

Committee: Executive
Date: Monday 5 November 2012
Time: 6.30 pm
Venue: Bodicote House, Bodicote, Banbury, OX15 4AA

Membership

Councillor Barry Wood (Chairman)	Councillor G A Reynolds (Vice-Chairman)
Councillor Ken Atack	Councillor Norman Bolster
Councillor John Donaldson	Councillor Michael Gibbard
Councillor Tony Ilott	Councillor Nigel Morris
Councillor D M Pickford	Councillor Nicholas Turner

AGENDA

1. **Apologies for Absence**

2. **Declarations of Interest**

Members are asked to declare any interest and the nature of that interest that they may have in any of the items under consideration at this meeting.

3. **Petitions and Requests to Address the Meeting**

The Chairman to report on any requests to submit petitions or to address the meeting.

4. **Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. **Minutes** (Pages 1 - 10)

To confirm as a correct record the Minutes of the meeting held on 1 October 2012.

Strategy and Policy

6. Review of Parking Arrangements over Christmas and New Year Period

(Pages 11 - 14)

6.35pm

Report of Head of Community Services

Summary

To seek approval for a Christmas and New Year Parking promotion.

Recommendations

The Executive is recommended:

- (1) To consider the options and approve a Christmas and New Year Parking promotion in Council operated car parks.
- (2) To note that the Chairman of the Overview and Scrutiny Committee has agreed to waive call-in as any delay to implement the decision would seriously prejudice the public interest.

7. Cherwell District Council Revised Allocation Scheme 2012

6.50pm

(Pages 15 - 78)

Report of Head of Regeneration and Housing

Summary

To seek approval to adopt a new Allocation Scheme and to endorse the decision to dissolve the Oxfordshire Sub-regional Choice Based Lettings partnership

Recommendations

The Executive is recommended:

- (1) To approve the adoption of the new Allocation Scheme as at Appendix 1 effective from 1 April 2013 subject to required IT changes being completed.
- (2) To delegate to the Head of Regeneration and Housing in consultation with the Lead Member for Housing, the authority to amend this effective date, if required.
- (3) To approve the Cherwell District Council's exit from the Oxfordshire Sub-regional Choice Based Lettings partnership.

8. Revision of Private Sector Housing Policies (Pages 79 - 144)

7.05pm

Report of Head of Regeneration and Housing

Summary

To seek adoption of revised private sector housing policies and revised standards for houses in multiple-occupation.

Recommendations

The Executive is recommended:

- (1) To adopt the following operational policies in place of similarly named policies adopted in May 2008:
 - Housing (Private Sector) Policy
 - Housing Health & Safety Rating Scheme (HHSRS) Policy
 - House in Multiple Occupation (HMO) Licence Policy
 - Recovery of Costs Policy
 - House Condition Enforcement Policy
 - Private Sector Housing Grants and Assistance Policy
- (2) To adopt the house in multiple-occupation standards (entitled HMO Standards 2012) as the Council's standards in place of earlier adopted standards.

Service Delivery and Innovation

9. Collective Energy Switching Scheme (Pages 145 - 152)

7.15pm

Report of Head of Environmental Services

Summary

To inform members of collective energy purchasing and switching scheme proposals and provide information for progressing a scheme in Cherwell

Recommendations

The Executive is recommended:

- (1) To take forward a collective switching scheme for domestic energy consumers in Cherwell and to collaborate with other interested Districts to achieve the best deal for residents.
- (2) To further explore engaging iChoosr as an intermediary to negotiate with energy companies in order to achieve the best value for money.
- (3) To consider the setting up of a working group to implement and deliver a collective switching project

10. Localism Act 2011 - Register of Community Assets (Pages 153 - 160) 7.25pm

Head of Law and Governance

Summary

To enable the Executive to consider the implications of the provisions of the Localism Act 2011 in relation to assets of community value and to approve appropriate decision-taking mechanisms to ensure that the statutory requirements can be met.

Recommendations

The Executive is recommended to:

- (1) Note the implications of the provisions of the Localism Act 2011 in relation to the obligation of the Council to maintain a list of assets of community value ('the List').
- (2) Delegate authority to the Head of Housing and Regeneration in consultation with the Lead Member for Estates and the Economy to consider and determine nominations for inclusion on the List.
- (3) Delegate authority to the Director of Development in consultation with the Leader of the Council to consider and determine requests from asset owners for review of decisions to include an asset on the List.
- (4) Delegate authority to the Head of Housing and Regeneration in consultation with the Head of Finance and Procurement to consider and determine applications for compensation from asset owners for loss and expense incurred through assets being included on the List.
- (5) Delegate authority to the Director of Development in consultation with the Director of Resources to consider and determine requests for review of compensation determinations from asset owners for loss and expense incurred through assets being included on the List.

Value for Money and Performance

11. Local Government Resources Review (LGRR) Update and 2013/14 Budget Process Update (Pages 161 - 164) 7.35pm

Report of Head of Finance and Procurement

Summary

To inform the Executive of the latest position on the LGRR project regarding council tax and pooling localisation and an update on 2013/14 budget planning.

Recommendations

The Executive is recommended to:

- (1) Note the latest position on council tax localisation and consultation responses.
- (2) Note the latest position on business rates localisation and pooling.
- (3) Delegate authority to the Chief Executive and Director of Resources, in consultation with the Leader of the Council and the Lead Member for Financial Management to make an application to join an Oxfordshire pool if the financial modelling supports
- (4) Note the changes to the budget timetable.

Urgent Business

12. Urgent Business

Any other items which the Chairman has decided is urgent.

(Meeting scheduled to close at 7.45pm)

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to

democracy@cherwellandsouthnorthants.gov.uk or 01295 221589 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

This agenda constitutes the 5 day notice required by Regulation 5 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 in terms of the intention to consider an item of business in private.

