

## AGENDA ITEM NO.

| <b>ISLE OF ANGLESEY COUNTY COUNCIL</b>  |  |
|---|--|
| <b>Report to</b>  | <b>Executive Committee</b>   |
| <b>Date</b>   | <b>18 March 2013</b>   |
| <b>Subject</b>  | <b>Proposal to amend the housing Allocation Scheme, and to consult registered social landlords on proposed amendments.</b> |
| <b>Portfolio Holder(s)</b>  | <b>Councillor O. Glyn Jones</b>  |
| <b>Lead Officer(s)</b>  | <b>Shan L Williams, Head of Housing Services</b>   |
| <b>Contact Officer</b>  | <b>Shan L Williams</b>   |
| <b>Nature and reason for reporting</b>  |  |
| To report to the Executive Committee on:  |  |
| <ul style="list-style-type: none"><li>(1) a proposal to make immediate amendments to the Council's housing Allocations Policy for prioritising housing applications;</li><li>(2) a proposal to consult the Council's partner registered social landlords on further proposed amendments to the Allocation Policy;</li><li>(3) a proposal to conduct a review of the Allocation Policy, in conjunction with those registered social landlords.</li></ul> |  |

### **A – Introduction / Background / Issues**

This paper recommends that a number of amendments are made to the Council's Housing Allocation Policy, and that consultation with our partner registered social landlords is undertaken on further proposed amendments.

The Allocation Policy is the document which governs how the Council must act when prioritising applications for permanent social housing tenancies, and how properties are allocated, included those registered social landlord vacancies for which nominations are made from the Council's waiting list.

The statutory framework contained in Part 6 of the Housing Act 1996 provides the Council with considerable discretion on how to frame its allocation policy, albeit that

the legislation sets down certain minimum requirements. For example, the Council must afford certain categories of applicant, including homeless persons<sup>1</sup> and persons with other prescribed forms of need<sup>2</sup> some 'reasonable preference' for housing,<sup>3</sup> i.e. a "head start" in terms of priority on the waiting list.<sup>4</sup>

The allocations scheme also provides a means of terminating the substantive homelessness housing duty (or 'main housing duty'), owed to those homeless persons who are in priority need and became homeless unintentionally,<sup>5</sup> albeit that Part 6 of the 1996 Act is concerned with the allocation of *permanent* social housing, and not the duties to secure *temporary* accommodation for homeless persons, which is dealt with separately under Part 7 of the 1996 Act.

### **Issues precipitating a review of the Allocations Scheme**

The current version of the Allocation Policy took effect in July 2010. The Welsh Government recommends that allocation scheme policies are reviewed every two years.<sup>6</sup> A wholesale review is required, in consultation with our partners, to ensure the allocation system meets the Council's strategic objectives. It is proposed that this review should take place in 2012/13.

However, certain aspects of the Allocation Policy require urgent consideration, in light of recent developments, such as:

- changes in legislation governing equality and diversity, which have taken effect since the current version of the Allocation Policy was approved (see 'Equality duties' section below);
- the publication of revised statutory guidance<sup>7</sup> (see 'The new statutory guidance' section below);
- very poor performance relating to the average length of time taken to terminate the main housing duty<sup>8</sup> (see 'Discharge of homelessness duty performance' section below);
- the fact that the current policy on the choice offered to main duty homeless applicants is preventing the Council discharging that duty (see 'Policy on

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<sup>1</sup> Housing Act 1996, s.167(2)(a) and (b).

<sup>2</sup> Persons occupying insanitary or overcrowded housing (Housing Act 1996, s.167(2)(c)), people who need to move on medical or welfare grounds (HA 1996, s.167(2) (d)), and persons who need to move to a particular locality within the authority's district, where failure to meet that need would cause hardship (HA 1996, s.167(2)(e)).

<sup>3</sup> Housing Act 1996, s.167(2).

<sup>4</sup> *R (on the application of Ahmed) v Newham LBC* [2009] UKHL 14.

<sup>5</sup> Housing Act 1996, s.193.

<sup>6</sup> Code of Guidance for Local Authorities, Allocation of Accommodation and Homelessness 2012 (Welsh Government, August 2012), para 5.41.

<sup>7</sup> Code of Guidance for Local Authorities, Allocation of Accommodation and Homelessness 2012 (Welsh Government, August 2012).

<sup>8</sup> Housing Act 1996, s.193.

choice for homeless households' section below);

- imminent changes to the rules governing housing benefit entitlement that, together with other welfare reforms, shall adversely impact upon the ability of many tenants to afford accommodation, and in particular accommodation that is deemed to be larger than required by the housing benefit regulations (see 'Welfare benefit reform' below).

### **Legal requirements when amending a housing allocation scheme**

Before amending the Allocation Policy, the Council must:

- be aware of its responsibilities under the public sector equality duty;
- have regard to those matters listed in section 149 of the Equalities Act 2010;
- consider the potential effect of its decision on different persons covered by the public sector equality duty;<sup>9</sup>  
(see below at 'Equality duties')
- consider whether the proposed changes constitute 'a major change of policy'.<sup>10</sup>

Before effecting a 'major change of policy', the Council must:

- notify and consult with those registered social landlords with whom it has nomination arrangements, and provide them a reasonable opportunity to comment on the proposals;<sup>11</sup>
- in addition, consider whether to consult more widely, as recommended at para 4.45 of the statutory guidance.<sup>12</sup> (There is no statutory requirement to consult other persons or bodies).

The statutory guidance suggests that a major change of policy would include any amendment affecting the relative priority of a large number of people being considered for an allocation, and might include any significant alteration to allocation procedures.<sup>13</sup>

There are additional legal provisions with which an allocation scheme must comply.<sup>14</sup> These shall continue to be met if the proposed amendments are approved.

<sup>9</sup> *FAQs on the equality duty: What public authorities need to do on assessing impact on equality under the general equality duty*, ECHR website, August 2012.

<sup>10</sup> Housing Act 1996, s.167(7) [Wales].

<sup>11</sup> Housing Act 1996, s.167(7) [Wales].

<sup>12</sup> *Code of Guidance for Local Authorities, Allocation of Accommodation and Homelessness 2012* (Welsh Government, August 2012).

<sup>13</sup> *Code of Guidance for Local Authorities, Allocation of Accommodation and Homelessness 2012* (Welsh Government, August 2012), para 5.17.

<sup>14</sup> Such as the requirement to demonstrate that reasonable preference has been given to certain categories (HA 1996, s.167), the duty to include a statement on the policy offering choice to applicants (HA 1996, s.167(1A) [Wales]), and those rights set out at HA 1996, s.167(4A)).

Having implemented a 'major change of policy', the Council must take such steps it considers reasonable to bring the effects of the change to the attention of those persons likely to be affected by it.<sup>15</sup>

### **Equality duties**

In 2011 public authorities became subject to additional duties concerned with anti-discrimination.<sup>16</sup> Local authorities must ensure that their allocations policy does not discriminate, directly or indirectly, on the grounds of a 'protected characteristic'. The protected characteristics for this purpose are age, disability, gender, gender reassignment, pregnancy and maternity, race, religion, and sexual orientation.<sup>17</sup>

Section 149 of the Equality Act 2010 provides that, when exercising a public function (which includes the allocation of housing) the Council must, inter alia, have due regard to the need to eliminate discrimination, and advance equality of opportunity between persons who have a protected characteristic and persons who do not have such a characteristic. The statutory guidance recommends that, in addition, authorities should be particularly sensitive to the housing needs of refugees, gypsies and travelers, people with disabilities, older persons, and persons with mental health problems.<sup>18</sup>

There is a requirement that the Council's Allocation Policy gives effect to the new equality duties, both as a statement of policy, and in the manner decision-making on individual applications for housing is governed.

The public sector equality duties replace those duties formerly included in the various equality statutes.<sup>19</sup> Incorporating the public sector equality duties in the Allocation Policy shall not, in the vast majority of cases, affect the relative priority of applicants, affect the likelihood of an allocation being made, or otherwise result in different decisions being made on individual cases. Not least, because the former equality duties, with which the Council complied, also sought to address inequalities arising from discrimination, and to further equality of opportunity. Having regard to the aforementioned factors, it is not considered that the proposed amendments constitute a major change of policy. Accordingly, the Council may proceed to amend the policy without consulting its partners.

The proposed amendment gives effect to a legal requirement, and as such it may be adopted immediately. The proposed amendments are set out at paras 1.3 to 1.3D of the attached *Draft Housing Allocation Policy (Version 1)*.

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<sup>15</sup> Housing Act 1996, s.168(3).

<sup>16</sup> Equality Act 2010 (Commencement No. 6) Order 2011 No.1066, which brought Equality Act 2010, s.149 into effect, from 5 April 2011.

<sup>17</sup> Equality Act 2010, s.149(7).

<sup>18</sup> *Code of Guidance for Local Authorities, Allocation of Accommodation and Homelessness 2012* (Welsh Government, August 2012), paras 4.69 – 4.102.

<sup>19</sup> The Sex Discrimination Act 1975, the Race Relations Act 1976 and the Disability Discrimination Act 1995.

### **The new statutory guidance**

In August 2012 the Government published revised statutory guidance (the “Code of Guidance”),<sup>20</sup> which replaced guidance issued in 2003.

The Council is obliged to have regard to the Code, when exercising its functions in connection with housing allocation.<sup>21</sup> The policy therefore needs to be expressly amended to demonstrate that the current version of the guidance has been taken into account. This shall mitigate the risk of the lawfulness of the current policy and decisions made under it being challenged.

There are few substantive differences between the current and previous Code as regards the allocation of accommodation. Amending the allocation scheme, so that references to the previous Code are replaced with the current Code, does not constitute a major change of policy. The Council may therefore proceed to amend the policy without undergoing consultation.

The proposed amendment gives effect to a legal requirement, and as such it may be adopted immediately. The proposed amendments are set out in the introduction of the attached *Draft Housing Allocation Policy (Version 1)*.

### **Discharge of homelessness duty performance**

Of those persons who apply for housing on grounds of homelessness under Part 7 of the 1996 Act, the Council owes an ongoing duty to secure temporary accommodation (the ‘main housing duty’) only to those applicants who the Council accept have become homeless unintentionally, have a priority need,<sup>22</sup> and have a local connection.<sup>23</sup>

The Council’s performance relating to the time taken to terminate the main duty is very poor, when compared to other Welsh authorities. The average time taken to discharge the main housing duty to those persons found to be unintentionally homeless and in priority need (HHA/002) was 680 days in 2011/12, compared with a Welsh average of 128 days. The average number of days homeless households spent in non-bed & breakfast accommodation (HHA/017b) was 1199 days in 2011/12, compared with a Welsh average of 136 days.

