi-supported accommodation and has shown that he/she can live independently.

The applicant must be willing to accept floating support and/or any recommended care package.

Recommendations for the priority are made by the applicants' social worker and applicants are discussed at a joint panel meeting attended by Social Care and Housing Officers. A joint decision is made regarding suitability for awarding the priority and a risk assessment must be carried out.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

#### **10.7.5 Supported Housing Move-on**

Priority can be awarded where the Local Authority has placed an applicant in supported housing, and that applicant is ready to move on to independent living, thereby freeing up space in the supported accommodation for another applicant who needs that type of support.

Any priority will be subject to any agreed protocol between the Housing Department and the supported housing provider (where applicable).

This priority will not be awarded to all applicants leaving supported accommodation, since other housing options will also be considered and may be deemed more suitable.

In order to qualify the applicant must have completed a period of appropriate training within the scheme and show that he/she is capable of living independently. For example, an applicant living in the mother and baby unit will undergo a period of training relating to motherhood.

A report is required from the Supported Housing Manager outlining the training and the reasons why it is felt that the applicant is ready to move on.

This priority is also available to applicants who have been living in residential care where it is determined that this level of support is no longer applicable. The priority will not be awarded to all applicants leaving residential care since all housing options will be considered, but in cases where it is determined that applicants can live independently or in sheltered housing a report outlining this and the proposed continuing support to be provided will be required.

The Thurrock Choice Homes Manager will award the priority upon assessment of the reports provided.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

#### **10.7.6 Court Order**

Where a Court orders that an applicant must be offered suitable alternative accommodation, a priority will be awarded. Proof will be required in the form of a Court Order to the Council and the *Thurrock Choice Homes* team will assess this.

Any restriction on property type will be determined by the Court order if appropriate.

It may be necessary to make a direct offer where the Court orders that a specific property is to be offered – see Direct Offers.

#### **10.7.7 Properties with severe housing hazard(s)**

Where an applicant is living in privately rented accommodation that has been assessed by the Housing Environmental Health Officer, and a Category 1 Hazard or a number of significant Category 2 Hazards have been identified, a priority may be awarded.

The Housing Environmental Health Officer will inspect the property and produce a report outlining the hazards.

The Housing Environmental Health Officer will normally issue the Landlord with a Housing Act notice to remove the housing hazards.

If the Landlord subsequently fails to rectify the hazard(s), within a reasonable period of time, then a priority can be awarded. In such circumstances the Housing Environmental Health officer will notify the Thurrock Choice Homes team that a priority should be awarded.

If the hazards are rectified before any successful bid is achieved, the priority will be removed.

This priority is not applicable to Council tenants since any hazards within Council accommodation should be rectified promptly or the tenant moved to more suitable accommodation.

If this priority is awarded, the priority will have a time limit of 4 weeks; however, where there are exceptional circumstances or no suitable properties have been advertised, for example where an adapted property is required for a disabled applicant, the period may be extended in order to find a suitable property.

The *Thurrock Choice Homes* team will monitor the bidding process.

If the applicant fails to bid for suitable properties (see definition of suitable properties at 10.2) within the 4 week time limit period, Thurrock Choice Homes will place bids on suitable properties on behalf of the applicant and/or make a direct offer of accommodation. This recognises the urgency of the need to move.

### **10.7.8 Overcrowding**

Overcrowding is recognised as one of the reasonable preference groups to whom a Local Authority must give priority.

Thurrock Council will use the Housing Health and Safety Rating System (HHSRS) and Housing Act 2004 to measure overcrowding. Under this system the following bedroom standard is used to determine the number of bedrooms required by a household.

The Bedroom Standard

Married or Co-habiting couple	1 bedroom
Adult aged 21 or over	1 bedroom
Pair of adolescents aged 10 - 20yrs of the same sex	1 bedroom
Pair of children under 10yrs regardless of sex	1 bedroom
An adolescent aged 10-20yrs and child under 10yrs of the same sex	1 bedroom

When assessing for overcrowding the household makeup will be measured against this standard to determine the recommended number of bedrooms for the household.

A housing officer will usually visit the family to verify the number of people living at the property, including their ages and sex, and bedrooms available. A report will be provided to the Thurrock Choice Homes team who will carry out the assessment and award the priority where appropriate.

A Housing Environmental Health officer following a visit to the property can also carry out assessments.

Where the number of bedrooms is short by two or more bedrooms the applicants will be placed in Band 3 to recognise that they are overcrowded.

Where the number of bedrooms provided is short of the standard by 1 bedroom the applicants will be placed in Band 4 since they will not be adequately housed.

Applicants who deliberately overcrowd their property with family members or others who would not reasonably be expected to live with them will not be awarded the priority.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

### **10.7.9 Welfare Grounds**

Priority is given to applicants who need to move to, or from, accommodation, because of specific social and welfare needs. This priority encompasses a wide range of needs and is determined on a case-by-case basis.

The criteria may apply to any member of the household and may include, but is not limited to:

- Where an applicant or any member of the household needs to move to a particular locality within the Borough where failure to do so would result in the applicant or others facing hardship
- Where an applicant or any member of the household needs to move because of a disability - this includes a learning disability as well as a physical disability
- Where an applicant or any member of the household needs to provide or receive care or support – this includes cases where an applicant has been assessed and approved by a Local Authority to foster or adopt a child but cannot do so until larger accommodation is provided
- Where an applicant or any member of the household needs to recover from the effects of violence or from threats of violence or physical, emotional or sexual abuse.

The *Thurrock Choice Homes* team, taking into account recommendations by other agencies such as Social Care, Health Professionals, Police and other supporting agencies, will carry out an investigation of the circumstances.

The decision to award the priority is made by the Council's Re-Housing panel, having considered all the facts.

Where alternative accommodation is offered it is essential to assess any support and/or care needs that the applicant may have, and how these needs will be addressed within the alternative accommodation.

Applicants may be restricted to bidding for a property type which meets their particular needs and is appropriate to their bedroom entitlement.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

#### **10.7.10 Transfer within Sheltered housing**

Where an applicant lives in Council owned sheltered accommodation, on the first floor without a lift, a priority can be awarded to facilitate a move to the ground floor in the same scheme due to medical needs.

The assessment is carried out by the Housing Occupational Therapist, in conjunction with information provided by the Scheme Sheltered Housing Officer and any medical information provided by the applicant.



Applicants should identify why they need to move to a lower level – this will typically be as a result of deteriorating health and mobility issues.

Where the Housing Occupational Therapist identifies a more urgent move, a medical assessment will be carried out in line with the criteria for Medical Priority.

Applicants with this priority are restricted to moving to a ground floor property within the same scheme or within another scheme close by. The property must meet their assessed bedroom entitlement.

The priority is awarded for a maximum period of one year during which time it is anticipated that the applicant will successfully bid for a property. After one year, if the applicant has not been housed, the priority will be removed and the applicant will need to re-apply for the priority, at which point a further assessment of the applicants' eligibility for the priority will be carried out.

#### **10.7.11 Under-occupation by 1 bedroom**

This priority only applies to Council or Registered Provider Transfer Applicants who are moving to a smaller property and thereby freeing up a property with one bedroom extra to their bedroom entitlement.

Applicants will be identified at the Registration stage, or at the point of a change of circumstances. Upon confirmation that the property meets the criteria, the *Thurrock Choice Homes* team will award the priority.

There is no time restriction, but applicants will only be entitled to bid for properties that meet their bedroom entitlement.

Couples down-sizing from 3 or 4 bedroom houses will be eligible to bid for a two bedroom bungalow or flat even though their assessed need is only for 1 bedroom – they will be entitled to the appropriate priority for under-occupation depending on the number of bedrooms they are giving up.

Should an applicants' assessed bedroom need change such that they would no longer be under-occupying, then the priority will be removed.

Because such moves free up larger family sized properties Thurrock Council may offer a financial incentive scheme and / or assistance with moving. These schemes will be advertised separately

However, Couples down-sizing from 3 or 4 bedroom houses will be eligible to bid for a two bedroom bungalow or flat even though their assessed need is only for 1 bedroom – they will be entitled to the appropriate priority for under-occupation depending on the number of bedrooms they are giving up.

In such circumstances applicants need to be aware that changes in welfare benefit may mean they are not entitled to benefit for a property that is larger

than their assessed bedroom need and therefore there may be a shortfall in benefit received.