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Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Natasha Clark, Democratic and Elections
natasha.clark@cherwellandsouthnorthants.gov.uk, 01295 221589

Sue Smith
Chief Executive

Published on Friday 26 October 2012

Agenda Item 5

Cherwell District Council

Executive

Minutes of a meeting of the Executive held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 1 October 2012 at 6.30 pm

Present: Councillor Barry Wood (Chairman), Leader of the Council
Councillor G A Reynolds (Vice-Chairman) Deputy Leader of the Council

Councillor Ken Atack, Lead Member for Financial Management
Councillor Norman Bolster, Lead Member for Estates and the Economy
Councillor John Donaldson, Lead Member for Banbury Brighter Futures
Councillor Michael Gibbard, Lead Member for Planning
Councillor Tony Ilott, Lead Member for Public Protection
Councillor Nigel Morris, Lead Member for Clean and Green
Councillor D M Pickford, Lead Member for Housing
Councillor Nicholas Turner, Lead Member for Performance and Customers

Also Present: Councillor Andrew Beere (in place of Councillor Patrick Cartledge, Leader of the Labour Group)
Councillor Tim Emptage, Leader of the Liberal Democrat Group

Apologies for absence: Councillor Patrick Cartledge, Leader of the Labour Group

Officers: Sue Smith, Chief Executive
Martin Henry, Director of Resources / Section 151 Officer
Adrian Colwell, Head of Strategic Planning and the Economy
Kevin Lane, Head of Law and Governance / Monitoring Officer
Natasha Clark, Team Leader, Democratic and Elections

44 **Declarations of Interest**

Members declared the following interests:

6. Banbury Masterplan Progress Report.

Councillor Nicholas Turner, Conflict of Interest, as Chairman of a management company and a tenant on the outskirts of Banbury and should this issue arise he would leave the meeting.

7. Oxford Canal Conservation Area Designation.

Councillor Nigel Morris, Conflict of Interest, due to interest in a site within the report and would leave the meeting for the duration of the item

45 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

46 **Urgent Business**

There were no items of urgent business.

47 **Minutes**

The minutes of the meeting held on 3 September 2012 were agreed as a correct record and signed by the Chairman, subject to the following amendment:

Add Councillor Ken Atack and Councillor Nigel Morris to list of Members present.

48 **Banbury Masterplan Progress Report**

The Head of Strategic Planning and the Economy submitted a report and gave a presentation on the development of the Banbury Masterplan. The presentation had been put together by representatives of WYG, the consultants appointed to prepare the Banbury Masterplan, but who had been unable to attend the meeting.

In introducing the report, the Lead Member for Planning explained that, like the Bicester Masterplan, the Banbury Masterplan contained a set of strategic proposals for the future development of the town to ensure the development of the town proceeded in a holistic, planned, coordinated way. It would be used to provide the detailed underpinning for the Banbury chapter of the Local Plan for the District which was currently out for consultation and due for Examination in 2013.

At the discretion of the Chairman, Mr Malcolm Finch, founder of the Hanwell Fields Development Action Group (HFDAG), addressed Executive.

In response to Mr Finch's address, the Chairman confirmed that the consultation undertaken on the emerging Local Plan fulfilled all of the statutory requirements and significant public consultation would take place on both the Local Plan and the Banbury Masterplan as the importance of engaging and obtaining the views of the residents in the district was recognised and their contribution welcomed.

The Lead Member for planning explained that as part of the preparation process of the Banbury Masterplan, consultants had prepared a conceptual version of the Masterplan. The consultants had gathered information and liaised with key stakeholders, including district, town and county councillors, the college, local businesses through Banbury Town Centre Partnership and Banbury Chamber of Commerce and neighbouring Parish Councils.

Engagement had so far included a series of workshops and one to one interviews.

Following consideration by the Executive of the conceptual Masterplan there would be a deeper examination of infrastructure needs of the town including future education, health, green infrastructure and leisure requirements. The final draft Masterplan for Banbury would be consulted on in Autumn 2012.

Resolved

- (1) That the issues that have informed the preparation of the Masterplan for Banbury and the progress being made be noted.
- (2) That the WYG presentation by the Head of Strategic Planning and the Economy be noted.
- (3) That it be agreed to proceed to public consultation and completion of the Masterplan.

Reasons

The Masterplan contains a set of strategic proposals for the future development of the town to ensure the development of the town proceeds in a holistic, planned, coordinated way.

Options

Option One: To take no action

Option Two: To accept the recommendation

Option Three: To continue with a piecemeal approach to development that fails to ensure integration with the existing town or to ensure that opportunities are realised for the benefit of residents and businesses in Banbury.

49

Oxford Canal Conservation Area Designation

The Head of Strategic Planning and the Economy submitted a report which sought approval of the Executive to designate the Oxford Canal Conservation Area with immediate effect.

In introducing the report, the Lead Member for Planning reported that the designation of part of the Oxford Canal as a Conservation Area aimed to ensure that the special character and appearance of the area could be identified and protected, through ensuring that any future development preserves or enhances that identified special character. If approved, the document would be a material consideration in the determination of planning applications within the conservation area and its setting. Additionally, it would form a starting point for a heritage partnership agreement with the Canal & Rivers Trust, attempting to consider the maintenance and management of the canal.

The Executive commended the officers who had worked on developing the document.

Resolved

- (1) That the representations received following consultation and the changes made to the draft conservation area appraisal and to the proposed conservation area boundary as a result be noted.
- (2) That the conservation area appraisal for the Oxford Canal be approved.
- (3) That, under Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the Oxford Canal Conservation Area be designated with immediate effect.

Reasons

The area has been identified as an area of special architectural or historic interest, and as such, the Council is duty bound to designate a conservation area under section 69 of The Act.

The document sets out the reasons why the area is of such interest and justifies its designation. Such justification will be of use to planning officers and inspectors when determining applications along the route of the canal.

The document should form a starting point for a heritage partnership agreement with the Canal & Rivers Trust, attempting to consider the maintenance and management of the canal.

Options

- | | |
|---------------------|--|
| Option One | To accept the recommendation |
| Option Two | To decline to designate a conservation area along the Oxford Canal |
| Option Three | To designate a conservation area with a different boundary, as Members see fit |

Councillor Nigel Morris left the meeting for the duration of this item.

50

Proposed Response to Heseltine Review

The Head of Strategic Planning and the Economy submitted a report which sought consideration of a proposed submission by Cherwell District Council to the Heseltine Review.

In introducing the report, the Lead Member for Estates and the Economy explained that in autumn 2011 the Chancellor and Secretary of State for

Business asked Lord Heseltine to undertake an independent review of how spending Departments and other relevant public sector bodies interacted with the private sector and to assess their capacity to deliver pro-growth policies.

The submission from Cherwell District Council focussed around two of the 4 themes being examined by the Review: the capacity of departments to deliver pro-growth policies and how departments interact with the private sector.

Resolved

- (1) That the proposed Cherwell District Council draft response to the Heseltine Review be adopted.

Reasons

This was an opportunity to submit observations to the Heseltine Review from a Cherwell District Council perspective.

This was an opportunity to build a dialogue with the Review Team to secure policy changes of benefit to the Cherwell District.