Not only is the Council the worst performer in Wales as regards the length of time taken to discharge the homelessness duty, but its performance falls far outside what was achieved by the other poorly performing authorities. The next poorest performer on the HHA/002 measure took an average of 337 days to discharge the main duty,

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<sup>20</sup> Code of Guidance for Local Authorities, Allocation of Accommodation and Homelessness 2012 (Welsh Government, August 2012).

<sup>21</sup> Housing Act 1996, s.169.

<sup>22</sup> Housing Act 1996, s.193.

<sup>23</sup> Or, put more accurately, those unintentionally homeless persons who have a priority need, for whom the local connection referral conditions set out in Housing Act 1996 s.198, are not satisfied, and those applicants where the Council has not exercised the power to refer to another authority.

making Anglesey's performance (680 days) equivalent to 355% of the next poorest performer. The next poorest performer on the HHA/017b measure accommodated all main duty homeless households in non-bed and breakfast accommodation for an average of 210 days, making Anglesey's performance (1,199 days) equivalent to 324% of the next poorest performer.

When adopted in July 2010 the current version of the Allocation Policy significantly *reduced* the priority given to homeless households, when compared with other categories of housing need.

The homelessness legislation prevents the Council from terminating the homelessness duty by securing privately rented accommodation for a household.<sup>24</sup> As a result, an offer of social housing is often the only realistic means of ending the housing duty. While the Head of Service has made representations to the Housing Minister on this issue,<sup>25</sup> it remains that the priority given to homeless households on the housing waiting list (relative to other applicants) is a major factor which determines the Council's 'discharge of duty' performance.

A recent review of temporary accommodation<sup>26</sup> identified that 57% of homeless households occupying temporary accommodation have not received an offer of settled accommodation, despite the duty to secure accommodation having been accepted over two years previously. The numbers of homeless applicants accommodated temporarily<sup>27</sup> are summarised below:

| <u>Waiting time</u> | <u>Type of accommodation</u> | <u>Number of applicants</u> |              |
|---------------------|------------------------------|-----------------------------|--------------|
| <b>&gt; 1 day</b>   | <b>Total</b>                 | <b>76</b>                   |              |
|                     | (Private leasing scheme)     | 60)                         |              |
|                     | (Council stock)              | 16)                         |              |
| <b>&gt; 1 year</b>  | <b>Total</b>                 | <b>60</b>                   | <b>(79%)</b> |
|                     | (Private leasing scheme)     | 45)                         |              |
|                     | (Council stock)              | 15)                         |              |
| <b>&gt; 2 years</b> | <b>Total</b>                 | <b>43</b>                   | <b>(57%)</b> |
|                     | (Private leasing scheme)     | 28)                         |              |
|                     | (Council stock)              | 15)                         |              |
| <b>&gt; 5 years</b> | <b>Total</b>                 | <b>26</b>                   | <b>(34%)</b> |
|                     | (Private leasing scheme)     | 15)                         |              |

<sup>24</sup> Unless the applicant consents to the ending of the main duty: Housing Act 1996, s.193(7AC),(7D) and (7E).

<sup>25</sup> Specifically suggesting that proposed reforms to the homelessness legislation should enable local authorities to discharge the homeless duty by offering an ordinary assured shorthold tenancy from a private landlord.

<sup>26</sup> Temporary Accommodation Reduction Strategy Review and Strategy, October 2012.

<sup>27</sup> Excluding short term bed and breakfast placements.

An analysis undertaken of allocations in 2012/13<sup>28</sup> suggests that 50% of those households that have occupied temporary accommodation for over two years are unlikely to receive an allocation of social housing without additional priority being awarded to their application.

Even bringing the Council within the range of the worst performers in Wales on the above measures shall require the 'backlog' of longstanding main duty cases to be cleared, by the securing of alternative accommodation and discharge of the duty.

The present policy provides some additional priority to main duty applicants in circumstances where they occupy temporary accommodation for a length of time. Ten points is awarded once an applicant has occupied temporary accommodation for six months, and a further ten points is awarded after twelve months. However, as the above figures show, this has not been sufficient to ensure such applicants receive a final offer within a reasonable period.

In order to achieve a significant improvement it is proposed that additional priority also be awarded to such persons in the form of an additional ten points after the expiry of every six month period, from 18 months to 5 years.

The proposed amendments are set out at para 14.1 of the attached *Draft Housing Allocation Policy (Version 2)*.

It is proposed that, on 3 May 2013, the registered social landlords are consulted on this proposal, with a view to reporting back to the Executive Committee for a decision as to whether to approve the proposed amendments, once the consultation has been concluded.

The proposed amendments are unlikely to adversely impact upon equality of opportunity between those persons with protected characteristics and those without such characteristics, or significantly impact upon those matters to which the Council is obliged to have regard under section 149 of the Equality Act 2010.

### **Welfare benefit reform**

The current allocation policy provides that applicants with one child will be considered for three bedroom properties. This provision sought to address the low number of two-bedroom properties available for allocation. At the time the current policy was approved it was felt that many one-child and some two-child households would otherwise not have any reasonable likelihood of receiving an offer of social

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<sup>28</sup> An analysis was undertaken of general needs properties allocated between 1 April 2012 and 14 January 2013, and compared the priority of the housing applicant who was successful in receiving an allocation, with the priority of those main duty homeless applicants who have not received an allocation of housing, despite occupying temporary accommodation for over two years.

housing.

From April 2013 social housing tenants of working age in receipt of housing benefit will have their benefit entitled reduced by 14% if they are considered to be under-occupying their home by one bedroom, and by 25% if they are considered to be under-occupying by two or more bedrooms.

In this context, it is suggested that the current bedroom eligibility criteria is outmoded. The bedroom and overcrowding criteria is likely, if unamended, to increase those numbers of social housing households who shall, from April, have difficulty meeting their rent payments. Our partner RSLs are also unlikely to accept the nomination of a household who would be under-occupying their accommodation, as defined by the housing benefit regulations. In this context it should be noted that 71% of the Council's existing tenants are entitled to housing benefit, and that 625 existing Council tenants have already been identified as being likely to be adversely affected by the 'bedroom tax'.

The recommended amendments seek to mitigate the aforementioned risk by creating bedroom eligibility criteria which mirror the criteria that shall be applied by the Revenues and Benefits Office from April, when conducting the housing benefit assessment.

Accordingly, it is proposed that housing applicants shall be deemed eligible for one bedroom for each of the following persons residing in the applicant's household:

- a single person or couple, aged over 16;
- two children of the same gender, where both of the children are aged under 16; and
- two children under 10, irrespective of their gender; and
- any remaining child.

In addition, an additional bedroom shall be deemed necessary, subject to an affordability assessment, where:

- the tenant or their partner is disabled, and as a result they require a non-resident overnight carer; or
- it is inappropriate or unreasonable for two persons to share a bedroom on a continual basis, as a result of a serious illness or disability.

If approved, the above criteria shall apply for the purpose of calculating each applicant's bedroom requirement, and when assessing the priority that should be given in connection with both overcrowding and under-occupation.

It is also proposed that where a prospective allocation to an OAP bungalow is being considered, and where the Independent Community Specialist recommends increasing the required property size on medical grounds, any allocation will be

subject to an affordability assessment.

It is proposed that the registered social landlords are consulted on this proposal.

The proposed amendments are set out at paras 6.5 and 14.1 of the attached *Draft Housing Allocation Policy (Version 2)*.

The provisions providing for an additional bedroom are likely to reduce disadvantages suffered by those housing applicants who, as the result of a disability, require an additional bedroom. The proposed amendments are otherwise unlikely to adversely impact upon equality of opportunity between those persons with protected characteristics and those without such characteristics, or have a significant adverse impact in connection with those matters to which the Council is obliged to have regard under section 149 of the Equality Act 2010.

### **Policy on choice for homeless households**

The Council is obliged to include a statement in the allocation scheme regarding its policy on choice, and the opportunity for applicants to express preferences about the accommodation that is likely to be offered to them.<sup>29</sup> The most significant means by which housing applicants are offered choice is the opportunity to express a preference about the geographical area in which they wish to be considered for offers. Applicants are given the opportunity to specify those letting areas in which they wish to be considered for an allocation of housing.

The Allocation Policy currently provides *all* applicants – including homeless households to whom the Council owes a duty under the homelessness legislation to secure temporary housing – the same rights to exercise a choice about the areas in which they may receive an allocation. The analysis of lettings made in 2012/13 identified that 33% of applicants currently housed temporarily in the Private Leasing Scheme have expressed a preference for only one letting area. In many cases, it was unlikely that the applicant would receive an allocation in the area(s) they had chosen. This was most commonly because the applicant did not have sufficient priority when compared to other housing applicants, or no property of the size required was likely to become available. This included cases where there was simply no social housing of the size and type required by the homeless person in the particular letting area(s) chosen by the applicant.

The Council is not obliged to provide the same opportunity for expressing preferences to those owed a homelessness duty, as it offers to other housing applicants. However, in order to lawfully terminate the main homelessness duty via a 'final offer' of accommodation from the waiting list, the policy must make specific provision enabling the Council to allocate housing which is outside of the applicant's stated preferences.

The Council shall remain under a duty to ensure that any offer of accommodation made for the purpose of finally discharging the homelessness duty is suitable for the

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<sup>29</sup> Housing Act 1996, s.167(1A) [Wales].

needs of the applicant, and the members of his or her household.

It is proposed that, on 3 May 2013, the registered social landlords are consulted on a proposal that a homeless applicant has the ability to exercise choice regarding letting areas in the same way as other housing applicants, but that the Council reserves the right to discount those stated preferences, if no suitable accommodation has become available for allocation within three months of the homeless duty having been accepted, with a view to reporting back to the Executive Committee for a decision as to whether to approve the proposed amendments, once the consultation has been concluded.

The proposed amendments are set out at paras 9.1 and 9.4 of the attached *Draft Housing Allocation Policy (Version 2)*.

It is possible that an homeless person with a protected characteristic who requires a service and/or support as the result of that characteristic (whether from a statutory service, informal networks, or otherwise) may experience a disadvantage in circumstances where, as the result of the proposed amendments, s/he is secured settled accommodation at a distance from his existing or previous accommodation, with is greater than that which would otherwise be the case. It is possible that any adverse impact of the proposed amendments may disproportionately be experienced by those applicants who share a protected characteristic.

However, it is important to note that the homelessness legislation stipulates that any accommodation secured for the applicant (whether temporary accommodation, or accommodation secured to terminate the main duty<sup>30</sup>) must be suitable, both for the applicant and all members of his or her household.<sup>31</sup> When securing accommodation for an applicant (including those with a protected characteristic), the Council is obliged to conduct an assessment of all the characteristics of the accommodation, in the light of the particular needs of the applicant. In addition, regulations specifically provide that, when determining whether particular accommodation is suitable for the needs of an applicant, the Council must consider the specific health needs of the person, any disabilities, and the proximity and accessibility of adult care and children's services, family support, and support services.<sup>32</sup> Further, the proposed amendment provides that, when considering whether to override an applicant's stated area preferences after expiry of the three month period, the suitability of any additional geographical areas must be considered.