Where down-sizing would result in children of the opposite sex sharing a bedroom when they previously did not, a priority will not be awarded since this would be setting up a future over-crowding situation.

Should an applicants' assessed bedroom need change such that they would no longer be under-occupying, then the priority will be removed.

Because down-sizing frees up larger family sized properties the Council may offer a financial incentive scheme and / or assistance with moving. These schemes will be advertised separately and will only apply to Thurrock Council tenants.

## **10.8 Band 4 – Low Housing Need**

This band is for applicants with a general housing need that do not meet the criteria for a higher priority.

### **10.8.1 Applicants who have been issued with a valid notice to quit**

Applicants must be given notice in writing, which must meet the required standards laid down in law. Where an incorrect notice is issued, an applicant will be advised accordingly

### **10.8.2 Applicants who are not adequately housed**

- Applicants living in privately rented or other non-social housing accommodation and
- Who are not adequately housed in terms of size, suitability or affordability,
- But who do not meet the criteria for the reasonable preference groups

This will include households who are 1 bedroom short of the bedroom standard – see overcrowding - Section 10.7.8

### **10.8.3 Homeless Applicants – not owed the main housing duty**

Homeless applicants fall into the reasonable preference group but Local Authorities may distinguish between groups of homeless applicants when determining whom they prioritise within their housing allocation scheme.

Thurrock Council has decided to make a distinction between those homeless people who are owed the main housing duty under the Housing Act 1996 and those who are not.

This band applies to homeless applicants who do not meet all the criteria for the main housing duty i.e. they do not have priority need or who have been found intentionally homeless

## **10.9 Band 5 – No Housing Needs**

This band is for applicants with either no housing need, or those who cannot be made an offer because of current or former rent arrears or other outstanding housing related charges.

### **10.9.1 Adequately Housed**

Applicants who are adequately housed in their current accommodation

Where applicants are already housed in accommodation, which meets their needs, in terms of size, property type and affordability - then they will be deemed adequately housed, and will remain in this band.

If an applicant disputes this, they will need to provide information regarding the size and cost of their accommodation and any other applicable information to enable the assessing officer to make a decision.

In determining whether or not an applicant is adequately housed, the following will apply:

- Where an applicants' assessed bedroom requirement is larger than that afforded by their current accommodation, they are not adequately housed
- Where an applicant with children under 16 years lives in a flat or other property without a garden they are not adequately housed
- Where an applicant is in receipt of housing benefit that covers the full cost of their property rent, the applicant cannot argue that the property is inadequate on financial grounds since the rent is being fully covered by housing benefit.

### **10.9.2 Applicants with Rent Arrears and other charges**

#### **10.9.2.1 Current Rent Arrears**

Where applicants on the Housing Waiting List have current rent arrears they will usually be placed in this band until the arrears are cleared and a clear rent account is maintained for at least 3 months, or an arrangement with the Landlord has been agreed and kept to for at least 6 months, at which point they will be moved to the appropriate band for their circumstances.

#### **10.9.2.2 Former Rent Arrears**

Where an applicant owes money for rent on a former Private, Council or Registered Provider tenancy, and the debt has accrued within the past six years, then they will be placed in this band until the debt is cleared or an

arrangement has been made and kept to for at least 6 months, at which point they will be moved to the appropriate band for their circumstances.

### 10.9.2.3 Exceptional Circumstances

In exceptional circumstances – usually for cases meeting the criteria for a high priority - it may be necessary for an applicant to be placed in a higher band with arrears.

Applicants with a priority will still be expected to clear any current or former rent arrears before an offer is made although in exceptional circumstances it may be possible for an offer to be made where tenants do have arrears but these will be assessed on a case-by-case basis and the applicant will be expected to make a commitment to clear the arrears as soon as possible. (See section 6.5.2 and 6.5.3)

## Section 11 - Decisions and appeals

Applicants have the right to information about certain decisions, which are taken in respect of their application, and the right to review those decisions.

Thurrock Council must notify applicants in writing of the following decisions

- A decision that an applicant is not eligible to join the Housing Waiting list
- A decision that an applicant does not qualify for the Housing Waiting list

### 11.1 Appeal Procedure

- Stage 1 - Notification in writing

An applicant will be notified of the decision in writing.

The notification will give clear grounds for the decision and must be based on the relevant facts of the case.

Where a notification is sent to an applicant at the given contact address, but the applicant does not receive it, it can be treated as having been received if it was available at the Civic Offices for a reasonable period of time.

Where an applicant has difficulty in understanding the implications of a decision, the Council will make arrangements to advise the applicant verbally.

- Stage 2 - 21 Days to Appeal

The notification letter will advise the applicant that they have 21 days in which to appeal the decision and that the appeal should be in writing and whom it should be addressed to. The letter will also outline what information should accompany the request.

It will also be possible for a representative to submit an appeal on behalf of the applicant – for example the Citizens Advice Bureau or other agency.

The Council will use its discretion to allow an appeal outside of the 21 days in exceptional circumstances.

- Stage 3 - Reviewing Officer

An officer who is senior to the original decision maker will carry out the review of the decision.

The review will be considered based on the Allocation Scheme, legal requirements and all the relevant information.

Relevant information may include further information that was not available at the time of the original decision.

The reviewing officer will carry out the review and notify the applicant of the outcome within 30 working days of receipt of the appeal.

Any extension to the time limit and the reasons for it will be notified to the applicant.

- Stage 4 - Notification of the outcome

The notification of the outcome of the appeal will be in writing and will give clear grounds for the decision.

There will be no further right of appeal to the Council. Should an applicant's circumstances change, they will be able to make a fresh application but the onus will be on the applicant to outline the changed circumstances.

If the applicant remains dissatisfied with the outcome he may seek a judicial review or take the case to the Housing Ombudsman.

## **11.2 Right to request information on how priority is decided**

Applicants also have the right to request information on any decision about the facts of their case, which have been or are likely to be taken into account when deciding whether or not to make an allocation to that applicant.

## Section 12 - Supported Housing

### 12.1 Sheltered Housing

Sheltered housing is designed and built with the needs of older people in mind. Most of our sheltered housing schemes are made up of one-bedroom flats or bungalows, although there are a very limited number of two-bedroom properties.

Sheltered housing enables people to live in their own property with the security of a sheltered housing officer in case any assistance is needed. Each property has an alarm system that can be activated to allow the tenant to speak to the sheltered housing officer (or to Care Line if the sheltered housing officer is not on duty). The sheltered housing officer also makes a courtesy call to every tenant each morning and is there to provide support.

Most sheltered housing schemes have communal halls where activities take place daily, so there are opportunities to socialise with others.

In order to be eligible for these schemes applicants must meet all of the following criteria

- 60 years and over or aged 55 to 59 years and in receipt of Higher Rate Disability Living Allowance (Mobility or Care element)
- Single or joint applicants with no children
- In need of the housing support provided by the scheme

Applicants for this type of housing will need to complete a Sheltered Self-Assessment form indicating the type of support that is required, and provide evidence of their Disability Living Allowance where appropriate.

Exceptionally, it may be possible to allocate a sheltered property to an applicant below the age range described above, but this is usually due to a severe disability. The Council's Re-Housing panel will agree such a move.

### 12.2 Community Alarm properties

These properties tend not to be in schemes and provide a lower level of support. They offer a community alarm service but do not have a specified Sheltered Housing Officer.

In order to be eligible for these properties applicants must meet all of the following criteria

- 60 years and over OR a person with a physical or sensory disability, or other vulnerability
- Single or joint applicants with no children
- In need of the housing support provided by the scheme

Applicants for this type of housing will need to complete a Sheltered Self-assessment form indicating the type of support that is required.

Where there is some doubt as to the suitability of the applicant for this type of accommodation, further information may be required. The case may be discussed with a panel consisting of the Sheltered Housing manager, *Thurrock Choice Homes* manager and Supporting People manager.

### **12.3 Extra Care Housing**

Extra Care housing is allocated outside of the Choice Based lettings process. A separate eligibility criteria and process applies. This is found at Annex 3

## **Section 13 – Relationship Breakdown**

### **13.1 End of joint tenancy**

If a Local Authority receives a valid Notice to Quit (NTQ) signed by a tenant, this will end the tenancy when the four-week notice period expires. In the case of a joint tenancy this will end the tenancy for both parties.