Options

- | | |
|---------------------|--|
| Option One | Do nothing, do not submit to the Review. |
| Option Two | Adopt the proposed response |
| Option Three | Amend the proposed response and submit to the Review |

51 **2013/14 Budget Strategy, Service & Financial Planning Process and 2013/14 Budget Guidelines including Local Government Resources Review (LGRR) Update**

The Head of Finance and Procurement submitted a report which informed the Executive of the service and financial planning process for 2013/14, approve 2013/14 budget strategy and to agree budget guidelines for issue to service managers to enable the production of the 2013/14 budget and update the current position of our Local Government Resources Review project

In introducing the report, the Lead Member for Financial Management reported that the council's financial settlement from central Government was not yet finalised and further adjustments to the proposals may be required.

In response to a comment from Councillor Tim Emptage, Leader of Liberal Democrat Group, regarding business rates localisation and the proposals for pooling amongst a number of Oxfordshire authorities, the Lead Member for Financial Management explained that discussions with other councils were ongoing to develop the financial models, understand what additional financial benefits a pooling arrangement could deliver, what the risks are, agree the principles of the proposed pool and how any additional funds should be

shared. The deadline for submitting formal applications to pool was 19 October 2012.

Resolved

- (1) That the updated MTFS forecast for the Council's revenue budget for 2013/14 to 2016/17 be noted.
- (2) That the overall 2013/14 budget strategy and service and financial planning process be endorsed.
- (3) To the proposed budget guidelines and timetable for 2013/14 budget process be agreed.
- (4) That the current position in relation to council tax support localisation be noted.
- (5) That the current position in relation to business rates localisation be noted.

Reasons

The Medium term Financial Strategy I currently being refreshed to take account of the LGRR and the strategy along with a forecast refresh will be reported as part of the budget reporting framework.

The Council needs to set guidelines and a timetable for the preparation of draft estimates for 2013/14. These guidelines should support the objectives contained in the Corporate Plan, Service Plans and the Medium Term Financial Strategy which is currently being refreshed and will be presented for approval in December 2012.

In September 2012 the Executive received an update report on the Local Government Resource Review (LGRR) including the introduction of localised Council Tax Support to replace Council Tax Benefit and changes to the way in which business rates are collected and distributed. This report provides progress since that report.

Options

None

52

Exclusion of the Press and Public

Resolved

That, in accordance with Section 100A(4) of Local Government Act 1972, the press and public be excluded from the meeting for the following item of business, on the grounds that they could involve the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A of that Act.

Land Negotiations Report

The Head of Regeneration and Housing submitted an exempt report which advised Executive of land negotiations.

Resolved

- (1) As set out in the exempt minute.
- (2) As set out in the exempt minute.
- (3) As set out in the exempt minute.

Reasons

As set out in the exempt minute.

Options

As set out in the exempt minute.

The meeting ended at 8.10 pm

Chairman:

Date:

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

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Executive

Review of Parking Arrangements over Christmas and New Year Period

5 November 2012

Report of Head of Community Services

PURPOSE OF REPORT

To seek approval for a Christmas and New Year Parking promotion.

This report is public

Recommendations

The Executive is recommended:

- (1) To consider the options and approve a Christmas and New Year Parking promotion in Council operated car parks.
- (2) To note that the Chairman of the Overview and Scrutiny Committee has agreed to waive call-in as any delay to implement the decision would seriously prejudice the public interest.

Executive Summary

Introduction

As a way to support local business, attract more visitors into Banbury and Bicester and to reduce costs of parking to visitors, a Christmas and New Year Parking promotion has been suggested.

Proposals

- 1.1 There are a number of different options for such a promotion including reduced cost parking; a fixed period free e.g. first 2 hours; or specified days on which a parking promotion could operate.
- 1.2 Whichever option is promoted there are significant financial implications through reduced car parking income. In addition, the proposal has to be a simple message to promote otherwise there will be confusion for customers.
- 1.3 Proposals also need to be formally advertised as they will be a variation from the legal Parking Orders. Specified procedures are required to vary the charges which are required in order that the Council can correctly enforce

arrangements.

Conclusion

- 1.4 Having considered a range of options, a six week promotion offering free parking to all customers on Saturday, Sunday and Monday from 1 December 2012 to 7 January 2013 is proposed.

Background Information

- 2.1 Variation of parking charges be they permanent or temporary, need to be implemented with the approval of the Highway Authority (Oxfordshire County Council) and be formally advertised in the local press before changes can be introduced.
- 2.2 A range of options are available to the Council, some of which are summarised at paragraph 1.2 above. These have been considered by the Head of Community Services with the Deputy Leader and the Lead Member for Financial Management.
- 2.3 Detailed financial implications have been considered with the Head of Finance and, whilst figures can only be projections based on historical information, it has been estimated that the total cost in terms of lost income from parking fees; reduced enforcement activity; costs of advertising and making the changes will be in the region of £100,000 if the proposal for a six weeks promotion as set out at paragraph 1.4 is approved.
- 2.4 The reasons for suggesting this option include:
 - It will be relatively simple to promote the changes to car park users through on site notices and press information.
 - It minimises the costs and complexity around programming the ticket machines which would be the case if tariffs were amended or an initial period of free parking was offered.
 - Saturday and Sundays tend to be the principal retail shopping days on the run up to Christmas and for the sales after.
 - Mondays are traditionally quieter days of the week so free parking on a Monday might act as stimulus to attract visitors into Banbury and Bicester.
 - It enables the Tuesday to Fridays that are not in the promotion to operate as normal with little affect and it will be relatively simple to come out of the promotion and return to normal charging arrangements after the six week period.
- 2.5 It is hoped that the private car park operators will join into the scheme and all operators have been contacted. Any decision about their Christmas charges is entirely down to them.

- 2.6 Not all car parks operated by the Council will be included in the promotion. Kidlington car parks are already free of charge. The drop off area in Bridge Street will be excluded as this is for drop off and collection only. In addition Compton Road car park is expected to be excluded as, whilst it operates under the Council's Parking Order, the Council simply collect the income for a third party who, at the time of writing have not agreed to drop charges on the specified days.
- 2.7 Spiceball Leisure Centre car park may also be excluded as this is operated by Parkwood.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 Costs arising from reduced income from parking charges are estimated at £100,000. If the proposal is agreed, some of the costs will be funded from the Portas Plus funding, announced earlier in the year by local government minister, Grant Shapps. The rest will be found through expected revenue underspends and a predicted investment income surplus.
- 3.2 There is need for a simple and clear message about the promotion to avoid car park users being confused as to what arrangements are in place. This will be achieved by notices on car park entrances where this is possible; notices in the car park areas and displayed on the information boards and ticket machines as well as being advertised and promoted through the press and on the Council's website.
- 3.3 Ticket machines will be placed 'Out of Order' on the days the promotion operates so that if customers try to pay for parking their payment will be returned via the coin return facility.
- 3.4 This promotion may affect season ticket holders/purchases. A refund will be offered on a pro rata basis for any full month of annual or quarterly season tickets for which a refund is sought and no admin charge will be levied.