The proposed amendments are otherwise unlikely to adversely impact upon equality of opportunity between those persons with protected characteristics and those without such characteristics, or have a significant adverse impact in connection with those matters to which the Council is obliged to have regard under section 149 of the

<sup>30</sup> Such as a final offer from the housing waiting list.

<sup>31</sup> Housing Act 1996, s.206(1).

<sup>32</sup> Homelessness (Suitability of Accommodation) Wales Order 2006, SI No 650 (W.71), art 3.

## **B – Considerations**

### **Equality duties**

The proposed amendment to the Allocation Policy is required to ensure the Council complies with its duties under the Equalities Act 2010.

### **The new statutory guidance**

The proposed amendment to the Allocation Policy is required to ensure the Council complies with its duty under section 169 of the Housing Act 1996 to have regard to guidance issued by the Welsh Government, when exercising its functions under Part 6.

### **Discharge of homeless duty performance**

The proposed amendments to the Allocation Policy are required to ensure the Council demonstrates continuous improvement to the homelessness and housing service, and specifically that homeless persons are assisted to obtain settled housing within a reasonable period, which broadly corresponds with that achieved by other local housing authorities.

### **Welfare benefit reform**

The proposed amendments to the Allocation Policy are required to ensure accommodation allocated by the Council is affordable for tenants, to ensure that the adverse effects of welfare reform are mitigated, and to reduce repeat incidences of homelessness, due to social housing tenants not being able to afford their accommodation.

### **Policy on choice for homeless households**

The proposed amendment to the Allocation Policy is required to ensure the Council is able to make 'final' offers of suitable accommodation to homeless persons, whether or not the accommodation is situated in a letting area specified by the applicant as an area they would prefer to reside in. Failure to amend the policy shall effectively prevent the Council from terminating the housing duty in a significant number of homeless cases, including those who have occupied temporary accommodation for a substantial period, and prevent the Council demonstrating improvement in the length of time it takes to discharge the main housing duty, and alleviate housing applicants' homelessness.

The proposed amendment may also contribute to removing a possible perverse incentive for persons wanting to access social housing to contrive homelessness for

the purpose of securing additional priority. The change would enable Council officers to advise potential homeless applicants that, should they opt to pursue a homeless application, an offer of housing in their preferred areas could not be guaranteed.

| <b>C – Implications and Impacts</b> |  |  |
|-------------------------------------|--|--|
| <b>1</b>                            | <b>Finance / Section 151</b>                           |  |
| <b>2</b>                            | <b>Legal / Monitoring Officer</b>                      |  |
| <b>3</b>                            | <b>Human Resources</b>                                 |  |
| <b>4</b>                            | <b>Property Services</b>                               |  |
| <b>5</b>                            | <b>Information and Communications Technology (ICT)</b> |  |
| <b>6</b>                            | <b>Equality</b>  | See references within the report.  |
| <b>7</b>                            | <b>Anti-poverty and Social</b>                         | The proposed Allocation Policy amendments shall help to mitigate the adverse financial and social consequences of long term homelessness and welfare reform. |
| <b>8</b>                            | <b>Communication</b>                                   | n/a  |
| <b>9</b>                            | <b>Consultation</b>                                    | See references within the report, regarding the statutory duty to consult.   |
| <b>10</b>                           | <b>Economic</b>  | n/a  |
| <b>11</b>                           | <b>Environmental</b>                                   | n/a  |
| <b>12</b>                           | <b>Crime and Disorder</b>                              | n/a  |
| <b>13</b>                           | <b>Outcome Agreements</b>                              | n/a  |

| <b>CH – Summary</b> |  |
|---------------------|--|
|                     |  |

## D - Recommendation

**R1** that the Executive Committee authorise a review of the Allocations Policy, in conjunction with those registered social landlords with which the Council has nomination arrangements, to take place in 2012/13 after 3 May 2013;

**R2** that the Executive Committee agrees to amend the Allocation Policy with immediate effect, so as to incorporate those amendments contained in the *Draft Housing Allocation Policy, ('Version 1')*, specifically:

- replacing references to the 2003 statutory guidance with the 2012 guidance;
- incorporating, at section 1 of the policy, provisions relating to the Council's duties under the Equalities Act 2010.

**R3** that the Executive Committee agrees that those registered social landlords with which the Council has nomination arrangements shall be consulted after 2 May 2013 on those proposed amendments contained in *Draft Housing Allocation Policy, ('Version 2')*, specifically:

- new criteria for determining the number of bedrooms for which applicants are entitled (should they receive an allocation), and corresponding criteria by which it is determined whether applicants are overcrowded or under-occupying their present accommodation.
- additional priority for those applicants who are homeless, are temporarily accommodated, and have been owed the main duty for between 18 months and five years.
- a new provision for restricting the opportunity for homeless persons to exercise choice and preferences in connection with the areas in which they may be offered accommodation.

**Name of author of report: Shan L Williams**

**Job Title: Head of Service, Housing**

**Date: 7 March 2013**

## Appendices:

The following additional related documentation are attached:

- 'Draft Housing Allocation Policy (Version 1)' [incorporating suggested amendments to take effect immediately] ;
- 'Draft Housing Allocation Policy (Version 2)' [incorporating suggested amendments, for the purpose of consulting with the registered social

landlords];

## [With proposed amendments for immediate implementation – Version 1]

### INTRODUCTION

The allocation of social rented housing is largely governed by the legislative framework set out in Part V1 of the Housing Act 1996. Amendments under the Homelessness Act 2002 revoked the *duty* to keep a Housing Register although there remains the requirement to have an allocations scheme which shows the priorities and procedures used to allocate accommodation. The scheme must contain a statement of the Authority's policies on choices and preferences.

S159 of the Housing Act 1996 defines the allocation of housing accommodation by housing authorities as:-

- Selecting a person to be a secure or introductory tenant of accommodation held by the local authority;
- a nomination to such tenancies of accommodation held by another person (i.e. as stipulated in s80 Housing Act 1985);
- A nomination to an assured tenancy (including assured shorthold tenancy) of accommodation held by Registered Social Landlords.

The broad framework sets out who is eligible/ineligible for inclusion in the allocations scheme and identifies groups of people who must be given reasonable preference.

The Welsh ~~Assembly~~ Government's Code of Guidance for Local Authorities on Allocation of Accommodation and Homelessness 2003<sup>12</sup> must also be taken into account.

The following Statutory Instruments also apply -:

'The Allocation of Housing (Wales) Regulations 2003' cites two cases where the provisions of Part V1 do not apply:-

- Where a local housing authority secures the provision of suitable alternative accommodation under s39 of the Land Compensation Act 1973(3) (duty to rehouse residential occupiers).
- In relation to the grant of secure tenancy under s554 and s555 of the Housing Act 1985(4)(grant of tenancy to former owner-occupier or statutory tenant of defective dwelling-house).

'The Allocation of Housing (Wales)(Amendment)Regulations 2006' amended the 2003 provisions which prescribe classes of persons who are subject to immigration control who are eligible to include persons having humanitarian protection.

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## 1.0 COMMON HOUSING REGISTER

1.1 The Isle of Anglesey County Council maintains a common housing register for its residential properties as well as for those housing associations in the area that have chosen to participate in the Ynys Môn Housing Partnership - Cymdeithas Tai Eryri, Clwyd Alyn and North Wales Housing Association.

1.2 This document sets out the Council's detailed procedures for processing new applications for social housing and applications from existing tenants wishing to transfer to alternative accommodation and the processes involved in allocating dwellings.

1.3 The Council is committed to promoting equal opportunities and all applicants will be treated equally and without any discrimination. ~~The Council has adopted the Commission for Racial Equality's Code of Practice in Rented Housing.~~

1.3A The Council will, when administering the allocation scheme, comply with the public sector equality duty. The Council shall have due regard to those matters listed in section 149(1) of the Equality Act 2010, including the need to eliminate discrimination, harassment and victimisation, the need to advance equality of opportunity, and the need to foster good relations between persons who share 'protected characteristics' and other persons.

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1.3B The Council will, where necessary, take appropriate steps to meet the needs of persons who share a protected characteristic, and to remove or minimise disadvantages they suffer. In this context, the protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender, and sexual orientation.

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1.3C Applicants shall be asked a series of questions, as part of the application process, and allocations shall be monitored, to enable the Council to monitor

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equality of opportunity, and the impact of the allocation scheme on persons who share protected characteristics.

1.3D The Council shall make this policy and any associated documentation or literature available in another language or format, where necessary for the purpose of advancing equality of access, including to an individual applicant, upon receiving a request to do so.

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1.4 The policy seeks to ensure that people in the greatest housing need have the highest priority for being housed or rehoused in the area of their choice.

## 2.0 ELIGIBILITY FOR SOCIAL HOUSING

2.1 Everyone is entitled to go onto the Housing Register unless they are excluded under the Housing Act 1996 as amended by the Homelessness Act 2002.

### 2.2 Statutory Exclusion

Applicants who are subject to immigration control within the meaning of the Asylum and Immigration Act 1996(c.49) are not eligible **unless**:

- a) they are existing secure or introductory tenants or assured tenants of housing accommodation allocated by a local housing authority or
- b) the applicant is a British Citizen
- c) a Commonwealth citizen who has the right of abode in the UK
- d) a citizen of a member country within the European Economic Area
  
- e) a person who has been granted refugee status
- f) a person who has been granted exceptional leave to enter or remain in the UK which is not subject to a condition requiring him/her to maintain and accommodate him/herself and any dependants without recourse to public funds
- g) a person who has a current leave to enter or remain in the UK which is not subject to any time limit or condition. (Other than a sponsored immigrant who has been here for at least 5 years and whose sponsor(s) is still alive)

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**2.3** Persons who are not habitually resident within the Common Travel Area of the UK, Republic of Ireland, Isle of Man and Channel Islands.

**2.4** Nationals of the European Economic Area with no right to reside.

A person who is a national of a country within the EEA and who is notified by the Home Secretary that he/she no longer has a right to reside in the UK.

**2.5** A person who is excluded from entitlement to Housing Benefit by Section 115 of the Immigration and Asylum Act 1999(c.33).

**2.6** Discretionary Exclusion (power to exclude on basis of unacceptable behaviour)

The Council will only exclude those persons falling within the statutory provisions. This approach ensures that the allocation policy is not only inclusive but accurately reflects housing need on the island. This does not necessarily mean that all applicants will be actively considered for housing. Please refer to Paragraph 12.0 'SUSPENDED APPLICATIONS'.

**2.7** Applicants who feel they should become eligible can reapply to the Housing Authority at any time but will be required to demonstrate that their circumstances have changed.