Where a joint tenancy is due to be terminated, but the partner of the outgoing tenant wishes to remain in the property, Thurrock Council will consider whether to grant a new sole tenancy to the remaining occupier. A new tenancy will not be granted unless the following conditions are met:

1. The joint tenancy was conducted satisfactorily (see section 2.3.2)
  2. All outstanding housing related debts are cleared i.e. rent and recharges
  3. The accommodation is of a suitable size for the remaining household – in line with the bedroom standard
  4. The tenant giving notice has not left because of Domestic Abuse carried out by the remaining joint tenant
- If all the conditions are satisfied, the remaining party will be offered a sole tenancy to run consecutively to the joint tenancy.
  - Where conditions 1, 2 and 4 are satisfied i.e. the accommodation is larger than the assessed bedroom need, the remaining party will normally be offered a priority for alternative accommodation in line with their assessed bedroom need. The remaining party will be asked to complete a Housing Waiting list application and Band 2 – change of tenancy priority will be awarded. Where this is the case, 'Use and Occupation' charges will be set up for the period between the termination of the tenancy (i.e. four weeks from the date of the NTQ) and a new tenancy at the alternative accommodation.

- Where conditions 1, 3 and 4 are met i.e. there are housing related debts, the remaining party may be offered the tenancy provided they reach an agreement to repay the outstanding arrears

In all other circumstances the remaining party will not be awarded the tenancy or a priority on the Housing Waiting List and may need to seek assistance through the homeless route, since the Council is likely to issue possession proceedings.

Thurrock Council will aim to treat all such cases involving relationship breakdown, in a reasonable way with due regard to the proportionality of action that might be taken.

The Area Housing Manager will initially take decisions, but there is a right of appeal. Any appeals relating to decisions taken will be referred to the Housing Management Panel, which is a Member/Officer forum.

All decisions will be notified to the applicant in writing.

### **13.2 Joint tenants requiring two properties**

Where a relationship breakdown involves joint tenants who wish to move to separate one-bedroom properties and a larger property (2 or more bedrooms) would be vacated, a priority may be awarded to both parties. Both tenants must be eligible to join the Housing Waiting List and will be awarded a Band 2 priority on that list.

When the first tenant is offered and accepts a tenancy he/she will have to give notice on the current tenancy. This will end the tenancy on behalf of both parties.

The second tenant will be able to remain in the property until an offer of accommodation is made to him/her but this will be on the basis of use and occupation only – there will be no further tenancy.

Should the second tenant not bid for available properties within 3 months of the ending of the tenancy, Thurrock Choice Home's officers may bid on their behalf and make an offer of suitable accommodation.

Should the applicant refuse a suitable offer, Thurrock Council may start eviction proceedings against the applicant.

If the remaining tenant subsequently requests to remain in the current property the criteria in section 13.1 will apply.

## **Section 14 - Direct Offers**

It may be necessary to make a direct offer of a property outside of the Thurrock Choice Homes scheme i.e. a property will be identified for a specific



applicant and offered to them without being advertised through the bidding process.

Thurrock Council wishes to remain transparent and fair in all its lettings but there are occasions when properties need to be let outside of the usual procedures.

It is envisaged that the number of such moves will be a minority of the total available properties however, this will be dependent on the number of cases being identified and may vary from year to year.

Where properties are let via a direct offer, these will not be advertised, and the results will not be published, in the same manner as other properties. This is due to the nature of the cases requiring such moves and the need for confidentiality in many of those cases. However, the numbers of properties let in this manner will be made available in annual statistics to be produced.

Direct lets will be used in, but not limited to, the following Circumstances:

#### **14.1 Priority cases with a risk of harm or delayed discharge from hospital**

Where a priority is awarded for circumstances where the applicant is at risk of harm if not moved immediately, or is a delayed discharge in hospital and due to the urgency of the need to move, applicants will be made a direct offer of suitable accommodation. This will speed up the moving process enabling a faster solution to the urgent housing need.

The accommodation offered would be whatever is available at the time when it is required but subject to suitability criteria discussed in section 10.2.1.

Once re-housed applicants may choose to register a transfer application and this will be awarded the date of the original application to recognise the fact that direct offers remove the choice element for applicants.

#### **14.2 Management Moves and Temporary Decants**

It may be necessary for Thurrock Council and other Registered Provider tenants to move to alternative accommodation for safety or other management reasons. This includes but is not limited to the following reasons:

- Where the current property has been damaged by fire or flood
- Where there are urgent remedial works required on the current property that cannot be carried out whilst the applicants remain in residence
- Where there are neighbour issues that cannot be resolved and require one party to move to an alternative property
- Where a sole tenant is the victim of domestic abuse

Registered Providers will be expected to deal with their own management moves wherever possible, however where they do not have sufficient resources to meet the housing needs of their tenant it may be necessary for the Council to assist with a management move. In such cases it would be expected that the Registered Provider offer back the void property to the Council for a further nomination.

Requests for a management move are assessed by a re-housing panel after consideration of supporting information.

A direct offer of alternative accommodation will be made to the tenant(s) and the accommodation offered would be whatever is available at the time when it is required.

Tenants will only be offered a property of the same type that they currently occupy but subject to their current assessed bedroom need.

Applicants who are decanting to allow repairs etc. will be able to move back into the original property once any repairs are carried out. However, it may be possible for them to remain in the new property if this is their preference.

Once re-housed tenants may choose to register a further transfer application and this will be awarded the date of the original transfer application if appropriate.

#### **14.2.1. Rent Arrears and Management Moves/Temporary Decants**

Where a management move or temporary decant is agreed by the Re-Housing Panel, the usual rules regarding rent arrears may be bypassed. The decision to bypass the rule will be made by the Landlord Services & Strategic Commissioning Manager or the Head of Housing Services in his/her absence, having considered all the circumstances of the case.

### **14.3 Ex-wardens properties**

Ex-wardens properties within sheltered scheme, and other previously tied accommodation, may also be offered directly to households due to the location of such properties and need for sensitive lettings.

In such cases an under-occupation of up to one bedroom will be allowed. The criteria to be met by applicants for these properties are

Applicants must meet the age criteria for sheltered housing  
Other household members must be aged over 18 years

Applicants may be advised that they will not be entitled to certain privileges afforded to other secure tenancies, such as the right to buy, or to mutually exchange other than to applicants who meet the same criteria.

All such lets will need to be authorised by the Housing Needs manager and will be subject to sufficient evidence being provided by the *Thurrock Choice Homes* team. In some cases e.g. where there is more than one suitable applicant for a property, a panel of housing managers will meet to discuss the most appropriate offer, based on the evidence provided.

#### **14.4 Extra Care properties**

Extra Care properties will always be offered via a direct offer in line with the allocation criteria – see annex 4 - and will not be counted in the annual total of direct offers.

The financial assessment of qualification for the Housing Waiting List will differ for extra care housing to reflect the higher costs of extra care – see section 3.2.3.1.

#### **14.5 Court order**

Where a Court orders the Council to offer an applicant a specific property, a direct offer of that property will be made to comply with the Court Order.

#### **14.6 Multi Agency Public Protection Agreements (MAPPA)**

Applicants subject to MAPPA restrictions and in need of housing will not automatically be awarded a priority for Council accommodation and other options will be considered.

However there will be circumstances where the MAPPA group recommends that an applicant be housed in Council accommodation. In such circumstances the group will make recommendations on the best location of a property and when a suitable property is identified a direct offer will be made to the applicant, subject to suitability checks by the police etc.

#### **14.7 Homeless Households**

Homeless applicants, who have been awarded a priority under section 10.7.1, (Homeless applicants owed the main housing duty) will be given 4 weeks to bid for suitable properties. If the homeless applicant fails to bid for suitable properties within the priority time limit, the Thurrock Choice Homes team may make a direct offer of suitable accommodation in order to meet its statutory duty and to minimise the use of temporary accommodation.

#### **14.8 Applicants living in housing with severe hazards**

Applicants, who have been awarded a priority under section 10.7.7 because their current accommodation has severe hazards, will be given 4 weeks to bid for suitable properties. If the applicant fails to bid for suitable properties within the priority time limit, the Thurrock Choice Homes team may make a direct offer of suitable accommodation.