The following options have been identified. The approach in the conclusion is believed to be the best way forward

- Option One** Change to tariffs
- Option Two** A specified initial free parking period
- Option Three** Alternative days/weeks on which to run the promotion.

Consultations

Oxfordshire County Council Have been consulted and have no objection

Implications

Financial: Estimate of income that will be foregone was prepared based on actual takings on weekends over the period in question. The current year's budget was reduced from last year's and income is currently slightly up on profiled budget. Therefore, the impact on the bottom line may be less than calculated as the budget target is lower and is currently being overachieved.

Comments checked by Joanne Kaye, Service Account, 01295 221545

Legal: Any variation of parking charges would need to follow the usual legal process of advertisement and public consultation.

Comments checked by Nigel Bell, Team Leader – Planning & Litigation, 01295 221687

Risk Management: Provided the necessary precautions described in this report are followed through completely with appropriate signage and advertising, the bulk of the risk should be mitigated”

Comments checked by Gavin Halligan-Davis, Interim Corporate Performance Manager 01295 221563.

Wards Affected

All Banbury and Bicester Wards

Corporate Plan Themes

Value for Money
District of Opportunity

Executive Lead Member

Councillor George Reynolds
Deputy Leader

Document Information

Appendix No	Title
None	
Background Papers	
Parking Orders	
Report Author	Chris Rothwell, Head of Community Services
Contact Information	01295 227122 chrisrothwell@cherwellandsouthnorthants.gov.uk

Executive

Cherwell District Council Revised Allocation Scheme 2012

5 November 2012

Report of Head of Regeneration and Housing

PURPOSE OF REPORT

To seek approval to adopt a new Allocation Scheme and to endorse the decision to dissolve the Oxfordshire Sub-regional Choice Based Lettings partnership

This report is public

Recommendations

The Executive is recommended:

- (1) To approve the adoption of the new Allocation Scheme as at Appendix 1 effective from 1 April 2013 subject to required IT changes being completed
- (2) To delegate to the Head of Regeneration and Housing in consultation with the Lead Member for Housing, the authority to amend this effective date, if required
- (3) To approve the Cherwell District Council's exit from the Oxfordshire Sub-regional Choice Based Lettings partnership

Executive Summary

Introduction

- 1.1 The Council's Allocation Scheme sets out the rules used to determine who get priority for social housing in the District. Social housing is owned by partner Registered Providers (RPs). By law every Local Authority has to have an Allocation Scheme that must be published and kept under review
- 1.2 The Localism Act 2011 received Royal Assent in 2011 and the allocations and lettings changes contained in the legislation were implemented in full by 18 June 2012. 'The Allocation of accommodation: guidance for local housing authorities in England' was published in June 2012. The Act and guidance provides Local Authorities with significant control over who qualifies for housing, the way the housing register is managed and the priority that can be given to locally determined groups that are assessed as being in housing need.

- 1.3 This report details the proposed changes to Cherwell's Allocation Scheme. The changes will enable the Council to better manage the expectations of those accepted onto Cherwell's Housing Register. The new Scheme also provides greater clarity and transparency in relation to who is to be prioritised for social housing in Cherwell. It will therefore focus those without a realistic chance of gaining a tenancy of social housing towards alternative housing options. It is anticipated this Scheme will lead to a smaller Housing Register in Cherwell and this will enable existing staff resources to be more focussed on those with greatest housing needs. The adoption of this Scheme can help mitigate the pressures the housing department will be facing with the introduction of the impending welfare reforms. It will help to ensure that any applicants successful in gaining a tenancy of social housing are accommodated in the size property that they may qualify to receive benefits for, should they become dependant on welfare benefits. This, in turn, should support the prevention of homelessness. It is anticipated that the demands on the housing needs team will increase significantly as all the welfare reforms are implemented and the adoption of this new Allocation Scheme can assist to provide the level of resources that will be required to meet the new demands arising.
- 1.4 In March 2009 the Council approved Cherwell's entry into a Sub-regional partnership to implement a Sub-regional Choice Based Lettings Scheme in Oxfordshire. A Choice Based Lettings Co-operation Agreement was established which enabled development of the Sub-regional scheme across four districts; Cherwell, South, Vale and Oxford City. This was set up on the basis that central government (at that time) advocated the operation of an open housing register and championed Sub-regional Choice Based Lettings Schemes, providing grants to areas willing to introduce them. The initial Co-operation Agreement expired in July 2012 and now operates on a month by month basis.

The Scheme has been closely monitored by the four Districts participating in the Sub-regional scheme. The monitoring has shown very few moves have actually been achieved across the sub-region. Officers from all districts are agreed that it has provided little benefit to clients who may have needed to move out of their districts urgently and they have needed to use alternative ways to move when they have needed to do so. The operation of the Sub-regional scheme has required the Allocation Schemes in all four Districts to be aligned and a sophisticated IT system has been developed which configures the policies in all four Districts into one system. This has increased IT costs for each District. As the performance of the scheme is low it has therefore proved not cost effective to operate. This has led to local authorities revisiting the business case to continue to provide it. The new government guidance in the Localism Act 2011 and June 2012 Code of Guidance 'The Allocation of accommodation: guidance for local housing authorities in England', gives local authorities more freedom to set their own individual policies. This has also led to all Districts participating in the partnership agreeing to cease the arrangement. The arrangements for joint provision and associated costs will cease and the partnership dissolved. The benefits of this decision should result in longer term reduced IT costs and reduced administration for Cherwell. As the Co-operation Agreement expiry date has been reached it is possible to leave without any penalty. Cherwell remains committed to operating choice based lettings within the district. A growth revenue bid will be needed which will come forward as part

of the budget process to reflect the need to amend IT arrangements

Proposals

- 1.5 To adopt the new housing Allocation Scheme as at Appendix 1
- 1.6 To endorse Cherwell's exit from Sub-regional Choice Based Lettings Scheme

Conclusion

The allocation of social housing is a key strategic duty for the Council. The proposed changes to the Allocation Scheme and subsequent changes to choice based lettings are being introduced in the context of the Localism Act 2011 and subsequent government guidance. They dovetail and align the allocation of social housing to other national changes in the benefits system through the new welfare reforms. It should be noted that the new Allocation Scheme is a major shift in the way the Council operates its Housing Register. It is intended to review and advise the Executive of any further adjustments that may be required to the Scheme 12 months after implementation.