### **3.0 DATA PROTECTION**

**3.1** The Council will not disclose information regarding a person's application for housing to any third party or member of the public without their express consent unless required to do so by law. By signing the Housing Register application form, the applicant gives consent to the Council to make relevant enquiries in connection with their application and their suitability to be a tenant

### **4.0 MAKING AN APPLICATION**

**4.1** The Council will provide advice and information free of charge to potential applicants about their right to join the Housing Register, including an application form. The Council will also provide help directly or indirectly in making an application, free of charge, to anyone on the island who is likely to have difficulty applying without assistance.

**4.2** The Council will endeavour to provide information in alternative formats upon request.

## **5.0 APPLICATIONS FROM 16/17 YEAR OLDS**

**5.1** Section 1 of the Law of Property Act 1925 prevents minors from holding a legal estate in land. Consequently applicants will normally only be considered where the Council has a duty under the homelessness legislation or the Children Act 1989 and an appropriate adult will be required to enter into a guarantee in relation to the tenancy agreement. There may also be a requirement for appropriate support arrangements.

The offer of permanent accommodation before an applicant is 18 is at the discretion of the Head of Housing Services.

**5.2** The housing and support needs of lone parents under 18 years of age will be subject to joint assessment with Social Services and other agencies (where relevant). The consent of the applicant must be sought unless there are child protection concerns.

## **6.0 ELIGIBILITY CRITERIA FOR SPECIFIC PROPERTY TYPES / SIZE**

**6.1** Priority for houses will be given to households with children under the age of 16 years or with children 16 - 18 who are in full time education or training.

**6.2** To qualify for OAP bungalows/flats, an applicant must be 60 years of age or over.

**6.3** To qualify for sheltered accommodation, an applicant must be 60 years of age or over OR be registered disabled. Offers of accommodation will be made subject to an assessment of housing and support needs by a Panel comprising Allocation Officers, Occupational Therapists and Disability Advisors.

**6.4** To qualify for properties designed or adapted for special needs (e.g. disabled person) an applicant or a member of the applicant's household, must be medically assessed as requiring such specialised accommodation.

**6.5** The Council assesses the size of home each applicant requires, according to their household size and composition and any other special considerations. Size is expressed in terms of the number of bedrooms. Applicants with one child will be considered for 3 bedroomed houses. Single applicants will be considered for 2 bedroomed flats. Couples will be considered for 2 bedroomed bungalows ahead of single applicants.

**6.6** A single -parent household is entitled to the same size of accommodation as a two-parent household with the same number of children

**6.7** Households that include a pregnant woman expecting her first child are assessed after 6 months as if the baby had already been born when being considered for houses.

## **6.8 EXCEPTIONS**

**a)** When the Independent Community Specialist recommends increasing the required property size on medical grounds

**b)** The Head of Housing Services may allocate property types/sizes outside the eligibility criteria if there are no eligible applicants and/or it is in the best interest of the Council to do so in terms of managing its housing stock, meeting genuine housing need and minimising rent loss on void properties. The Head of Housing Services may also authorise the use of such properties as temporary accommodation for households towards whom the Council has a statutory duty under Part V11 Housing Act 1996 as amended by the Homelessness Act 2002.

## **7.0 JOINT TENANCIES**

The Council encourages joint tenancies, where two adults in a household become joint tenants in the same Council property. Both tenants are then jointly and individually responsible for ensuring the tenancy agreement is kept to. Both parties must individually qualify to join the housing register and be eligible to be considered for offers of accommodation. If the Council refuses to grant a joint tenancy, it will provide written notification detailing the reasons for the refusal.

## **8.0 RIGHT TO GENERAL INFORMATION**

**8.1** Eligible applicants have the right to request such general information as will enable them to know how their application is likely to be treated, what preference they are likely to be given, what kind of accommodation is likely to be made available to them, and when such accommodation is likely to become available.

## **9.0 CHOICE**

**9.1** All eligible applicants have the opportunity to state preferences on property type, size and areas/neighbourhoods.

**9.2** All eligible applicants have the opportunity to register an interest in being accommodated by any of the participating Registered Social Landlords (Housing Associations) and approved Private Landlords.

**9.3** Low turnover and high demand for some areas means that it may not always be possible to meet applicants' preferences for particular types of accommodation or areas on the island. Offers of accommodation will however be suitable for the applicant's needs even if they do not meet their preferences as regards location.

## **10.0 THE PROCESSING OF APPLICATIONS**

**10.1** Applicants will be required to provide relevant documents to support their application before they will be made an offer including proof of identification and proof of residency. If an applicant fails to provide the requisite information within the specified timescale, the application will be cancelled.

**10.2** References will be required from a landlord or mortgage provider and further checks will be undertaken where there are concerns that the behaviour of the applicant (or a member of his/her household) may affect their suitability to be a tenant.

**10.3** Applicants with convictions subject to a custodial sentence will be required to have undergone a risk assessment

**10.4** Any children included in an application must normally be dependent on and reside with the applicant before they are taken into account when assessing the points levels.

**10.5** Applicants will be sent an acknowledgement letter within 5 working days and will be notified of the status of their application within the following 30 days once it has been processed. This will enable them to establish their prospects of being rehoused.

**10.6** Applicants will be removed from the register at their own request provided it is made in writing. Written confirmation will be provided where a forwarding address is known

**10.7** If information is received which infers that an applicant already on the list is ineligible, he will be informed in writing and advised of the reasons.

**10.8** Should the applicant request information about their application over the telephone, they will be asked to confirm their N.I. number or any other information known only to them.

**10.9** Making a false statement or withholding relevant information to obtain a tenancy is a Ground for Possession (eviction) and a criminal offence for which a fine is payable on summary conviction. Any such applications identified prior to allocation will be cancelled.

**10.10** If it is found that an applicant has purposely changed address or acted otherwise to worsen his/her circumstances to increase the award of points the application will be pointed as if such a change had not been made for a period of 12 months or, where the applicant is found to be intentionally homeless, until such time as there is a change in circumstances which would overturn the finding of intentionality.

## **11.0 CHANGE OF CIRCUMSTANCES**

**11.1** Applicants are required to notify the Council in writing of any changes to their personal circumstances so that their details can be amended accordingly.

**11.2** Periodic reviews of the Housing Register are undertaken and applicants who fail to return the review form within the specified timescale will be removed from the register.

## **12.0 SUSPENDED APPLICATIONS**

**12.1** In some circumstances applications will be suspended i.e. they will be credited with housing need/local connection points but will not be actively considered when a property becomes available for letting. Suspensions can last up to a maximum of 12 months at which time the case will be reviewed. The decision on whether to

suspend will be made on the basis of the facts of individual cases and applicants will be notified in writing of the reasons for the suspension and afforded the opportunity to request a review of the decision. See Paragraph 22.0 'RIGHT TO REVIEW OF DECISIONS'.

**12.2** Suspensions will be applied in the following circumstances (this list is not exhaustive):-

**12.2.1** At applicant's own request

**12.2.2** Pending further information required to process an application e.g proof of divorce / legal separation / property settlement / property sale and equity released / pregnancy / residence arrangements for children

**12.2.3** Eligible applicants with tenancy related debts with any Local Authority, RSL or Private Landlord (arrears/recharges/court costs). Applicants will be required to enter into and maintain an agreed repayment schedule. Whilst suspensions will be lifted when the debt is equivalent to 4 weeks rent net of any benefit, the offer of accommodation before the debt is cleared in full will be at the discretion of the Head of Housing Services or the Housing Associations/Private Landlords and only then in exceptional circumstances.

**12.2.4** Applicant is in prison.

**12.2.5** Applicant is in HM Forces pending confirmation of discharge from Commanding Officer.

**12.2.6** Applicant has refused 2 reasonable offers in the areas of his choice. Suspension for 12 months.

**12.2.7** Applicant is occupying tied accommodation – pending receipt of Notice to Terminate Employment.

**12.2.8** Applicant has adequate financial resources to secure own accommodation at market rent or purchase. The average rental cost or purchase price in the applicant's areas of choice will be considered at the time of the assessment. For rental purposes applicants with an annual income of £35,000 will be deemed to have adequate resources to house themselves. Applicant will still be given appropriate advice and assistance.

**12.2.9** Applicant is a freehold, leasehold or shared owner unless they have a minimum of 20 housing need points (excluding local connection). Applicants will only be considered when they are in the process of disposing of the property and have obtained a completion date unless:-

a) urgent re-housing is required on medical grounds (must have minimum 20 medical points) and it is not possible to adapt current accommodation OR applicant needs to live in close proximity to a carer (property must be in the process of being sold or applicant will be required to give a written undertaking to dispose of it within 12 months);

b) the applicant is a joint owner at relationship breakdown and the property is not being disposed of as one partner is to continue to live in it (written confirmation from solicitor required)

c) the property is considered to be 'difficult to let' (property must be in the process of being sold or applicant will be required to give a written undertaking to dispose of it within 12 months)

**12.2.10** There are issues relating to current/recent anti-social behaviour which are considered relevant to the applicant and/or household members in terms of their suitability as tenants. Consideration will be given to the need to strike a balance between the rights of the individual and the interests of the wider community. Where there is evidence to suggest that an applicant's unacceptable behaviour is due to disability, the application will not be suspended if the Council is satisfied that the person would be able to maintain a tenancy satisfactorily with appropriate

support. Any decision will be based on consultation with relevant agencies e.g. GP, Social Services, Mental Health Team, support providers.

**12.2.11** Transfer applicants who have not occupied their present home for a minimum of 12 months unless there has been a change of circumstances which means they now fall within the reasonable preference categories. (The Head of Housing Services may allow a transfer in exceptional circumstances, which will be recorded on the applicant's file).

**12.2.12** Transfer applicants with rent arrears/recharges/court costs until they enter into and maintain an agreed repayment schedule. Whilst suspensions will be lifted when the debt is equivalent to 4 weeks rent net of any benefit, the offer of accommodation before the arrears are cleared in full will be at the discretion of the Head of Housing Services or the Housing Associations/Private Landlords and only then in exceptional circumstances.

**12.2.13** Transfer applicants where their present home does not meet acceptable standards of cleanliness and decoration (the standard required is such that a new tenant could reasonably move into the dwelling straight away if the tenant left today).

**12.2.14** Transfer applicants pending making good defects which are the tenant's responsibility.

**12.2.15** Transfer applicants pending bringing garden area to a reasonable standard (having regard to his physical capabilities and those of his family members).

**12.2.16** Transfer applicants where there are issues relating to current/recent anti-social behaviour which has warranted intervention by the Council .

Applicants will be notified in writing of the reasons for the deferral and, where necessary how to remedy the situation and the proposed review dates. Applicants

suspended on the basis of anti-social behaviour will be required to demonstrate to the reasonable satisfaction of the council, why they consider themselves suitable to be a tenant.