## **14.9 Properties identified as suitable for supported housing**

Properties may be identified for use as supported housing and made available to other departments within the Council. For example: a property may be offered to Social Services to assist with the decanting of people from unnecessary residential care placements into supported accommodation.

## **Section 15 – Exemptions from Part VI Housing Act 1996**

### **15.1 Mutual Exchanges and Transfer of tenancies**

A separate eligibility criteria and process applies. This is found at Annex 5

### **15.2 Succession to a Tenancy**

A separate eligibility criteria and process applies. This is found at Annex 6

## **Section 16 – Reviewing the Allocation Scheme**

Thurrock Council will continually review this Allocations scheme and may make amendments to reflect changes in legislation, Codes of Guidance or working practices.

In accordance with legislation, where any significant changes are to be made, the Council will carry out a wider consultation with the Local Registered Providers with whom it has nomination rights and an Equality Impact Assessment.

If the changes would affect a large number of people, a more extensive consultation with a wide range of partners, applicants and tenants would be undertaken.

## Annexes

### Annex 1 – Bedroom Entitlement

Bedroom requirement is based on the Bedroom Standard and will be determined on a case-by-case basis by checking the household make-up against the Bedroom standard.

The standard works out the number of bedrooms required by pairing up members of the household. Any household member left over will be entitled to another bedroom.

Household Members	Bedroom Entitlement
Married or Co-Habiting Couple	1 bedroom
Adult Aged over 21 years	1 bedroom
Pair of adolescents aged 10 – 20 years – same sex	1 bedroom
Pair of children under 10 years regardless of sex	1 bedroom
Adolescent aged 10 – 20 years and child under 10 years – same sex	1 bedroom

Where a member of the household is pregnant, the new baby will count as a household member once the pregnancy has reached 28 weeks - evidence of pregnancy will be required

Married or co-habiting couples will only be entitled to a bedroom each where there is medical evidence for this need. People will only be entitled to an extra bedroom for medical equipment or carers in exceptional circumstances. This will be verified by the Councils medical/adaptation service and may require independent medical advice.

Where a 3 bedroom house has an extra room downstairs (parlour type property), which is safe for use as a bedroom, this will be offered as a 4 bed roomed property

Where a 4 bedroom house has an extra room downstairs (“parlour type property”), which is safe for use as a bedroom, this will be offered as a 5 bed roomed property

Couples down-sizing from a 3 or 4 bedroom house will be eligible to bid for a two bedroom bungalow or flat even though their assessed need is only for 1 bedroom – they will be entitled to the appropriate priority for the under-occupation

Households who do not fit into any of the categories above will be advised of their bedroom entitlement upon registration.

## Annex 2 – Summary of Priorities

Band 1	How assessed	Criteria	Bidding Restrictions	Property type restrictions
Violence or threats of violence (including domestic violence and sexual violence)	Decision made by the Re-Housing panel following investigation	Violence or threats of violence established and recommendation made in conjunction with police and/or other agencies at a senior level	No bidding – direct offer made	Applicants will be offered a suitable property appropriate to assessed bedroom entitlement and outside of danger areas
Permanent Decants	Director or Head of Housing to identify properties to be decanted due to refurbishment or demolition	Properties needing demolition or major refurbishment where the tenant cannot continue to reside	Either 6 weeks or 3 months - Time limit determined by urgency of decant - monitored by TCH team	Applicants are restricted to moving to a suitable property type but appropriate to assessed bedroom entitlement
Band 2	How assessed	Criteria	Bidding Restrictions	Property type restrictions
Cumulative Need	TCH team to identify two or more priorities which have been awarded. Housing Needs manager to award priority	Applicants must meet the criteria for the two or more priorities in the usual way	1 year – after which the priority will be removed	Applicants are restricted to moving to a property type which meets the entitlement of both priorities
Armed Forces	TCH team to identify initial priority awarded and connection to the armed forces as per the criteria. Housing Needs manager to award priority	Applicants must be eligible for a priority and qualify as a member, former member or spouse/civil partner of a deceased member of the armed forces	1 year – after which the priority will be removed	Applicants are restricted to moving to a property type which meets their assessed need
Delayed hospital discharges	Hospital discharge team to identify patient and time ready for discharge - TCH team to investigate	Applicants current accommodation must be shown to be inadequate and the hospital need to provide a discharge date when applicant is medically fit	No bidding – direct offer made	Applicants will be offered a suitable property appropriate to assessed bedroom
Medical - Priority 1	Assessed through the medical priority service	This priority will only be awarded to the most urgent of cases	1 year – after which the priority will be removed	Applicants may be restricted to bidding for a property type recommended by the health Advisor
Carers - Priority 1	As per the medical framework procedure - by the Private medical service manager upon recommendation made by social care or other agency	Where daily care is required with a level of personal care and dependence such that if the care were not provided by the carer then it would need to be provided by formal carers via Social Care or the Health Authority	1 year – after which the priority will be removed	The priority can be awarded to the carer or the care receiver – care receivers may be restricted to bidding for a property type recommended by the health Advisor.

Housing Adaptation Panel (HAP) Priority	HAP panel meets to discuss case and advises if adaptations are not going to be made	Priority awarded following full investigation by HAP panel taking into account the physical and financial issues of carrying out the recommended works	1 year – after which the priority will be removed	Applicants can only bid for the property type which will meet their medical needs
Under -occupation by more than 1 bedroom	Assessment & registration team assess at point of registration and identify to TCH team to investigate records	Applicants currently under-occupying	No time restriction <b>except where applicants are in receipt of DHP and then reviewed at 6 months</b>	Applicants are restricted to a smaller property which meets their assessed property entitlement
Retiring Thurrock Council Resident staff	Assessment & registration team assess at point of registration and identify to TCH team to investigate records	Where an applicant is leaving a Thurrock Council job that involves tied accommodation and the property is required for a new member of staff	3 months bidding priority - monitored by TCH team	No restriction
Succession to a tenancy that is under-occupied	Priority awarded through Change of tenancy procedure	Current property is too large to meet the applicants assessed property entitlement	No time restriction	Applicants are restricted to a smaller property which meets their assessed property entitlement
Domestic Abuse and Sexual Violence	Decision made by Re-Housing panel following investigation of case	It must be determined that an urgent move to alternative accommodation is in the best interests of the applicant	4 weeks bidding priority - monitored by TCH then a direct offer will be made	Applicants will be offered a suitable property appropriate to assessed bedroom outside of any danger area
Change of tenancy	Priority awarded through Change of tenancy procedure	Applicants are not eligible for succession or property is too large or discretion used to allow a move from an under-occupied property	1 year – after which the priority will be removed	Applicants are restricted to a smaller property which meets their assessed property entitlement
<b>Band 3</b>	<b>How assessed</b>	<b>Criteria</b>	<b>Bidding Restrictions</b>	<b>Property type restrictions</b>
Homeless applicants	Homeless officer will determine duty and advise applicant via s184 letter	Homelessness duty accepted under s 193 or s195 Housing Act 1996	4 weeks bidding priority - monitored by homeless officer then a direct offer will be made	No restriction
Medical - Priority 2	As per the medical framework procedure - by the Health Advisor	Where quality of life is compromised but applicant does not meet the criteria for medical 1 priority	1 year – after which the priority will be removed	Applicants may be restricted to bidding for a property type recommended by the health Advisor
Carers - Priority 2	As per the medical framework procedure - by the Private medical service manager upon recommendation made by social care	Where regular care is required for someone who cannot care for him/herself within the home - the priority can be awarded to the carer or the person cared for	1 year – after which the priority will be removed	The priority can be awarded to the carer or the care receiver – care receivers may be restricted to bidding for a property type recommended by the health Advisor.