Background Information

2.1 Who must the Council help by law in its Allocation Scheme?

The Council is by law required to give priority to households who attract 'reasonable preference'. The definition is set out in legislation and remains the case following the amendments introduced by the Localism Act. The 'reasonable preference' category of applicants includes homeless households, overcrowded households, households otherwise living in unsatisfactory housing conditions and people needing to move on medical or welfare grounds. Under the Localism Act the Council can now discharge a homelessness duty into the private rented sector, rather than through an offer of social housing. This will be subject to private sector properties becoming both available within the District and offered at an affordable rent.

The Act enables the Council to change its criteria for entrance onto the Housing Register. Under the new Localism Act 2011, the Council can determine its own criteria, subject to that set out in existing legislation which relates to immigration status and to any additional regulations which the Government has power to make in relation to eligibility. This has enabled the Council to operate a change of approach to allocations and restrict applications to the Housing Register. In future there will be a three stage test

- Eligibility
- Qualification
- Reasonable preference

2.2 Eligibility criteria, qualification and reasonable preference

At present anyone can go on the Council's Housing Register. Most have little or no prospects of securing social housing. Currently households with no priority for

housing and consequently no real prospects of re-housing in Cherwell are registered in Bands 4 or 5. There are around 2,800 households in these two bands out of a total register of just over 4,000 applications. Removal of these bands will result in efficiency savings (i.e. the current cost of processing and managing these applications and the customer contact time with people who have no prospects would be reduced).

The only households that are successful from these bands are applicants for elderly person sheltered accommodation or extra care or those with very particular village connections.

The new policy will only allow households which qualify and who are assessed as having reasonable preference to join the Housing Register.

2.3 Those who will not qualify

2.3.1 Homeowners or those with sufficient financial resources

Anyone owning their home will not be allowed to join the Register. £60k is set as sufficient financial resources – this is the top level of income, capital or assets that will be allowed before applications are disqualified from the Register. This is the maximum household income allowed before applicants are precluded from purchasing shared ownership products. Exceptions may be people who have medical needs to move to specific types of properties if their own resources cannot provide a solution to meet their needs.

2.3.2 Unacceptable behaviour or rent arrears where applicants owe over 8 weeks rent

Anti-social behaviour and relevant criminal convictions will preclude applicants from Cherwell's Housing Register. Unacceptable behaviour is defined as behaviour which would, if an applicant or member of their household was a secure tenant, entitle the landlord to possession under any grounds 1 to 7 of the Housing Act 1985. Applicants with unacceptable behaviour will be initially disqualified for 12 months. An applicant can reapply at any time for their situation to be reviewed. Applicants disqualified for rent arrears can be reviewed at their request once they can prove any arrears are reduced to less than 8 weeks of rent due.

2.3.3 Those who refuse a suitable offer from the Register

Applications will be closed where:

- Statutory homeless households refuse 1 (one) suitable offer of accommodation
- Time limited priority applicants who refuse 1 (one) suitable offer of accommodation
- Applicants who are not restricted in their bidding but refuse 3 offers of accommodation in a period of 6 months

2.3.4 No Housing Needs

If applicants do not meet the criteria for Bands 1 - 3 with reasonable preference their application will be closed. Any applicants who are not eligible or do not qualify, following a full assessment at the point of application, will have their records kept for strategic purposes. They will be offered advice and assistance regarding all alternative housing opportunities including shared ownership, first buy, HomeBuy, self build and private sector

renting.

2.3.5 No Local Connection – exception being Armed Forces

In order to meet increasing local needs the scheme will restrict access to the Housing Register to people who have a local district connection to Cherwell or who are accepted as statutorily homeless by Cherwell District Council. Members of the Armed Forces will be allowed to join Cherwell's Housing Register in line with the new government guidance and local military compact.

2.4 Reasonable Preference

The scheme will operate a needs based banding scheme to reflect housing need with the highest band reflecting the greatest need to move. There are 3 bands

Band 1 - Urgent need to move due to Reasonable Preference

Band 2 - Significant need to move due to Reasonable Preference

Band 3 – Moderate need to move due to Reasonable Preference

Details of the banding reasons can found in the full document. The Scheme also includes a matrix to assess and make awards for social, welfare and hardship reasons and a medical matrix will be used in conjunction with the Council's medical form.

2.5 Registration dates

It is proposed to have a three band classification, applicants moved into a lower band due to a change in their circumstances would retain the date at which they were first registered, so as not to lose priority.

However, applicants moved into a higher band would have their registration date changed to the date on which their circumstances changed, so as not to undermine the priority of applicants already in that particular band.

2.6 Time Limited priority

There will be new rules that restrict statutory homeless households to receive one offer of suitable housing only. Auto bidding using the Council's computer system will ensure that households can be linked to properties which they are eligible for and will meet their needs as quickly as possible.

2.7 Property size and type

The government has made significant changes to the overcrowding rules through the welfare reforms and the new Allocations of accommodation: guidance for local housing authorities in England. Cherwell's policy adopts these standards. Changes are significant and will affect a number of applications. The new rules state children of opposite sexes can share until they reach age 10 years and children of the same sex can share until they are aged 21 years.

2.8 Other issues

The new Scheme provides clarity on local lettings policies and when they can be used. It also makes provision for applicants willing to participate in education, employment and training to receive a head start for 30% of lettings annually. It has also duly considered and become more flexible in the way it will monitor other housing pathways. We will not longer require applicants to be join Cherwell's Housing Register to apply for shared ownership, shared equity or first buy products making these application processes more clear and streamlined.

2.9 Right to Review

A Review Procedure will be established and publicised within the Allocation Scheme. Any review must be considered on the basis of policy, law and known fact at the date of the review.

Reviews will be carried out by a senior member of staff at Cherwell District Council who was not involved in the original decision.

It is anticipated that there will be a significant increase in the number of requests for review that may be received due to the new rules and restrictions on who can qualify to join Cherwell's Housing Register. It will be vital for the Council to establish effective and robust review processes which may in turn place further pressure on the Housing Needs team.

2.10 The Consultation Process

Any major change in the Allocation Scheme gives rise to a requirement to consult, although formally there is only a requirement to consult the Registered Providers (Housing Associations) in the District. The Code of Guidance issued by the Government recommends that the consultation process should involve local communities more broadly. The collated feedback from stakeholders is contained in Appendix 2 of this report.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The Allocation Scheme proposals ensure Cherwell has a robust policy which meets the Council's statutory duties and follows legal requirements. It will also ensure existing levels of staffing can re-focus to deliver more housing advice to meet increased demand for services and keep to a minimum the numbers of people who may become homeless and require statutory duties from the Council.
- 3.2 The proposal to withdraw from the Sub-regional Choice Based Lettings Scheme support the revised Allocation Scheme to be introduced. By leaving the Sub-regional Scheme, Cherwell will be free to make any further changes to its policy independently and more easily as may be required in future.