### **13.0 PRIORITISING APPLICATIONS**

**13.1** Eligible applicants are awarded points to reflect housing need and other factors.

**13.2** Reasonable preference must be given to the following categories of people set out in s167(2) Part V1 Housing Act 1996 (as amended) :-

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

**13.3** When distinguishing between applications the Council will take into account the following factors:-

- a) The financial resources available to applicants to meet their own housing need;

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- b) any behaviour of the applicant or a member of that household which affects the applicant's suitability to be a tenant;
- c) any local connection between the applicant and the district.

**13.4** The Council also has the power under s167(2E) to allocate particular housing accommodation to persons of a particular description regardless of whether or not they fall under s167(2). Any such specific lettings plans would be ancillary to the main Allocation Policy and would allow accommodation developed for a specific purpose to be allocated either primarily or exclusively to a specific category of people irrespective of whether or not they would attract priority under other provisions of the 1996 Act or the Allocation Policy.

#### **14.0 HOUSING NEED POINTS**

##### **14.1 HOMELESSNESS, UNSETTLED OR INSECURE ACCOMMODATION**

- a) The applicant is homeless/threatened with homelessness unintentionally - **20 points OR**
- b) The applicant is homeless, unintentionally and in priority need as a result of violence or threats of violence likely to be carried out - **30 points**
- c) the applicant is homeless and in priority need but homeless intentionally - **5 points OR**
- d) The applicant is living in lodgings, staying with family/friends - **10 points OR**
- e) The applicant is in local authority care or has been living in a hostel/supported housing project for a minimum period of 6 months and written confirmation has been received that they are ready to move on. – **45 points OR**
- f) The applicant has been placed in temporary local authority or private accommodation under Section 193(2) of the Housing Act 1996 (as amended) – **20 points**. This category will also attract 10 points after the first 6 months spent in the temporary accommodation and an additional 10 points after a further 6 months.

**NB** If an applicant pointed under 14.1(a) or 14.1(b) refuses a final offer of suitable accommodation under Part V1 (allocation of housing), the homelessness points will be removed. This also applies to non-priority need applicants.

#### **14. 2 OCCUPYING ACCOMMODATION WHICH IS UNSANITARY, OR LIVING IN UNSATISFACTORY HOUSING CONDITIONS (Applies to tenants and owner-occupiers)**

- a) applicants lacking cooking facilities - **5 points**
- b) applicants living in poor housing conditions - **up to 20 points**

The assessment will be undertaken by an Environmental Health Officer using the Housing Health & Safety Rating System risk assessment framework. Rating scores will be calculated for each hazard identified based on the severity of each hazard, and its potential to cause injury to the occupiers.

#### **RATING SCORE:**

- 5 – 25      5 points**
- 30 – 45     10 points**
- 50 – 65     15 points**
- over 70     20 points**

#### **14.3 OVERCROWDING**

Points will be awarded for each bedroom deficiency to ensure separate bedrooms are available for:-

- a) husband/wife or similar partnership;
- b) each person aged 18 years or over;
- c) children aged 8 or over of different sex from children of any age;
- d) no more than 2 persons should occupy one bedroom;
- e) children of the same sex where there is an age gap of 10 years.

**- 20 points for each bedroom deficiency**

#### **14.4 MEDICAL POINTS**

Applicants, who maintain that their present accommodation is detrimental to their health, may apply for medical points. The Council utilises the services of an

independent Community Medicine Specialist to undertake such assessments. Requests for adapted accommodation are referred to the 'Housing Link' panel which comprises Housing and Social Services staff.

Medical points will only be awarded when a move to more suitable accommodation would be beneficial in alleviating their medical condition. The degree of urgency in the need for alternative accommodation will be reflected in the points awarded as follows:

- a) to improve quality of life (although existing accommodation is not detrimental to applicant's health) - **5 points**
- b) some medical benefit in moving - **10 points**
- c) significant medical benefit in moving - **20 points**
- d) unable to be discharged from hospital or live in present accommodation.  
- **30 points**

#### **14.5 HARDSHIP POINTS**

Applicants wishing to move to a particular locality to avoid hardship to themselves or others e. g to give/receive care and support and rehousing would dispense with the need for services to be provided by the local authority - **10 points**

#### **14.6 SOCIAL STRESS / SOCIAL MANAGEMENT POINTS**

Points will only be considered in this category in exceptional circumstances where the applicant's personal/housing circumstances are not met by other needs factors. This category would mainly be to assist Social Services to fulfil their duties under the Children Act 1989 (Section 17 (1)).....'Duty of every Local Authority Social Services Department.....to

- safeguard and promote the welfare of children within the area who are in need:
- so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.'

Under S27 of the Children Act 1989, Social Services can ask Housing Services to help in delivering services for children in need and they must comply to the extent that it is compatible with their own statutory duties and other obligations and does not unduly prejudice the discharge of any of their own functions. Points variable and will only be awarded for one offer only.

#### **14.7 CHILDREN IN FLATS**

If the applicant has a child under the age of 11 and is living in;

- a) a ground floor flat or maisonette without the sole use of a garden - **20 points**
- b) a maisonette or flat above ground floor - **30 points**

#### **14.8 PREGNANCY**

Applicants who are over 6 months pregnant and living in a flat or maisonette above ground floor - **10 points**

#### **14.9 SHARING POINTS**

Applicants who have to share facilities with separate households will be awarded points (A separate household does not include relations who have jointly occupied or owned the accommodation with the applicant for a substantial period of time immediately prior to applying for housing).

Points will be awarded for shared:

- living room - **5 points**
- kitchen - **5 points**
- toilet - **5 points**
- bathroom - **5 points**

#### **14.10 UNDER OCCUPATION (COUNCIL/PARTNER HOUSING ASSOCIATION TENANTS ONLY)**

In order to give priority to existing council tenants who are under occupying accommodation which is too large for their current needs, points will be awarded for each bedroom in excess of their needs.

In assessing those needs it will be assumed that separate bedrooms are required for husband/wife or similar partnership; each person 18 years or above; children aged 8 or over of different sex from children of any age; no more than 2 persons should occupy one bedroom; children of same sex where there is an age gap of 10 years -

**30 points for each bedroom in excess of need.**

#### **14.11 FOSTER CARERS**

Applicants who are registered foster carers and whose present accommodation is unsuitable in terms of size or location to prevent them from providing that care -

**30 points**

#### **14.12 ADAPTED PROPERTIES**

Applicants releasing an adapted property ( council or housing association partner) where there is an identified need for the property i.e. Social Services have identified an applicant for whom the adaptations are appropriate - **30 points**

#### **14.13 TIED ACCOMMODATION**

Applicants occupying accommodation as a condition of employment with the council or partner housing association leaving through no fault of their own e.g. retirement, redundancy, ill health – **30 points**

#### **14.14 SMALLHOLDINGS**

Applicants occupying council owned smallholdings leaving through no fault of their own - **30 points**

#### **15.0 TRANSFER APPLICANTS**

Transfer applicants (i.e. all existing tenants of the Council or participating Housing Associations) - **10 points**

#### **16.0 LOCAL CONNECTION POINTS**

The Council aims to prevent the dispersal and break up of local communities and strengthen family support networks.

Local connection points will be awarded:-

a) for each year an applicant has had his/her place of work, or had his/her only or principal home in Anglesey, up to 10 years - **3 points for each year up to 10 years**

**OR**

b) if the applicant's mother, father, sister, brother or children have been living in Anglesey for at least 5 years - **10 points**

**OR**

c) applicant has been living in Anglesey for 6 out of the last 12 months - **1 point**

**OR**

d) Special circumstances e.g. need to be near special medical or support services only available in Anglesey - **5 points**

Up to 20 additional points will be awarded if the applicant has had his/her place of work, or had his/her only or principal home in the parish that they wish to be rehoused for a period of 10 years - **2 points per year up to 10 years.**

#### **17.0 VERIFICATION VISITS**

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A Council Officer may visit the applicant to verify that the housing circumstances are as set out in the application form and that the correct points have been awarded. Applicants are expected to allow access to all parts of their home.

## **18.0 SELECTION OF APPLICANTS AND GRANTING TENANCIES**

***The operation of the allocations scheme is delegated to the Head of Housing Services and his staff.***

**18.1** When a property becomes available for letting, the Lettings Officer will draw up a short list of the highest pointed eligible applicants who have requested that type of property in that particular area.

**18.2** Consideration will be given to the overriding need to make the best use of the Council's stock, the nature of the stock in the locality, turnover rates and levels of local need.

**18.3** Where there are more than one equally pointed suitable applicants the original date of application will be taken into account

**18.4** Successful applicants will be notified in writing that the offer is made provisionally and will not constitute a legally binding contract until the tenancy agreement is signed.

## **19.0 ROLE OF ELECTED MEMBERS IN THE ALLOCATION PROCESS**

**19.1** Local Members are responsible for approving, adopting and monitoring the implementation of allocations policies that comply with the Housing Act 1996 (as amended by the Homelessness Act 2002), the Welsh Assembly Government's 'Code of Guidance for Local Authorities on Allocation of Accommodation and Homelessness' 2003 and Equal Opportunities Legislation.

**19.2** The Local Housing Authorities (Prescribed Principles for Allocation Schemes) (Wales) Regulations 1997 (Statutory Instrument 1997 No. 45) prevent an Elected Member from being part of a decision-making process, when either:

- a) The unit of housing accommodation concerned is situated in their electoral ward; or
- b) The person subject to the decision has their sole or main residence in the Member's electoral ward.

This is reinforced in the Code of Guidance referred to in Paragraph 19.1

**19.3** Local Members enquiring about the status of a property will be advised whether it is currently void or has been allocated. However, to comply with the Data Protection Act 1998, personal information in relation to the new tenant cannot be disclosed.

**19.4** Local Members may make written enquiries on behalf of applicants within their constituency only in relation to the status of their housing register application provided that the written consent of the applicant is held on file by the Council.

## **20.0 NOMINATIONS TO HOUSING ASSOCIATIONS**

The Allocation Policy not only dictates the selection of applicants for council tenancies, but also covers nominations to assured/ assured shorthold tenancies offered by Housing Associations. Associations with properties on the island are required to offer a proportion of their lettings to the Council (minimum 50%). When a vacancy is offered for nomination, the Council will nominate the 3 highest pointed applicants. The Association will then decide which of the nominated applicants is the most suitable in the context of their own eligibility criteria.

## **21.0 RIGHT TO INFORMATION ABOUT DECISIONS**

**21.1** Applicants have the right to be notified in writing of any decision: -

- a) to exclude them from the Housing Register
- b) to suspend their application
- c) to remove them from the register

The Council must give clear grounds based on relevant facts of the case, state the duration of the exclusion/suspension and how the decision may be reversed.