Care Leavers - move on	TCH Manager in conjunction with leaving & after-care team	Applicant must be a looked after child who is ready to live independently with on-going support from leaving & after care team	1 year – after which the priority will be removed	No restriction
Supported housing - move on	Report received from supported housing scheme manager advising applicant is ready for independent living - assessed by TCH team	Applicant must have completed a reasonable period of time in the supported housing during which time he/she will have participated in the required training etc	1 year – after which the priority will be removed	No restriction
Court Order	Copy of Court Order received - checked by TCH team	Criteria is dependent on particular Court Order	No time restriction	No restriction unless ordered by the Court
Properties with severe Housing Hazards	Report provided by Housing Environmental Health officer identifying the hazards	Property has category 1 or 2 hazards as identified by qualified officer	4 weeks bidding priority - monitored by TCH then a direct offer will be made	No restriction
Overcrowding	Local area officer / environmental health officer to visit and carry out calculations and to provide results to TCH team	Priority will be awarded where the household is 2 or more bedrooms short of the Bedroom Standard	1 year – after which the priority will be removed	No restriction
Welfare grounds	Decision made by Re-Housing panel following investigation of case	Full investigation of case in conjunction with other agencies such as police, health professionals, social care and support agencies	1 year – after which the priority will be removed	Applicants may be restricted to moving to a property type which meets their needs according to the particular circumstances
Transfer within sheltered housing to lower floor	Assessment made by the housing Occupational therapist in conjunction with the sheltered housing officer and medical information	Applicants to show why they can no longer manage the first floor accommodation - if a more urgent move is required medical priority to be considered instead	1 year – after which the priority may be removed	Applicants are restricted to moving to a ground floor property within the same scheme or another close by
Under-occupation by 1 bedroom	Assessment & registration team assess at point of registration and identify to TCH team to investigate	Applicants currently under-occupying by 1 bedroom	No time restriction <b>except where applicants are in receipt of DHP and then reviewed at 6 months</b>	Applicants are restricted to a smaller property which meets their assessed property entitlement
<b>Band 4</b>	<b>How assessed</b>	<b>Criteria</b>	<b>Bidding Restrictions</b>	<b>Property type restrictions</b>
Applicants who are adequately housed but who have been issued with a valid notice to quit	Registration team assess at the point of registration - by examination of appropriate documents	Valid notice to quit received	No time restriction	No restrictions - subject to property size entitlement



Applicants who are not adequately housed	Registration team assess at the point of registration - by examination of appropriate documents	Applicants are not adequately housed in terms of size or affordability of accommodation but do not meet the criteria for any other priority	No time restriction	No restrictions - subject to property size entitlement
Non-Statutory Homeless	Homeless officer will determine duty and advise applicant via s184 letter	Applicants who are homeless but do not meet the statutory criteria for a homeless duty	No time restriction	No restrictions - subject to property size entitlement
<b>Band 5</b>	<b>How assessed</b>	<b>Criteria</b>	<b>Time limit</b>	<b>Property type restrictions</b>
Applicants who are adequately housed	Registration team assess at point of registration	Applicants must be eligible and qualify to join the Housing Waiting list	No time restriction	No restrictions - subject to property size entitlement
Applicants with rent arrears on a current tenancy or a Council tenancy within the last 6 years	Registration team assess at point of registration	Applicants must be eligible to join the Housing Register	No time restriction	No restrictions - subject to property size entitlement

## Annex 3 – Extra Care Housing – Criteria and procedures

Extra Care housing is provided at a number of locations within Thurrock, including the Thurrock Council schemes at Piggs Corner and Kynoch Court, and the Hanover scheme at Elizabeth Gardens.

Housing and Care needs are met through the provision of personalised support within a safe environment.

The aim of Extra Care housing is to promote and improve the health, wellbeing, and quality of life of tenants.

It will enable people to retain their independence and remain in their own home for as long as possible through the provision of extra support and care.

Different levels of support required will be reflected in the cost of the care and support provided.

People applying to Extra Care housing must meet certain criteria; this will be assessed in accordance with the following and waiting lists of applicants will be maintained by Thurrock Council Housing department.

### Assessment of Housing Eligibility

People requiring extra care housing will need to apply to the Housing Service at Thurrock Council, where an initial housing application must be completed.

Where the applicant is already a Council tenant, a transfer application should be completed.

Applicants must meet the criteria laid out in the sections above.

If an applicant meets the housing eligibility, a further assessment is then carried out to determine eligibility for the care and support that extra care housing provides

### **Assessment for Eligibility of Care and Support Needs**

The assessment of an applicant's eligibility for the scheme is carried out by the Extra Care Allocations Panel – see below.

There are two elements:

1. Age is the initial qualifying criteria. Applicants must usually be aged 55 or over (any partner must be over 50 and living with the applicant), however in exceptional circumstances individuals below the age of 55 years with a long term disability may be considered. The decision to accept applicants under 55 will be made by the allocations panel and will be subject to any funding implications. Where the tenant has died any remaining partner will not need to meet the requirement to be aged over 55 years provided they have been living at the accommodation with the deceased partner.

2. Applicants will require assistance with their daily living tasks, and/or their personal care. This means that a person would require an assessed minimum need of seven hours care each week. This minimum will not be the overriding factor, particularly in the case of applicants with early stage dementia. Where an Applicant's current requirement for care and support is low or moderate but their potential to benefit from the facilities that extra care housing can offer them is high, and where the assessment indicates a likelihood of the Applicant having Critical or Substantial needs within the next 2 years, they will be considered eligible.

Care may be defined as formal - being delivered by a statutory agency – or informal by family or friends of the client. The needs of the care provider (if appropriate) will be considered in the assessment.

The level of care required will be assessed by Social Care according to the following criteria:

- **Critical**  
When you are in a life threatening situation or when you have significant health problems which could become life threatening.
- **Substantial**  
When you are unable to do most things for yourself, significantly affecting your basic personal care needs and are without help.

Applicants with issues that are considered to be critical or substantial will be eligible for council support and may be eligible for Extra Care Housing.

In certain circumstances applicants may be eligible for Extra Care Housing if their needs are within the following categories.

- **Moderate**  
When you cannot do a number of things for yourself and that stops you from taking part in work, education or getting out and about.
- **Low**  
When you are unable to do a few things and this affects your quality of life.

Applicants may currently be living in residential care or sheltered housing but may benefit from extra care. A more independent lifestyle may be facilitated for some, whereas the provision of regular overnight care or a continually supportive community will be key factors for others.

Residents may need flexibility in the provision of care services. Care plans will be compiled to reflect ways of meeting their needs in the scheme, to provide maximum independence, autonomy, dignity and choice for the individual.

The Extra Care Allocations Panel will consider the level of care required according to the Social Care assessment and determine whether or not the applicant should be placed on a waiting list for an available property.

### **The Extra Care Allocations Panel**

The Extra Care Allocations Panel will comprise of Local Authority officers and other partners from across the Housing, Social Care and Health services, as well as appropriate representatives from Hanover and the Care provider for Elizabeth Gardens. The Panel is a multi agency group made up of at least 4 of the following multi agency representatives:-

- Thurrock Council Extra Care Manager or representative (Chair)
- Thurrock Choice Homes Manager
- Social Care representative
- Member from the Community Mental Health Team
- Thurrock Council Sheltered Housing Manager
- Representative from Thurrock Council's housing adaptation team
- 2 x Representatives from Hanover Housing Association (Elizabeth Gardens scheme only)
- 2 x Representatives from the Care provider at Elizabeth Gardens (Elizabeth Gardens scheme only)

Whilst it is anticipated that all of the above may contribute to the assessment of cases, the decision on nominations to Hanover for Elizabeth Gardens will rest with the following:

- The Extra care manager from Thurrock Council or representative
- The Thurrock Choice Homes manager from Thurrock Council or representative
- 2 representatives from Hanover
- 2 Representatives from the Care Provider

The quorum for such decisions will be one representative from each of the parties – Thurrock Council, Hanover and the Care Provider. Should agreement by the parties not be reached, the final decision on allocation for Elizabeth Gardens will rest with Hanover Housing Association, acting reasonably and in accordance with the Nominations Agreement in order to avoid any unnecessary void loss.

Panel meetings will be held monthly or more frequently if required. Minutes will be kept up to date and distributed within 7 working days of the meeting taking place. Any issues arising from the minutes will be taken forward as 'matters arising' at the following meeting. Accuracy of the minutes will be agreed at the following meeting.

The Chair of the Panel will receive all administration relating to applicants for extra care accommodation. The Chair will collate the information for each application and make sure it is available for the next meeting of the Panel.

If there are occasions where a decision on a case needs to be made outside of the monthly meeting date e.g. in the case of an emergency placement due to homelessness of the applicant – the Panel can discuss and reach a decision via email conversation. However there must be at least 4 members of the Panel included in the decision making, and this is to include a representative from both Hanover and the Care Provider for the Elizabeth Gardens scheme.