The following options have been identified. The approach in the recommendations as at Option 1 is believed to be the best way forward. The option to accept some of the recommendations is not included as the recommendations are mutually dependent.

Option One To accept all the recommendations as set out in the report and in doing so support Cherwell's exit from Sub-regional Choice Based Lettings Scheme and establish the new Allocation Scheme

Option Two To accept none of the recommendations

Consultations

Extensive consultation has taken place with partner Registered Providers, statutory and voluntary agencies, customers and staff. Please see Appendix Two

Implications

Financial: A growth revenue bid will be required to implement this new Allocation Scheme but the exit from the Sub-regional Scheme should provide longer term benefits to the Council through a reduction in IT costs. The likely outcome of the Allocation Scheme changes will be a significant reduction in the number of people on Cherwell's Housing Register. This should mean existing levels of staffing can be re-focussed to deliver more housing advice to meet increased demands for services and to keep to a minimum the numbers of people who may become homeless and require a statutory homeless duty from the Council. History shows us the huge expense of homelessness in our District and as a result these budgets will be closely monitored.

Comments checked by Karen Curtin, Head of Finance and Procurement 01295 227936

Legal: External legal advice is being sought and will be presented to Members at Committee.

Comments checked by Nigel Bell, Team Leader – Planning and Litigation 01295 221687

Risk Management: Cherwell has looked at examples of best practice elsewhere in the Country. It has taken soundings from National Professional bodies and has sought external legal advice. It has also taken account of the impending welfare reforms and thus acts to mitigate the risk of these reforms upon residents in Cherwell.

Comments checked by Gavin Halligan-Davis, Community and Corporate Planning Manager 01295 221563

Equality Impact Assessment A full Equality Impact assessment (EIA) relating to Cherwell's proposed Allocation Scheme has been undertaken. The EIA has covered all the operational matters relating to the Scheme. The adoption of this new Scheme will be a major shift in the allocation of social housing properties in Cherwell and will be reviewed for any unintended consequences during the first 12 months of implementation.

Comments checked by Caroline French, Equalities and Diversity Officer 01295 221586

Wards Affected

All

Corporate Plan Themes

District of Opportunity
An accessible and value for money Council

Lead Member

Councillor Debbie Pickford
Lead Member for Housing

Document Information

Appendix No	Title
Appendix 1	Allocation Scheme 2012
Appendix 2	Consultation Report
Background Papers	
None	
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Cherwell District Council

Draft Allocation Scheme 2012

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Introduction and Overview

Introduction

Cherwell District Council transferred its housing stock, which is now owned by Sanctuary Housing Group, through a Large Scale Voluntary Transfer (LSVT). Over 95% of all social housing in Cherwell is owned by partner Registered Providers (RPs). Therefore it is important to note that with the exception of a small number of units this Allocation Scheme relates primarily to housing owned by partner RPs. Please see Appendix 1 for a list of Cherwell's partner Registered Providers and how to contact them.

There is no statutory requirement to maintain a Housing Register. However the Council and its partners in the District believe there are significant benefits for the people of the District in maintaining a Housing Register that provides a single point of entry to all applicants. Subject to fulfilling the eligibility requirements anyone aged 16 or over is able to apply to Cherwell District Council for accommodation as long as they qualify and are in housing need.

In Cherwell the demand for social housing is greater than the number of homes available. This Allocation Scheme describes how the Council prioritises housing applicants to ensure that those in greatest housing need, as described by the legal definition of Reasonable Preference in the Housing Act 1996, are given a head start to access available social housing, compared with those who have no housing need. Partner Registered Providers will also have allocation schemes and will assess applicants according to their own stated priorities.

This Allocation Scheme applies to:

- new applicants
- current applicants
- existing tenants of a Registered Provider in housing need who want to transfer either with their current landlord or to another Registered Provider

Cherwell District Council's Allocation Scheme sets out in detail who is and who is not eligible or qualified under the scheme and how this assessment is made. It also sets out how applicants can apply for and access housing and what service standards an applicant can expect.

The vast majority of the housing that we allocate under this Allocation Scheme is through a Choice Based Lettings system (www.oxfordshirehomechoice.org.uk) which allows applicants to view available properties and express interest by making bids.

Aims and objectives

The key objectives of this Allocation Scheme are to:

- provide housing applicants in Cherwell with a fair and transparent system by which they are prioritised for social housing
- help applicants most in housing need
- promote the development of sustainable mixed communities and neighbourhoods of choice
- encourage residents to access employment, education and training
- make efficient use of our resources and those of our partner Registered Providers

This Scheme is part of Cherwell's Housing Strategy 2012-17, which has six strategic priorities:

- Increase the supply and access to housing
- Develop financially inclusive, sustainable communities
- House our most vulnerable residents
- Ensure homes are safe, warm and well managed
- Prevent homelessness
- Maximise resources and be an investment ready district

We have designed the Allocation Scheme to meet all legal requirements and to support and contribute towards the objectives of Cherwell's Housing Strategy by promoting financially inclusive and sustainable Communities. The Housing Strategy can be found on the Council's website www.cherwell.gov.uk.

By 'affordable housing' we mean social rented and intermediate housing, provided to specified eligible households whose needs are not met in the market. It should meet the needs of eligible households, including availability at a cost low enough for them to afford, determined with regard to local incomes and local house prices. The Council's Housing Strategy and the ways in which we advise and assist home seekers on a whole range of housing options, including access to the private rented sector and low cost home ownership opportunities can be found on Cherwell District Council's website www.cherwell.gov.uk.

The legal context

Cherwell District Council's Allocation Scheme sits within a tight and complex legal framework of Part VI of the Housing Act 1996 (as amended). This section describes this legal framework.

The 1996 Housing Act (as amended by the 2002 Homelessness Act) requires local authorities to make all allocations and nominations in accordance with an Allocation Scheme. A summary of the Allocation Scheme must be published and made available free of charge to any person who asks for a copy. A summary of the Scheme and general principles is available through Cherwell District Council offices, partner Registered Providers' offices and on the Council's website. This document is the full version of the Scheme and is available for inspection at Cherwell District Council office Bodicote House.

The Housing Act 1996 (as amended) requires local authorities to give Reasonable Preference in their Allocation Scheme to people with high levels of assessed housing need. This includes homeless people, those who need to move on welfare or medical grounds, people living in unsatisfactory housing and those who would face hardship unless they moved to a particular locality within the local authority's area.