**21.2** Applicants have the right, on request, to be informed of any decision about the facts of their case which have been or are likely to be, taken into account in considering whether to make an allocation to them.

## **22.0 RIGHT TO REVIEW OF DECISION**

**22.1** Applicants have the right, on request, to review a decision mentioned in 21.1 or 21.2 above.

Request for review must be made within 21 days of the date of the notification letter and the review will be based on written representations submitted by the applicant or someone acting on their behalf. Representations must be made within 14 days of the date the Council notifies the applicant that it is undertaking the review.

The review will be conducted by someone not involved in the original decision and senior in position to the person who made the original decision.

The local authority will make a decision within 8 weeks of the date the review was requested. Applicants will be notified in writing of the decision on review. If it confirms the original decision, they will be notified of the reasons for the decision.

Following the review, the applicant has no further right to challenge but may appeal to the High Court for a judicial review on a point of law.

If the applicant is dissatisfied with any aspect of the process followed in dealing with the application, he may seek redress through the Council's Complaints Procedure and, if still dissatisfied, may complain to the Public Services Ombudsman for Wales.

### **23.0 MONITORING AND REVIEW**

The Allocation Policy is regularly monitored to ensure compliance with legislative changes, caselaw and guidance documents. The Council is committed to ongoing training for staff and elected members.

### **24.0 ALLOCATIONS EXCLUDED FROM THE ALLOCATION SCHEME**

- a) Offers of secure tenancies of their current home to introductory tenants;
- b) offers of non-secure tenancies to homeless households in pursuance of duties owed under Part V11 Housing act 1996 (as amended);
- c) transfer of tenancies in pursuance of court orders in the course of divorce or other family proceedings;
- d) statutory succession to secure or introductory tenancies on the death of the tenant;
- e) assignment of secure or introductory tenancies to a person who is qualified to succeed;
- f) mutual exchanges;
- g) other circumstances may be prescribed by the Secretary of State.

## INTRODUCTION

The allocation of social rented housing is largely governed by the legislative framework set out in Part V1 of the Housing Act 1996. Amendments under the Homelessness Act 2002 revoked the *duty* to keep a Housing Register although there remains the requirement to have an allocations scheme which shows the priorities and procedures used to allocate accommodation. The scheme must contain a statement of the Authority's policies on choices and preferences.

S159 of the Housing Act 1996 defines the allocation of housing accommodation by housing authorities as:-

- Selecting a person to be a secure or introductory tenant of accommodation held by the local authority;
- a nomination to such tenancies of accommodation held by another person (i.e. as stipulated in s80 Housing Act 1985);
- A nomination to an assured tenancy (including assured shorthold tenancy) of accommodation held by Registered Social Landlords.

The broad framework sets out who is eligible/ineligible for inclusion in the allocations scheme and identifies groups of people who must be given reasonable preference.

The Welsh Assembly Government's Code of Guidance for Local Authorities on Allocation of Accommodation and Homelessness 2003 must also be taken into account.

The following Statutory Instruments also apply -:

'The Allocation of Housing (Wales) Regulations 2003' cites two cases where the provisions of Part V1 do not apply:-

- Where a local housing authority secures the provision of suitable alternative accommodation under s39 of the Land Compensation Act 1973(3) (duty to rehouse residential occupiers).
- In relation to the grant of secure tenancy under s554 and s555 of the Housing Act 1985(4)(grant of tenancy to former owner-occupier or statutory tenant of defective dwelling-house).

'The Allocation of Housing (Wales)(Amendment)Regulations 2006' amended the 2003 provisions which prescribe classes of persons who are subject to immigration control who are eligible to include persons having humanitarian protection.

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## 1.0 COMMON HOUSING REGISTER

1.1 The Isle of Anglesey County Council maintains a common housing register for its residential properties as well as for those housing associations in the area that have chosen to participate in the Ynys Môn Housing Partnership - Cymdeithas Tai Eryri, Clwyd Alyn and North Wales Housing Association.

1.2 This document sets out the Council's detailed procedures for processing new applications for social housing and applications from existing tenants wishing to transfer to alternative accommodation and the processes involved in allocating dwellings.

1.3 The Council is committed to promoting equal opportunities and all applicants will be treated equally and without any discrimination. The Council has adopted the Commission for Racial Equality's Code of Practice in Rented Housing.

1.4 The policy seeks to ensure that people in the greatest housing need have the highest priority for being housed or rehoused in the area of their choice.

## 2.0 ELIGIBILITY FOR SOCIAL HOUSING

2.1 Everyone is entitled to go onto the Housing Register unless they are excluded under the Housing Act 1996 as amended by the Homelessness Act 2002.

### 2.2 Statutory Exclusion

Applicants who are subject to immigration control within the meaning of the Asylum and Immigration Act 1996(c.49) are not eligible **unless**:

- a) they are existing secure or introductory tenants or assured tenants of housing accommodation allocated by a local housing authority or
- b) the applicant is a British Citizen
- c) a Commonwealth citizen who has the right of abode in the UK
- d) a citizen of a member country within the European Economic Area

- e) a person who has been granted refugee status
- f) a person who has been granted exceptional leave to enter or remain in the UK which is not subject to a condition requiring him/her to maintain and accommodate him/herself and any dependants without recourse to public funds
- g) a person who has a current leave to enter or remain in the UK which is not subject to any time limit or condition. (Other than a sponsored immigrant who has been here for at least 5 years and whose sponsor(s) is still alive)

**2.3** Persons who are not habitually resident within the Common Travel Area of the UK, Republic of Ireland, Isle of Man and Channel Islands.

**2.4** Nationals of the European Economic Area with no right to reside.

A person who is a national of a country within the EEA and who is notified by the Home Secretary that he/she no longer has a right to reside in the UK.

**2.5** A person who is excluded from entitlement to Housing Benefit by Section 115 of the Immigration and Asylum Act 1999(c.33).

**2.6** Discretionary Exclusion (power to exclude on basis of unacceptable behaviour)

The Council will only exclude those persons falling within the statutory provisions. This approach ensures that the allocation policy is not only inclusive but accurately reflects housing need on the island. This does not necessarily mean that all applicants will be actively considered for housing. Please refer to Paragraph 12.0 'SUSPENDED APPLICATIONS'.

**2.7** Applicants who feel they should become eligible can reapply to the Housing Authority at any time but will be required to demonstrate that their circumstances have changed.

### **3.0 DATA PROTECTION**

**3.1** The Council will not disclose information regarding a person's application for housing to any third party or member of the public without their express consent unless required to do so by law. By signing the Housing Register application form, the applicant gives consent to the Council to make relevant enquiries in connection with their application and their suitability to be a tenant

### **4.0 MAKING AN APPLICATION**

**4.1** The Council will provide advice and information free of charge to potential applicants about their right to join the Housing Register, including an application form. The Council will also provide help directly or indirectly in making an application, free of charge, to anyone on the island who is likely to have difficulty applying without assistance.

**4.2** The Council will endeavour to provide information in alternative formats upon request.

### **5.0 APPLICATIONS FROM 16/17 YEAR OLDS**

**5.1** Section 1 of the Law of Property Act 1925 prevents minors from holding a legal estate in land. Consequently applicants will normally only be considered where the Council has a duty under the homelessness legislation or the Children Act 1989 and an appropriate adult will be required to enter into a guarantee in relation to the tenancy agreement. There may also be a requirement for appropriate support arrangements.

The offer of permanent accommodation before an applicant is 18 is at the discretion of the Head of Housing Services.

5.2 The housing and support needs of lone parents under 18 years of age will be subject to joint assessment with Social Services and other agencies (where relevant). The consent of the applicant must be sought unless there are child protection concerns.

## 6.0 ELIGIBILITY CRITERIA FOR SPECIFIC PROPERTY TYPES / SIZE

6.1 Priority for houses will be given to households with children under the age of 16 years or with children 16 - 18 who are in full time education or training.

6.2 To qualify for OAP bungalows/flats, an applicant must be 60 years of age or over.

6.3 To qualify for sheltered accommodation, an applicant must be 60 years of age or over OR be registered disabled. Offers of accommodation will be made subject to an assessment of housing and support needs by a Panel comprising Allocation Officers, Occupational Therapists and Disability Advisors.

6.4 To qualify for properties designed or adapted for special needs (e.g. disabled person) an applicant or a member of the applicant's household, must be medically assessed as requiring such specialised accommodation.

6.5 The Council assesses the size of home each applicant requires, according to their household size and composition ~~and any other special considerations~~. Size is expressed in terms of the number of bedrooms. Applicants ~~with one child will be considered for 3 bedroomed houses. Single applicants will be considered for 2 bed roomed flats~~ will be prioritised for accommodation of a size that accords with their bedroom requirement, which shall be assessed using the following criteria.

One bedroom shall be deemed necessary for each of the following persons in the applicant's household:

- a single person or couple aged over 16; and

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- two children of the same gender, where both of the children are aged under 16; and
- two children aged under 10, regardless of gender; and
- any remaining child.

In addition, an additional bedroom shall be deemed necessary where:

- the tenant or his/her partner is disabled, and they require a non-resident overnight carer, providing that the Council is satisfied that the prospective tenant is able to afford the accommodation; or
- it is unreasonable for two persons to share a bedroom, as the result of an illness or disability, providing that the Council is satisfied that the prospective tenant is able to afford the accommodation.

For the purpose of the above calculation, foster children and persons whose principal home is elsewhere shall not be included.

Where, in respect of a particular allocation, there is no applicant eligible for that size of property, or where all the eligible applicants have refused an offer, households with other bedroom requirements may be considered for an allocation, subject to an assessment of their ability to afford the rent and other household expenses.

Couples will be considered for 2 bedroomed OAP bungalows ahead of single applicants. Prospective allocations to OAP bungalows will be subject to an affordability assessment.

**6.6** A single -parent household is entitled to the same size of accommodation as a two-parent household with the same number of children

**6.7** Households that include a pregnant woman expecting her first child are assessed after 6 months as if the baby had already been born when being considered for houses.

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## 6.8 EXCEPTIONS

a) When the Independent Community Specialist recommends increasing the required property size on medical grounds, subject to an affordability assessment.

b) The Head of Housing Services may allocate property types/sizes outside the eligibility criteria if there are no eligible applicants and/or it is in the best interest of the Council to do so in terms of managing its housing stock, meeting genuine housing need and minimising rent loss on void properties. The Head of Housing Services may also authorise the use of such properties as temporary accommodation for households towards whom the Council has a statutory duty under Part V11 Housing Act 1996 as amended by the Homelessness Act 2002.

## 7.0 JOINT TENANCIES

The Council encourages joint tenancies, where two adults in a household become joint tenants in the same Council property. Both tenants are then jointly and individually responsible for ensuring the tenancy agreement is kept to. Both parties must individually qualify to join the housing register and be eligible to be considered for offers of accommodation. If the Council refuses to grant a joint tenancy, it will provide written notification detailing the reasons for the refusal.