### **The Referral Process**

The Chair of the Panel will receive referrals in writing from Social Workers and other referring agencies. This can be via email. The Chair will distribute the referrals for discussion at the appropriate Panel meeting. The Referrers will be expected to present their cases at the Panel meeting.

The Panel will be responsible for:

- Assessing the applicant's ability to manage in extra care accommodation
- Confirming the care package required
- Confirming the dependency level
- Monitoring care and support availability
- Deciding how to deal with complex applications
- Considering any other issues relating to health and wellbeing
- Considering any exceptional circumstances, e.g. homelessness or risk from abuse

- Reviewing the order of priority of the applicants on the waiting list according to their level of need and support.
- Reviewing / monitoring existing tenants regarding their level of need or any tenancy issues involving a significant level of care and support issues - tenancy issues of a predominately housing management nature will not be relevant to the Allocations Panel.

Decisions will be made on a consensus basis, with decisions not being incompatible with relevant advice of council officers on financial and / or compliance matters. Applicants who meet the criteria for a property will be placed on a waiting list maintained by the Thurrock Choice Homes team. The Panel will endeavour to enable applicants to enter extra care accommodation at an optimum time for them e.g. early stages of dementia; recovery from depression; when leaving hospital or in order to prevent an admission into care (which may be as a result of a longstanding physical or mental health condition, such as dementia).

### **Dependency Levels**

Residents living in extra care housing will usually have care and support needs related to social / health difficulties, including disability; frailty; dementia, cognitive impairment; mental ill health; learning disabilities. The Panel should endeavour wherever possible, to maintain a balanced community within the schemes.

It is recognized that tenants may need flexibility in the provision of care services and that tenant's care needs will change over time. This may involve movement from one level of care to another. The Panel will take account of any existing tenants and their care needs when assessing for future tenants in order to maintain a balance of dependency levels.

Existing tenants whose dementia worsens and those who develop symptoms of dementia will be supported within the scheme. If behaviour is severely challenging or anti-social and/or people become a danger to themselves or others, then a further multi-disciplinary assessment will be undertaken, including a risk assessment.

If a resident's care and support needs alter due to medical or cognitive impairment, such that they require very frequent or 24 hour nursing, beyond the level of the Community Nursing Service and their behaviour or condition means that their needs cannot be adequately/safely met in extra care accommodation, then all agencies will work to find suitable alternative accommodation and care for the resident, subject to the rights and responsibilities of both the tenant and the landlord under the tenancy agreement.

An applicant will not usually have, upon entering the scheme, or shortly after entering:

- A level of physical or mental frailty exceeding that which can reasonably be met within the scheme, and / or

- A level of physical or mental frailty which is likely to cause serious disruption or risk to other residents, including:
  - persistently intruding on others
  - physical or verbal aggression

### **Allocation of a Property**

When a vacancy is identified by the Landlord the Panel will nominate the most appropriate candidate, via Thurrock Choice Homes and in accordance with the timescales set down in the nominations agreement. It is anticipated that the Panel will be aware of impending voids so that suitable nominees are identified in advance of the property becoming available.

When allocating a particular property, the Panel will take into account the:

- The applicants preference for a particular scheme
- Why a particular floor is required e.g. ground floor for applicants with a phobia of lifts
- Why a particular flat is required e.g. flats close to communal facilities for applicants with poor mobility
- Why a flat with full disability provision is required

In the case of Elizabeth Gardens – the panel will endeavour to have at least six approved nominees with varying degrees of care and support needs at all times so as not to unduly cause delays in the re-letting process.

### **Refusal Policy and Procedure**

Nominees who refuse offers of accommodation for reasons not related to their housing and care/support needs **may** lose their position on the waiting list of Nominees. An offer of accommodation is where the Council or Housing Association has a vacant property and has contacted a Nominee to see if they want to be re-housed into the same.

- **Unreasonable Grounds for Refusal**  
Unreasonable refusals are those where the offer meets the Nominee's requirements as detailed in their application and their circumstances have not changed. This could include the following:
  - The Nominee does not yet want to move.
  - The Nominee has been offered a vacant dwelling at the Scheme, but having visited decides they do not want to live there.

All cases would be looked at on an individual basis by the Allocations Panel.

- **Reasonable Grounds for Refusal**  
Reasonable refusals are those where although the offer meets the Nominee's requirements as detailed in the application form, the Nominee's circumstances have changed. This would include the following:
  - The Nominee is in hospital or awaiting hospital treatment
  - The Nominee has recently suffered bereavement
  - The Nominee's current ill health.

Other reasonable grounds for refusal will be determined as necessary on a case by case basis by the Allocations Panel.

- Removal from the waiting list of applicants for Extra Care  
It is envisaged that removal from the waiting list for Extra Care will be extremely infrequent; however, where an applicant has been removed and their circumstances subsequently change, they may re-apply and will be assessed in the usual manner.

## **Complaints and Appeals**

If an application does not reach the Allocations Panel because the Council does not consider that the applicant meets the Housing and/ or care criteria for entry to the scheme, and the applicant is dissatisfied with this decision they can appeal to the Council and may have recourse to the Council's complaint procedures.

- The Appeals Process
  1. If an application reaches the Allocations Panel but is turned down following an Allocations Panel decision, the Allocations Panel will advise the applicant.
  2. If the applicant has insufficient needs to fulfil eligibility criteria, he/she will be advised to reapply when circumstances change.
  3. If the applicant is dissatisfied they may appeal in the first instance back to the Allocations Panel so that any additional information provided can be fully considered. The Allocations Panel may review the application and advise whether the earlier decision should be upheld or a different recommendation reached. Appeals might be against the refusal to give priority status, exclusion from the waiting list etc.
- Complaints Procedure  
If an application has reached the Allocations Panel, and the applicant is not satisfied with the way their application has been dealt, they can use the Council's complaints procedure to raise an issue. Such complaints might include applications that have gone missing, not been dealt with quickly enough etc.
- Distinction between Appeals and Complaints  
Appeals against specific decisions/outcomes will be made through the appeals process referred to above. Complaints about process may be dealt with under the Council's complaints procedure.

The two processes are not interchangeable. Decisions of the Allocations Panel can be challenged by appealing as indicated above, but the complaints procedure cannot be used to challenge these decisions unless the applicant considers and can demonstrate to the satisfaction of the parties that the process has also been open to challenge.

## Annex 4 - Mutual Exchanges and Transfers of Tenancies

Where two or more tenants wish to exchange their properties, the rules regarding their rights to do so and their subsequent tenancies will depend on the type of tenancy that they occupy.

Applicants will need to find their own exchange partner(s) and arrange to view properties. Having agreed to swap properties, each tenant should apply to their own landlord and prospective new landlord for permission to exchange.

**Thurrock Council secure tenants can only mutually exchange their property with another secure or assured tenant if they obtain permission from both landlords**

**Introductory tenants do not have the right to mutually exchange or transfer their tenancies.**

### A. Mutual Exchanges

This applies where both tenants have secure or assured tenancies that were issued before the introduction of the Localism Act 2011.

Section 92 of the Housing Act 1985 allows secure tenants to assign their tenancies by way of a mutual exchange, provided they have the consent of their landlord.

A mutual exchange happens when two or more tenants decide to swap tenancies. The tenancy includes all the rights and responsibilities that go with it.

The tenant(s) must hold a Secure (Council) or Assured (Registered Provider) tenancy and must obtain the permission of their landlord prior to the exchange. Council / Registered Provider tenants cannot mutually exchange with the tenant of a private landlord.

Applicants will need to find their own exchange partner and arrange to view properties. Having agreed to swap properties, each tenant should apply to their own landlord for permission to exchange.

**Thurrock Council will not give permission for an exchange of tenancies where the result would be an under occupation i.e. one or more bedrooms not in use.**

### Mutual Exchange procedure

**Thurrock Council tenants and prospective tenants will need to complete and return an application form for each landlord**



The landlord has a maximum of 6 weeks (42 days) in which to agree or refuse the exchange.

There are limited grounds upon which a Landlord can refuse. For a Council these are found in the Housing Act 1985 and are shown below. (Grounds for refusal)

Thurrock Council tenants will also be expected to pay any rent arrears or rectify any other breach of the tenancy agreement. Permission will be conditional upon doing so.