The Act also requires local authorities to state within the Scheme what its position is on offering applicants a choice of housing accommodation, or offering them the opportunity to express preference about the housing accommodation to be allocated to them.

This Allocation Scheme complies with the requirements of the Housing Act 1996 (as amended) and takes into account the code of guidance issued by Central Government's Communities and Local Government Department:

- *Allocation of Accommodation: guidance for local housing authorities in England* (June 2012)

The scheme is drafted and framed to ensure that it is compatible with the Council's equality duties including the duty to eliminate unlawful discrimination and to promote good relations between persons who share a relevant protected characteristic and those who do not. The protected characteristics are age, race, disability, sex, pregnancy and maternity, sexual orientation, religion or belief and gender reassignment.

This Scheme has considered:

- the Council's statutory obligations and discretion as to who is eligible for housing allocation
- the Council's statutory obligation to provide Reasonable Preference to certain categories of applicants set down by law i.e. those who must be given a 'head start' under the Council's Allocation Scheme
- the Council's statutory discretion to grant 'additional preference' and/or to determine priority between applicants with Reasonable Preference
- the general and specific statutory discretions the Council can exercise when allocating housing in support of its Housing Strategy
- the local flexibility offered through the Localism Act (2011)

Advice and assistance

The Council acknowledges that this Allocation Scheme requires the active participation of housing applicants and to reflect this, the Council aims to provide advice and assistance to ensure that no person is disadvantaged by the way the Scheme operates.

General information about the scheme will be made available as follows:

- information about the procedures for applying to go onto the scheme and for applying for advertised vacancies
- information about how applicants are prioritised under this scheme
- how successful applicants will be selected
- rules on how properties will be advertised including bidding cycles and restrictive labelling
- information about review procedures
- information about the Registered Providers that have vacancies advertised through Choice Based Lettings as nominations

Applicants will also be provided with information regarding their own application which will include:

- what band they are awarded under this scheme
- what size properties they are entitled to bid for
- what information they need to supply in regard to verification and references and when this information will need to be provided

- if they are disqualified what they need to do to rectify this

Properties are advertised through the Choice Based Lettings scheme. In partnership with Registered Partners we endeavour for all advertisements to be as comprehensive as possible. The Choice Based Lettings Scheme promotes informed choices and expects to guide applicants to bid only for properties they can realistically expect to secure. Advertisements will include as many of the following as possible:

- location
- property type, size and floor level
- nature of tenancy on offer
- what type of heating it has and whether it has a heating charge payable that is not covered by housing benefit
- whether such things as a garden or parking are available with the property
- the amount of rent and any other charges that are payable
- photos of the property and links to guides about the local area

Applicants who have any difficulty reading or understanding this Allocation Scheme will be offered the following services:

- an interpretation service if their first language is not English
- signing if speech or hearing is impaired
- provision of documents in large print if an applicant is visually impaired
- an interview to explain the content of this document and information about where independent advice can be obtained about the Council's scheme

As there are likely to be many more applicants than properties available, the Council will also provide information about other housing options. This will include:

- advice on Registered Providers
- advice and help on renting in the private sector, if there are few social homes available in the areas where they wish to live
- advice on available low cost home ownership options
- advice on how welfare benefits, employment, education and training may improve their housing options
- Enhanced Housing Options Service – self help tool via the website www.cherwell.gov.uk

Choice and constraints

Policy on Expressing Choice of Rehousing Area

The amount of choice that the Council is able to offer may be limited by the acute housing pressures it faces and responsibilities it has to some groups in housing need such as those found to be statutorily homeless. The Council believes that any applicant considered to be eligible under this Scheme should be able to express a preference over the type of property and the area in which they would like to live. However, applicants should be aware that the Council's ability to satisfy their expressed preference may be severely limited.

The majority of applicants will be able to bid using Choice Based Lettings (CBL) to apply for properties they have been assessed as eligible for across the district. There are some circumstances for which this might not always apply. For example auto bidding will be applied to homeless applicants owed a statutory duty by this authority from the date duty is accepted (see page 23) and or where additional priority awards are time limited. These

exceptions are dealt with in more detail in the sections that deal with homelessness applications (see page 21) and time limited priorities (see page 22)

The Council requests that the applicant states those areas where they believe they cannot live due to fear of violence, harassment or domestic abuse. The Council must be satisfied such factors exist and that it is necessary to allocate accordingly. This is to assist the Council in making more informed decisions. It will also help support workers who may be assisting an applicant to bid to know where not to express an interest in properties.

Priority Homeless Applicants

All statutory homeless households accepted as defined in Part VII of the Housing Act 1996 and owed a statutory duty by Cherwell District Council 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) will be placed on automatic bidding at the point duty is accepted.

Eligibility criteria, qualification and applications

Who can join the Housing Register?

Anyone can apply to join the Housing Register.

To be able to join the Housing Register the council will consider:

- whether someone is eligible to apply for housing?
- do they qualify under the scheme rules?
- do they have any housing need within the Reasonable Preference categories

Young person under 18 years

Applicants aged 16 or 17 years old are assessed for supported accommodation where one or more of the following apply:

- accepted as homeless and in priority need under the Housing Act 1996, as amended by the Homelessness Act 2002
- over the age of 16 where a referral for assistance has been made by Social Services authorities under Section 27 of the Children Act 1989
- a young person who is deemed a relevant or eligible child under the Children (Leaving Care) Act 2000

In each case, we will undertake a joint assessment with Social Services of the applicant's housing, care and support needs to ensure that adequate support is available.

Councillors, board members, employees and their close relatives

This Scheme is designed to ensure that Cherwell District Council (and any relevant organisation) is transparent and equitable when letting homes to staff, Councillors or board members and their relatives.

The Part VI Allocation Scheme is open to any eligible applicant and there are stringent checks in place that all applicants must follow.

Staff, board members, Council members and their relatives are treated as any other applicant and must be seen to not be gaining any advantage or any preferential treatment in the course of their application, nor shall they be disadvantaged. See Appendix 2

Who can and cannot be included on a housing application

The persons who can be included on a housing application must be members of the applicant's immediate family who normally live with the applicant. Any other person will only be included on an application if the Council is satisfied that it is reasonable for that person to live with the applicant. This will exclude lodgers or anyone subletting from the applicant. Anyone over 16 years included on an application as part of a household will also be included in the full assessment of the application including income, capital and assets.

For the purposes of this policy a child is defined as someone who is either under the age of 16 or who is still dependant on the applicant e.g. due to continuing education.