## 8.0 RIGHT TO GENERAL INFORMATION

8.1 Eligible applicants have the right to request such general information as will enable them to know how their application is likely to be treated, what preference they are likely to be given, what kind of accommodation is likely to be made available to them, and when such accommodation is likely to become available.

## 9.0 CHOICE

9.1 All eligible applicants have the opportunity to state preferences on property type, size and areas/neighbourhoods, subject to the following provisions, including the removal of area choice for homeless households after a period of three months.

9.2 All eligible applicants have the opportunity to register an interest in being accommodated by any of the participating Registered Social Landlords (Housing Associations) and approved Private Landlords.

9.3 Low turnover and high demand for some areas means that it may not always be possible to meet applicants' preferences for particular types of accommodation or areas on the island. Offers of accommodation will however be suitable for the applicant's needs even if they do not meet their preferences as regards location.

9.4 Applicants to whom the Council owes the main homelessness housing duty (Housing Act 1996, section 193) or the corresponding 'threatened with' duty under section 195(2)), shall have the opportunity to express, via letting area choices, a preference about the location of accommodation they wish to be offered. At the end of the period of three months, beginning with the acceptance of the homelessness duty, the Council may unilaterally widen the letting areas for which the applicant may be considered. This will only be done where it is considered that accommodation in the additional letting areas would most likely be suitable for the needs of the applicant and his or her household members, for the purpose of discharging the main homelessness housing duty.

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## 10.0 THE PROCESSING OF APPLICATIONS

10.1 Applicants will be required to provide relevant documents to support their application before they will be made an offer including proof of identification and proof of residency. If an applicant fails to provide the requisite information within the specified timescale, the application will be cancelled.

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**10.2** References will be required from a landlord or mortgage provider and further checks will be undertaken where there are concerns that the behaviour of the applicant (or a member of his/her household) may affect their suitability to be a tenant.

**10.3** Applicants with convictions subject to a custodial sentence will be required to have undergone a risk assessment

**10.4** Any children included in an application must normally be dependent on and reside with the applicant before they are taken into account when assessing the points levels.

**10.5** Applicants will be sent an acknowledgement letter within 5 working days and will be notified of the status of their application within the following 30 days once it has been processed. This will enable them to establish their prospects of being rehoused.

**10.6** Applicants will be removed from the register at their own request provided it is made in writing. Written confirmation will be provided where a forwarding address is known

**10.7** If information is received which infers that an applicant already on the list is ineligible, he will be informed in writing and advised of the reasons.

**10.8** Should the applicant request information about their application over the telephone, they will be asked to confirm their N.I. number or any other information known only to them.

**10.9** Making a false statement or withholding relevant information to obtain a tenancy is a Ground for Possession (eviction) and a criminal offence for which a fine is payable on summary conviction. Any such applications identified prior to allocation will be cancelled.

**10.10** If it is found that an applicant has purposely changed address or acted otherwise to worsen his/her circumstances to increase the award of points the application will be pointed as if such a change had not been made for a period of 12 months or, where the applicant is found to be intentionally homeless, until such time as there is a change in circumstances which would overturn the finding of intentionality.

## **11.0 CHANGE OF CIRCUMSTANCES**

**11.1** Applicants are required to notify the Council in writing of any changes to their personal circumstances so that their details can be amended accordingly.

**11.2** Periodic reviews of the Housing Register are undertaken and applicants who fail to return the review form within the specified timescale will be removed from the register.

## **12.0 SUSPENDED APPLICATIONS**

**12.1** In some circumstances applications will be suspended i.e. they will be credited with housing need/local connection points but will not be actively considered when a property becomes available for letting. Suspensions can last up to a maximum of 12 months at which time the case will be reviewed. The decision on whether to suspend will be made on the basis of the facts of individual cases and applicants will be notified in writing of the reasons for the suspension and afforded the opportunity to request a review of the decision. See Paragraph 22.0 'RIGHT TO REVIEW OF DECISIONS'.

**12.2** Suspensions will be applied in the following circumstances (this list is not exhaustive):-

**12.2.1** At applicant's own request

**12.2.2** Pending further information required to process an application e.g. proof of divorce / legal separation / property settlement / property sale and equity released / pregnancy / residence arrangements for children

**12.2.3** Eligible applicants with tenancy related debts with any Local Authority, RSL or Private Landlord (arrears/recharges/court costs). Applicants will be required to enter into and maintain an agreed repayment schedule. Whilst suspensions will be lifted when the debt is equivalent to 4 weeks rent net of any benefit, the offer of accommodation before the debt is cleared in full will be at the discretion of the Head of Housing Services or the Housing Associations/Private Landlords and only then in exceptional circumstances.

**12.2.4** Applicant is in prison.

**12.2.5** Applicant is in HM Forces pending confirmation of discharge from Commanding Officer.

**12.2.6** Applicant has refused 2 reasonable offers in the areas of his choice. Suspension for 12 months.

**12.2.7** Applicant is occupying tied accommodation – pending receipt of Notice to Terminate Employment.

**12.2.8** Applicant has adequate financial resources to secure own accommodation at market rent or purchase. The average rental cost or purchase price in the applicant's areas of choice will be considered at the time of the assessment. For rental purposes applicants with an annual income of £35,000 will be deemed to have adequate resources to house themselves. Applicant will still be given appropriate advice and assistance.

**12.2.9** Applicant is a freehold, leasehold or shared owner unless they have a

minimum of 20 housing need points (excluding local connection). Applicants will only be considered when they are in the process of disposing of the property and have obtained a completion date unless:-

a) urgent re-housing is required on medical grounds (must have minimum 20 medical points) and it is not possible to adapt current accommodation OR applicant needs to live in close proximity to a carer (property must be in the process of being sold or applicant will be required to give a written undertaking to dispose of it within 12 months);

b) the applicant is a joint owner at relationship breakdown and the property is not being disposed of as one partner is to continue to live in it (written confirmation from solicitor required)

c) the property is considered to be 'difficult to let' (property must be in the process of being sold or applicant will be required to give a written undertaking to dispose of it within 12 months)

**12.2.10** There are issues relating to current/recent anti-social behaviour which are considered relevant to the applicant and/or household members in terms of their suitability as tenants. Consideration will be given to the need to strike a balance between the rights of the individual and the interests of the wider community. Where there is evidence to suggest that an applicant's unacceptable behaviour is due to disability, the application will not be suspended if the Council is satisfied that the person would be able to maintain a tenancy satisfactorily with appropriate support. Any decision will be based on consultation with relevant agencies e.g. GP, Social Services, Mental Health Team, support providers.

**12.2.11** Transfer applicants who have not occupied their present home for a minimum of 12 months unless there has been a change of circumstances which means they now fall within the reasonable preference categories. (The Head of Housing Services may allow a transfer in exceptional circumstances, which will be recorded on the applicant's file).

**12.2.12** Transfer applicants with rent arrears/recharges/court costs until they enter into and maintain an agreed repayment schedule. Whilst suspensions will be lifted when the debt is equivalent to 4 weeks rent net of any benefit, the offer of accommodation before the arrears are cleared in full will be at the discretion of the Head of Housing Services or the Housing Associations/Private Landlords and only then in exceptional circumstances.

**12.2.13** Transfer applicants where their present home does not meet acceptable standards of cleanliness and decoration (the standard required is such that a new tenant could reasonably move into the dwelling straight away if the tenant left today).

**12.2.14** Transfer applicants pending making good defects which are the tenant's responsibility.

**12.2.15** Transfer applicants pending bringing garden area to a reasonable standard (having regard to his physical capabilities and those of his family members).

**12.2.16** Transfer applicants where there are issues relating to current/recent anti-social behaviour which has warranted intervention by the Council .

Applicants will be notified in writing of the reasons for the deferral and, where necessary how to remedy the situation and the proposed review dates. Applicants suspended on the basis of anti-social behaviour will be required to demonstrate to the reasonable satisfaction of the council, why they consider themselves suitable to be a tenant.

### **13.0 PRIORITISING APPLICATIONS**

**13.1** Eligible applicants are awarded points to reflect housing need and other factors.

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**13.2** Reasonable preference must be given to the following categories of people set out in s167(2) Part V1 Housing Act 1996 (as amended) :-

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

**13.3** When distinguishing between applications the Council will take into account the following factors:-

- a) The financial resources available to applicants to meet their own housing need;
- b) any behaviour of the applicant or a member of that household which affects the applicant's suitability to be a tenant;
- c) any local connection between the applicant and the district.

**13.4** The Council also has the power under s167(2E) to allocate particular housing accommodation to persons of a particular description regardless of whether or not they fall under s167(2). Any such specific lettings plans would be ancillary to the main Allocation Policy and would allow accommodation developed for a specific Allocation Policy July 2010 [with proposed amendments for consultation with RSLs – Version 2](#)

purpose to be allocated either primarily or exclusively to a specific category of people irrespective of whether or not they would attract priority under other provisions of the 1996 Act or the Allocation Policy.

#### 14.0 HOUSING NEED POINTS

##### 14.1 HOMELESSNESS, UNSETTLED OR INSECURE ACCOMMODATION

a) The applicant is homeless/threatened with homelessness unintentionally - **20 points OR**

b) The applicant is homeless, unintentionally and in priority need as a result of violence or threats of violence likely to be carried out - **30 points**

c) the applicant is homeless and in priority need but homeless intentionally - **5 points OR**

d) The applicant is living in lodgings, staying with family/friends - **10 points OR**

e) The applicant is in local authority care or has been living in a hostel/supported housing project for a minimum period of 6 months and written confirmation has been received that they are ready to move on. – **45 points OR**

f) The applicant has been placed in temporary local authority or private accommodation under Section 193(2) of the Housing Act 1996 (as amended) – **20 points**. This category will also attract **10 points** after the first 6 months spent in the temporary accommodation and an additional **10 points** after ~~a~~every further 6 months s period they spend in temporary accommodation (at 12, 18, 24 months, and so on), up until the applicant has occupied the temporary accommodation for five years.

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**NB** If an applicant pointed under 14.1(a)~~or 14.1.~~ (b), or (f) -refuses a final offer of suitable accommodation under Part V1 (allocation of housing) , the homelessness points will be removed. This also applies to non-priority need applicants.

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## 14. 2 OCCUPYING ACCOMMODATION WHICH IS UNSANITARY, OR LIVING IN UNSATISFACTORY HOUSING CONDITIONS (Applies to tenants and owner-occupiers)

- a) applicants lacking cooking facilities - **5 points**
- b) applicants living in poor housing conditions - **up to 20 points**

The assessment will be undertaken by an Environmental Health Officer using the Housing Health & Safety Rating System risk assessment framework. Rating scores will be calculated for each hazard identified based on the severity of each hazard, and its potential to cause injury to the occupiers.