If there are no reasons why the exchange should be refused, Thurrock Council will contact their tenant to make appointments for the gas and electricity in the property to be checked. A Building Inspector will also visit and inspect the property and advise about any repairs that need to be done before the exchange can proceed.

The inspection is carried out because each property must be ready for the new tenant to move in to, without any outstanding repairs. Each tenant will be expected to accept their new home in its existing condition, and they may be asked to confirm this in writing.

Arrangements for the exchange should not be made until permission in writing is given. If two different landlords are involved, letters from both will be required.

Tenants should never accept any offer of a payment or inducement to carry out an exchange – this includes offers to pay off rent arrears – as this could lead to the exchange being refused and the loss of any monies paid.

### **Grounds for refusal**

There are very limited grounds upon which a landlord can refuse a mutual exchange. These are laid down in Schedule 3 of the Housing Act 1985.

#### **Ground 1**

The tenant or the proposed assignee is obliged to give up possession of the dwelling-house of which is the secure tenant in pursuance of an order of the court, or will be so obliged at a date specified in such an order.

#### **Ground 2**

Proceedings have been begun for possession of the dwelling-house of which the tenant or the proposed assignee is the secure tenant on one or more of grounds one to six in part one of Schedule two (grounds on which possession may be ordered despite absence of suitable alternative accommodation), or there has been served on the tenant or the proposed assignee a notice under

section 83 (Notice of Proceedings for Possession) which specifies one or more of those grounds and is still in force.

### Ground 3

The accommodation afforded by the dwelling-house is substantially more extensive than is reasonably required by the proposed assignee.

### Ground 4

The extent of the accommodation afforded by the dwelling-house is not reasonably suitable to the needs of the proposed assignee and his/her family.

### Ground 5

The dwelling house:

- a) forms part or is within the curtilage of a building which, or so much of it as is held by the landlord, is held mainly for purposes other than housing purposes and consists mainly of accommodation other than housing accommodation, or is situated in a cemetery, and
- b) was let to the tenant or predecessor in title of his/her in consequence of the tenant or predecessor being in the employment of:
  - the landlord
  - a local authority
  - a new town corporation
  - a housing action trust
  - the Development Board for Rural Wales
  - an urban development corporation, or
  - the governors of an aided school

### Ground 6

The landlord is a charity and the proposed assignee's occupation of the dwelling-house would conflict with the objects of the charity.

### Ground 7

The dwelling-house has features which are substantially different from those of an ordinary dwelling-house and which are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling-house and if the assignment were made there would no longer be such a person residing in the dwelling-house.

### Ground 8

The landlord is a Housing Association or Housing Trust which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially

difficult for them to satisfy their need for housing and if the assignment were made there would no longer be such a person residing in the dwelling-house.

#### Ground 9

The dwelling-house is one of a group of dwelling-houses which is the practice of the landlord to let for occupation by persons with special need and a social service or special facility is provided in close proximity to the group of dwelling-houses in order to assist persons with those special needs and if the assignment were made there would no longer be a person with those special needs residing in the dwelling-house.

#### Ground 10

The dwelling-house is the subject of a management agreement under which the manager is a Housing Association of which at least half the members of the association, and the proposed assignee is not, and is not willing to become, a member of the association.

### **Assignment of the tenancy**

Once a mutual exchange has been agreed by all the landlords involved, the outgoing tenant (assignor) and the incoming tenant (assignee) will need to arrange to come into the Civic Offices to sign the Deed of Assignment. This is a legally binding document that confers all the rights and responsibilities of the property onto the new assignee.

### **B. Transfer of Tenancies**

This applies when there are tenancies issued after the Localism Act 2011 involved - where

One tenant has a secure or assured tenancy that is not a flexible tenancy

AND

The other tenant has a flexible tenancy

AND

Any other tenants (where applicable) within the chain have either a secure, assured or flexible tenancy

AND

At least one of the secure or assured non-flexible tenancies was granted prior to the day that the provisions of the Localism Act 2012 on Mutual exchanges came into force

AND

None of the landlords has refused to comply with the request to exchange.

**Thurrock Council will not give permission for a transfer of tenancies where the result would be an under occupation i.e. one or more bedrooms not in use.**

## **Grounds for refusal**

Under s 158 Localism Act 2011 a Landlord may refuse to comply with the request only on one of the grounds set out in schedule 14 of the Act as follows:-

### **Ground 1**

Any rent lawfully due from a tenant under one of the existing tenancies has not been paid

### **Ground 2**

An obligation under one of the existing tenancies has been broken or not performed

### **Ground 3**

Any of the relevant tenants is subject to an order of the court for possession of the dwelling house let on that tenant's existing tenancy

### **Ground 4**

Either of the following two conditions is met.

#### **Condition one –**

Proceedings have begun for possession of a dwelling-house let on an existing tenancy which is a secure tenancy, and Possession is sought on one or more of grounds 1 to 6 in Part 1 of Schedule 2 to the Housing Act 1985 (grounds on which possession may be ordered despite absence of suitable accommodation).

#### **Condition two -**

A notice has been served on a relevant tenant under section 83 of that Act (notice of proceedings for possession), and The notice specifies one or more of those grounds and is still in force

### **Ground 5**

Either of the following conditions is met.

#### **Condition one –**

Proceedings have begun for possession of a dwelling-house let on an existing tenancy which is an assured tenancy, and Possession is sought on one or more of the grounds in Part 2 of Schedule 2 to the Housing Act 1988 (grounds on which the court may order possession)

#### **Condition two –**

A notice has been served on a relevant tenant under section 8 of that Act (notice of proceedings for possession), and The notice specifies one or more of those grounds and is still in force

### **Ground 6**

Either of the following conditions is met.

#### **Condition one –**

A relevant order or suspended Ground 2 or 14 possession order is in force in respect of a relevant tenant or a person residing with a relevant tenant.

Condition two –

An application is pending before any court for a relevant order, a demotion order or a Ground 2 or 14 possession order to be made in respect of a relevant tenant or a person residing with a relevant tenant

Relevant order” means—

an injunction under section 152 of the Housing Act 1996 (injunctions against anti-social behaviour) or  
an injunction to which a power of arrest is attached by virtue of section 153 of that Act (other injunctions against anti-social behaviour),  
an injunction under section 153A, 153B or 153D of that Act (injunctions against anti-social behaviour on application of certain social landlords)  
an anti-social behaviour order under section 1 of the Crime and Disorder Act 1998, or  
an injunction to which a power of arrest is attached by virtue of section 91 of the Anti-social Behaviour Act 2003;

Demotion order means

a demotion order under section 82A of the Housing Act 1985 or section 6A of the Housing Act 1988;

Ground 2 or 14 possession order means

an order for possession under Ground 2 in Schedule 2 to the Housing Act 1985 or Ground 14 in Schedule 2 to the Housing Act 1988.

Ground 7

The accommodation afforded by the dwelling house proposed to be let on the new tenancy is substantially more extensive than is reasonably required by the existing tenant or tenants to whom the tenancy is proposed to be granted

Ground 8

The extent of the accommodation afforded by the dwelling house proposed to be let on the new tenancy is not reasonably suitable to the needs of—

- (a) the existing tenant or tenants to whom the tenancy is proposed to be granted, and
- (b) the family of that tenant or those tenants.

Ground 9

The dwelling house proposed to be let on the new tenancy meets both of the following conditions.

Condition one –

The dwelling house

(a) Forms part of or is within the curtilage of a building that, or so much of it as is held by the landlord—

(i) Is held mainly for purposes other than housing purposes, and

(ii) Consists mainly of accommodation other than housing accommodation, or

(b) Is situated in a cemetery.

Condition two -

The dwelling-house was let to any tenant under the existing tenancy of that dwelling-house, or a predecessor in title of the tenant, in consequence of the tenant or the predecessor being in the employment of—

- (a) the landlord under the tenancy,
- (b) a local authority,
- (c) a development corporation,
- (d) a housing action trust,
- (e) an urban development corporation, or
- (f) the governors of an aided school

#### Ground 10

The landlord is a charity and the occupation of the dwelling-house proposed to be let on the new tenancy by the relevant tenant or tenants to whom the new tenancy is proposed to be granted would conflict with the objects of the charity.

#### Ground 11

Both of the following conditions are met.

##### Condition one

The dwelling-house proposed to be let on the new tenancy has features that—

- (a) Are substantially different from those of ordinary dwelling-houses, and
- (b) Are designed to make it suitable for occupation by a physically disabled person who requires accommodation of the kind provided by the dwelling house.

##### Condition two

If the new tenancy were granted there would no longer be such a person residing in the dwelling house

#### Ground 12

Both of the following conditions are met.

##### Condition one

The landlord is a housing association or housing trust which lets dwelling-houses only for occupation (alone or with others) by persons whose circumstances (other than merely financial circumstances) make it especially difficult for them to meet their need for housing.

##### Condition two

If the new tenancy were granted, there would no longer be such a person residing in the dwelling house proposed to be let on the new tenancy

#### Ground 13

All of the following conditions are met.

##### Condition one

The dwelling house proposed to be let on the new tenancy is one of a group of dwelling houses, which it is the practice of the landlord to let for occupation by persons with special needs.

##### Condition two

A social service or special facility is provided in close proximity to the group of dwelling houses to assist persons with those special needs.

#### Condition three

If the new tenancy were granted there would no longer be a person with those special needs residing in the dwelling house

#### Ground 14

All of the following conditions are met.

##### Condition one

- (a) The dwelling-house proposed to be let on the new tenancy is the subject of a management agreement under which the manager is a housing association, and
- (b) At least half the members of the association are tenants of dwelling houses subject to the agreement.

##### Condition two

At least half the tenants of the dwelling houses are members of the association.

##### Condition three

No relevant tenant to whom the new tenancy is proposed to be granted is, or is willing to become, a member of the association.

### **Procedure for requesting a Transfer of tenancies**

**Thurrock Council tenants and prospective tenants will need to complete and return an application form for each landlord**

The forms should be returned to the respective landlords upon completion.

The landlord has a maximum of 6 weeks (42 days) in which to agree or refuse the exchange.

If there are no reasons why the exchange should be refused, Thurrock Council will contact their tenant to make appointments for the gas and electricity in the property to be checked. A Building Inspector will also visit and inspect the property and advise about any repairs that need to be done before the exchange can proceed.

The inspection is carried out because each property must be ready for the new tenant to move in to, without any outstanding repairs. Each tenant will be expected to accept their new home in its existing condition, and they may be asked to confirm this in writing.

Arrangements for the exchange should not be made until permission in writing is given. If two different landlords are involved, letters from both will be required.

Tenants should never accept any offer of a payment or inducement to carry out an exchange – this includes offers to pay off rent arrears – as this could lead to the exchange being refused and the loss of any monies paid.

## **Signing new tenancies**

Once the transfer of tenancies has been agreed the old tenancies will be surrendered and new tenancies will be signed. There will not be an assignment of tenancies as is the case with mutual exchanges of tenancies that are both non-flexible secure or assured.

The type of new tenancy will depend on the status of the previous tenancy.

Where the previous tenancy was a non-flexible secure or assured tenancy that was not an assured short hold tenancy a new secure tenancy or assured tenancy will be signed – according to the landlords capacity to grant such a tenancy.

(Secondary legislation expected that will make an exception where the fixed tenancy is for a term of less than 2 years)

## **Housing Applications**

Once a mutual exchange or transfer of tenancies has taken place, any Transfer or Housing register application, belonging to either of the parties, will be cancelled.

A new transfer application can be completed by Thurrock tenants but this will not be backdated to any original application date.

## **Annex 5 – Succession to a Tenancy**

Succession to a secure tenancy is governed by Section 87 of the Housing Act 1985 (as amended by s86A of the Localism Act 2011) and the rights of the remaining residents will depend on a number of facts.

### **Joint Tenancy**

Where there is a joint tenancy and one of the tenants dies, Thurrock Council will grant the remaining joint tenant the sole tenancy of the property. This will count as a succession so that there can be no further right of succession to the tenancy.

### **Sole tenancy**

Where the tenant who dies was a sole tenant, any further succession will depend on whether or not that sole tenant was himself a successor.

#### **1. Previous succession**

Where there has been a previous succession there can be no further right to a succession – if the landlord grants a tenancy it will be a new tenancy and as



such will not benefit from the rights and responsibilities of the previous tenancy.

## 2. No previous succession

Where there has been no previous succession, the tenancy may be passed on to a 'qualified' successor. The rules regarding people qualified to succeed to the secure tenancy will depend on when the tenancy was granted.

- **Tenancy Granted prior to Localism Act 2011 provisions**

If the tenancy was granted before the Localism Act provisions came into force, then the people who would be qualified to succeed are either

The tenants spouse or registered civil partner who was occupying the property as his/her only or principal home at the time of the tenants death

OR

A member of the tenants family who was living in the property as their only or principal home at the time of the tenants death and during the twelve months leading up to the death.

If there is more than one person qualified to succeed on the death of the tenant, a spouse or civil partner will take precedence.

If there is no spouse or civil partner, but there is more than one family member who meets the conditions for succession, they should choose between them who will succeed to the tenancy.

There can only be succession to a sole tenancy - they would not jointly succeed to a joint tenancy. If they are unable to agree between themselves, the landlord is entitled to make a choice.

Definition of family member is provided in Section 113 of the act as follows:-

- i. A person with whom the tenant lived as if they were husband or wife, or if in a same sex relationship but not registered civil partners, lived together as if they were civil partners
- ii. The tenant's parent, grandparent, child, grandchild, brother, sister, uncle, aunt, nephew or niece
- iii. A relationship by marriage is treated as a relationship by blood
- iv. A relationship of the half blood is treated as a relationship of the whole blood
- v. The stepchild of a person is treated as his or her child
- vi. An illegitimate child is treated as the legitimate child of his mother and reputed father

- **Tenancy Granted after the Localism Act 2011 provisions**

Where the tenancy had been created after the implementation of the Localism Act provisions, there is no right for a family member to succeed to the tenancy unless there is an express term within the tenancy agreement that allows it.

S86A states

A person is qualified to succeed the secure tenancy if either:

- 1) That person occupies the dwelling house as their only or principal home at the time of the tenants death AND
- 2) That person is the tenant's spouse or civil partner.

Or:

- 1) There is no spouse or civil partner of the tenant living at the property as their only or principal home at the time of the tenants death AND
- 2) There is an express term in the tenancy agreement making provision for a person other than the spouse or civil partner to succeed AND
- 3) The persons' succession is in accordance with that provision.

### **Under-occupation of the property following succession**

If a family member other than a spouse or registered civil partner succeeds to the tenancy and this results in a substantial under occupation of the property, the Council has a discretionary power under Ground 16 of Schedule 2 of the Housing Act 1985 to repossess the property providing an offer of suitable alternative accommodation is made.

If this is the case, then possession proceedings must be commenced between six and twelve months following the succession. The successor must be advised of this at the outset and timescales must be adhered to. Although there is an intention to move the successor to another property more suitable to his/her needs, the tenancy that s/he has succeeded to is, nevertheless, secure.

In such cases the successor will be asked to complete a housing application and will join the Housing Waiting List.

A Band 2 priority will be awarded to their application to enable a move to an alternative suitable property.

### **Family member/s left in occupation where there is no legal right to succession**

Occasions will arise where a family member or members are left in occupation and there is no further right of succession. In certain circumstances, e.g. family members have occupied the property for a significant period of time

and they require that size accommodation, a decision may be made to grant a new tenancy of that property.

Alternatively, a decision may be taken to offer alternative accommodation suitable to the needs of the family member/s. In this case, 'Use and Occupation' charges will be set up for the period from the tenant's death.

In such cases the successor will be asked to complete an application to join the Housing Waiting List. A Band 2 priority will be awarded to the application to enable a move to an alternative suitable property.

### **People left in occupation, who do not meet the criteria above**

Family members and others, living at the property following the tenant's death, who do not qualify for any of the above, will not be awarded a priority for succession.

### **Procedure for determining succession or any subsequent priority**

A Housing Manager makes decisions, as part of the Change of Tenancy procedures in the first instance. The Housing Management Panel will make decisions in the case of an appeal.

### **Discretion**

The Housing Management Panel may use its discretion to allow a further tenancy where no statutory right exists in exceptional circumstances.