### RATING SCORE:

- 5 – 25      5 points
- 30 – 45     10 points
- 50 – 65     15 points
- over 70     20 points

### 14.3 OVERCROWDING

Points will be awarded for each bedroom deficiency ~~to ensure separate bedrooms are available for:-~~

- ~~a) husband/wife or similar partnership;~~
- ~~b) each person aged 18 years or over;~~
- ~~c) children aged 8 or over of different sex from children of any age;~~
- ~~d) no more than 2 persons should occupy one bedroom;~~
- ~~e) children of the same sex where there is an age gap of 10 years. , using the following criteria of the household's need for bedrooms:~~

One bedroom is deemed necessary for each of the following persons in the applicant's household:

- a single person or couple aged over 16; and
- two children of the same gender, where both of the children are aged under 16; and
- two children aged under 10, regardless of gender; and
- any remaining child.

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In addition, an additional bedroom shall be deemed necessary where:

- the tenant or their partner is disabled, and they require a non-resident overnight carer every day; or
- it is unreasonable for two persons to share a bedroom, as a result of illness or disability.

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For the purposes of the above calculation, foster children and persons whose principal home is elsewhere shall not be included.

- **20 points for each bedroom deficiency**

#### **14.4 MEDICAL POINTS**

Applicants, who maintain that their present accommodation is detrimental to their health, may apply for medical points. The Council utilises the services of an independent Community Medicine Specialist to undertake such assessments. Requests for adapted accommodation are referred to the 'Housing Link' panel which comprises Housing and Social Services staff.

Medical points will only be awarded when a move to more suitable accommodation would be beneficial in alleviating their medical condition. The degree of urgency in the need for alternative accommodation will be reflected in the points awarded as follows:

- a) to improve quality of life (although existing accommodation is not detrimental to applicant's health) - **5 points**
- b) some medical benefit in moving - **10 points**
- c) significant medical benefit in moving - **20 points**
- d) unable to be discharged from hospital or live in present accommodation.

- **30 points**

#### **14.5 HARDSHIP POINTS**

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Applicants wishing to move to a particular locality to avoid hardship to themselves or others e. g to give/receive care and support and rehousing would dispense with the need for services to be provided by the local authority - **10 points**

#### **14.6 SOCIAL STRESS / SOCIAL MANAGEMENT POINTS**

Points will only be considered in this category in exceptional circumstances where the applicant's personal/housing circumstances are not met by other needs factors. This category would mainly be to assist Social Services to fulfil their duties under the Children Act 1989 (Section 17 (1)).....'Duty of every Local Authority Social Services Department.....to

- safeguard and promote the welfare of children within the area who are in need:
- so far as is consistent with that duty, to promote the upbringing of such children by their families, by providing a range and level of services appropriate to those children's needs.'

Under S27 of the Children Act 1989, Social Services can ask Housing Services to help in delivering services for children in need and they must comply to the extent that it is compatible with their own statutory duties and other obligations and does not unduly prejudice the discharge of any of their own functions. Points variable and will only be awarded for one offer only.

#### **14.7 CHILDREN IN FLATS**

If the applicant has a child under the age of 11 and is living in;

- a) a ground floor flat or maisonette without the sole use of a garden - **20 points**
- b) a maisonette or flat above ground floor - **30 points**

#### **14.8 PREGNANCY**

Applicants who are over 6 months pregnant and living in a flat or maisonette above ground floor - **10 points**

#### **14.9 SHARING POINTS**

Applicants who have to share facilities with separate households will be awarded points (A separate household does not include relations who have jointly occupied or owned the accommodation with the applicant for a substantial period of time immediately prior to applying for housing).

Points will be awarded for shared:

- living room - **5 points**
- kitchen - **5 points**
- toilet - **5 points**
- bathroom - **5 points**

#### **14.10 UNDER OCCUPATION (COUNCIL/PARTNER HOUSING ASSOCIATION TENANTS ONLY)**

In order to give priority to existing council tenants who are under occupying accommodation which is too large for their current needs, points will be awarded for each bedroom in excess of their needs.

In assessing those needs it will be assumed that separate bedrooms are required for husband/wife or similar partnership; each person 18 years or above; children aged 8 or over of different sex from children of any age; no more than 2 persons should occupy one bedroom; children of same sex where there is an age gap of 10 years -

**30 points for each bedroom in excess of need.**

#### **14.11 FOSTER CARERS**

Applicants who are registered foster carers and whose present accommodation is unsuitable in terms of size or location to prevent them from providing that care -

**30 points**

#### **14.12 ADAPTED PROPERTIES**

Applicants releasing an adapted property ( council or housing association partner) where there is an identified need for the property i.e. Social Services have identified an applicant for whom the adaptations are appropriate - **30 points**

#### **14.13 TIED ACCOMMODATION**

Applicants occupying accommodation as a condition of employment with the council or partner housing association leaving through no fault of their own e.g. retirement, redundancy, ill health – **30 points**

#### **14.14 SMALLHOLDINGS**

Applicants occupying council owned smallholdings leaving through no fault of their own - **30 points**

#### **15.0 TRANSFER APPLICANTS**

Transfer applicants (i.e. all existing tenants of the Council or participating Housing Associations) - **10 points**

#### **16.0 LOCAL CONNECTION POINTS**

The Council aims to prevent the dispersal and break up of local communities and strengthen family support networks.

Local connection points will be awarded:-

a) for each year an applicant has had his/her place of work, or had his/her only or principal home in Anglesey, up to 10 years - **3 points for each year up to 10 years**

**OR**

b) if the applicant's mother, father, sister, brother or children have been living in Anglesey for at least 5 years - **10 points**

**OR**

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c) applicant has been living in Anglesey for 6 out of the last 12 months - **1 point**

**OR**

d) Special circumstances e.g. need to be near special medical or support services only available in Anglesey - **5 points**

Up to 20 additional points will be awarded if the applicant has had his/her place of work, or had his/her only or principal home in the parish that they wish to be rehoused for a period of 10 years - **2 points per year up to 10 years.**

## **17.0 VERIFICATION VISITS**

A Council Officer may visit the applicant to verify that the housing circumstances are as set out in the application form and that the correct points have been awarded. Applicants are expected to allow access to all parts of their home.

## **18.0 SELECTION OF APPLICANTS AND GRANTING TENANCIES**

***The operation of the allocations scheme is delegated to the Head of Housing Services and his staff.***

**18.1** When a property becomes available for letting, the Lettings Officer will draw up a short list of the highest pointed eligible applicants who have requested that type of property in that particular area.

**18.2** Consideration will be given to the overriding need to make the best use of the Council's stock, the nature of the stock in the locality, turnover rates and levels of local need.

**18.3** Where there are more than one equally pointed suitable applicants the original date of application will be taken into account

**18.4** Successful applicants will be notified in writing that the offer is made provisionally and will not constitute a legally binding contract until the tenancy agreement is signed.

## 19.0 ROLE OF ELECTED MEMBERS IN THE ALLOCATION PROCESS

**19.1** Local Members are responsible for approving, adopting and monitoring the implementation of allocations policies that comply with the Housing Act 1996 (as amended by the Homelessness Act 2002), the Welsh Assembly Government's 'Code of Guidance for Local Authorities on Allocation of Accommodation and Homelessness' 2003 and Equal Opportunities Legislation.

**19.2** The Local Housing Authorities (Prescribed Principles for Allocation Schemes) (Wales) Regulations 1997 (Statutory Instrument 1997 No. 45) prevent an Elected Member from being part of a decision-making process, when either:

- a) The unit of housing accommodation concerned is situated in their electoral ward; or
- b) The person subject to the decision has their sole or main residence in the Member's electoral ward.

This is reinforced in the Code of Guidance referred to in Paragraph 19.1

**19.3** Local Members enquiring about the status of a property will be advised whether it is currently void or has been allocated. However, to comply with the Data Protection Act 1998, personal information in relation to the new tenant cannot be disclosed.

**19.4** Local Members may make written enquiries on behalf of applicants within their constituency only in relation to the status of their housing register application provided that the written consent of the applicant is held on file by the Council.

## 20.0 NOMINATIONS TO HOUSING ASSOCIATIONS

The Allocation Policy not only dictates the selection of applicants for council tenancies, but also covers nominations to assured/ assured shorthold tenancies offered by Housing Associations. Associations with properties on the island are required to offer a proportion of their lettings to the Council (minimum 50%). When a vacancy is offered for nomination, the Council will nominate the 3 highest pointed applicants. The Association will then decide which of the nominated applicants is the most suitable in the context of their own eligibility criteria.

## **21.0 RIGHT TO INFORMATION ABOUT DECISIONS**

**21.1** Applicants have the right to be notified in writing of any decision: -

- a) to exclude them from the Housing Register
- b) to suspend their application
- c) to remove them from the register

The Council must give clear grounds based on relevant facts of the case, state the duration of the exclusion/suspension and how the decision may be reversed.

**21.2** Applicants have the right, on request, to be informed of any decision about the facts of their case which have been or are likely to be, taken into account in considering whether to make an allocation to them.

## **22.0 RIGHT TO REVIEW OF DECISION**

**22.1** Applicants have the right, on request, to review a decision mentioned in 21.1 or 21.2 above.

Request for review must be made within 21 days of the date of the notification letter and the review will be based on written representations submitted by the applicant or someone acting on their behalf. Representations must be made within 14 days of the date the Council notifies the applicant that it is undertaking the review.

The review will be conducted by someone not involved in the original decision and senior in position to the person who made the original decision.

The local authority will make a decision within 8 weeks of the date the review was requested. Applicants will be notified in writing of the decision on review. If it confirms the original decision, they will be notified of the reasons for the decision.

Following the review, the applicant has no further right to challenge but may appeal to the High Court for a judicial review on a point of law.

If the applicant is dissatisfied with any aspect of the process followed in dealing with the application, he may seek redress through the Council's Complaints Procedure and, if still dissatisfied, may complain to the Public Services Ombudsman for Wales.

### **23.0 MONITORING AND REVIEW**

The Allocation Policy is regularly monitored to ensure compliance with legislative changes, caselaw and guidance documents. The Council is committed to ongoing training for staff and elected members.

### **24.0 ALLOCATIONS EXCLUDED FROM THE ALLOCATION SCHEME**

- a) Offers of secure tenancies of their current home to introductory tenants;
- b) offers of non-secure tenancies to homeless households in pursuance of duties owed under Part V11 Housing act 1996 (as amended);
- c) transfer of tenancies in pursuance of court orders in the course of divorce or other family proceedings;

- d) statutory succession to secure or introductory tenancies on the death of the tenant;
- e) assignment of secure or introductory tenancies to a person who is qualified to succeed;
- f) mutual exchanges;
- g) other circumstances may be prescribed by the Secretary of State.