Who cannot be accepted onto the Housing Register

The Council can only allocate social housing accommodation to people who are eligible and qualify under this Allocation Scheme. The instances where we will refuse an application to join the Housing Register are:

Those not eligible

The following persons are not eligible:

- People who are "*subject to immigration control*" (unless they fall within a class prescribed by regulations made by the Secretary of State (section 160ZA(2))
- People who are not subject to immigration control, but are nevertheless prescribed by regulation as being "*persons from abroad*" (this may include British citizens who are not habitually resident in the UK)
- Any other person as prescribed by the Secretary of State

Those who are disqualified

Unacceptable behaviour

- Applicants (or a member of their household) who have been guilty of "unacceptable behaviour" and at the time of their application for housing they are still considered unsuitable to be a tenant by reason of that behaviour

Unacceptable behaviour is defined as behaviour which would, if an applicant or member of their household was a secure tenant, entitle a landlord to possession under any of the Grounds 1 to 7, Schedule 2 of the Housing Act 1985. Unacceptable behaviour can include:

- owing rent arrears of 8 weeks or more and/or failing to comply with a current or past tenancy agreement with a Council, Registered Provider or private landlord to such an extent that a Court would have granted a possession order had they been a secure tenant
- conviction for using premises for illegal or immoral purpose
- causing nuisance and annoyance to neighbours or visitors
- convicted of criminal offences in or near the home and still posing a threat to neighbours or the community
- being violent towards a partner or members of the family or anyone in neighbourhood
- obtaining a tenancy by deception, for example by giving untrue information

- paying money to illegally obtain a tenancy

In determining whether an applicant is disqualified due to unacceptable behaviour, the Council will consider:

- has the applicant or a member of the applicant's household been guilty of unacceptable behaviour?
- was the unacceptable behaviour serious enough to have entitled the landlord to have obtained an order for possession, had they been a secure tenant.
- at the time of the application, is the applicant still unsuitable to be a tenant by reason of that behaviour, or the behaviour of a member of his household?

Unacceptable behaviour will initially result in disqualification for 12 months. An applicant can re-apply to the Housing Register at any time for their situation to be reviewed. To be admitted to the register they will need to provide proof any conviction is spent and evidence of a change of circumstances.

Applicants disqualified due to rent arrears can be reviewed at the request of the applicant once they can provide proof any arrears are reduced to less than 8 weeks.

Applicants can request a review of any disqualification decision made. See page 24 for review procedure.

No housing need

Applicants who are assessed to have no Reasonable Preference as defined by Part VI of the Housing Act 1996 and this policy will be disqualified.

All residents are able to access advice and assistance from the Housing Needs Team on other housing options, such as renting in the private sector or shared ownership.

Refusal of offers from the Housing Register

Applications will be closed in cases where the following offers have been refused:

- all Statutorily Homeless households who have refused 1 (one) suitable offer of accommodation
- applicants who are not restricted in their bidding but have refused 3 reasonable offers of accommodation in 6 months

Time limited priority applicants who have refused 1 (one) suitable offer of accommodation will have their application reviewed or closed

No local / district connection to Cherwell

In order to help meet increasing local housing needs the Council has chosen to restrict access to the Housing Register to people with a local / district connection to Cherwell and/or who are accepted as Statutorily Homeless by Cherwell District Council.

Applicants will need to meet at least one of the following criteria to be defined as having a local / district connection:

- have lived in the district for a period of at least 6 out of the last 12 months continuously prior to acceptance onto the Housing Register
- previously lived in the district for 3 out of the past 5 years
- permanent employment within the district

- immediate family members, who have lived in the district for at least 5 years, where there has been frequent contact, commitment and dependency, immediately prior to the date of application
- have a special reason for needing to live in the area

Close relatives are defined as parents, children, siblings, grandparents or grandchildren including step relatives, where there is evidence of frequent contact, commitment or dependency.

Applicants who do not have a local / district connection will not qualify for access to the Housing Register.

The only exceptions to this are members of the Armed Forces and Reserve Forces as set out in the *Allocation of Accommodation: guidance for local housing authorities in England* (June 2012) and those who are homeless having fled violence or harassment from another area.

A district connection is **not** established where the applicant is:

- in prison within the district
- resident in a bail hostel or other such accommodation
- detained in the district under the Mental Health Act
- receiving specialist hospital treatment
- in occupation of a mobile home, caravan or motor caravan which is not placed on a residential site
- in occupation of a holiday letting this includes a permanent building, hotel or bed and breakfast accommodation for the purposes of a holiday
- those placed in temporary or private sector accommodation by other Housing Authorities

This list is not exhaustive

Homeowners / sufficient financial resources

In recognition of the level of housing need in the district, and the shortage of available properties, applicants who already own their own home (either freehold, leasehold, under mortgage or shared ownership) will not qualify for access to the Housing Register.

Applicants with a **household** income, capital or assets of £60,000 or over will be disqualified from joining the Housing Register. Such people will be offered advice on alternative housing options.

Where older people aged 60 plus, cannot stay in their own home and need to move into specialist accommodation, e.g. sheltered or extra care housing, and where the nature of their current accommodation cannot be adapted to meet their need, will have their income, capital or assets assessed against whether they have sufficient resources to meet their housing need elsewhere. (see Appendix 11)

Any lump sum received by a member of the Armed Forces as compensation for an injury or disability sustained on active service will be disregarded in such an affordability calculation.

How do I make an application?

Once accepted as eligible and qualified to join the Housing Register, your housing needs are assessed and you are placed in one of 3 bands. The bands are numbered 1-3. Applicants in Band 1 are assessed as having the most urgent need.

To apply to join the Housing Register applicants must complete a housing application form. Applicants can request an application form using any of the following methods:

- by telephone
- personal visit to the office
- by post
- by email
- by downloading a form from our website

Assisted completion of an application form is available for the housebound and those who request help.

Providing all relevant information is supplied when the application form is received, we aim to notify applicants of their banding within 20 working days from the date received in the office.

If we receive an incomplete application form or supporting information is not provided, the application will be suspended. We will contact you to request the information. If the information is not received within 28 days the application will be closed.

We will send out our information booklet 'Applying for a Home in Cherwell' along with each new application form.

If you need any assistance please call the Council's Customer Service Team.

Each application will be assessed on its own merits and a decision regarding eligibility / disqualification will be made accordingly. Anyone subsequently made ineligible or disqualified from the Scheme will be provided with a full written explanation for the decision and will have a right of review of the decision. See page 24 which deals with the right to reviews of decisions.

The Banding Scheme

Cherwell District Council is required by law to determine the relative priority that housing applicants are awarded. This is particularly important when, as is the case in this District, the demand for social housing is greater than the availability of homes.

The law, as it applies to local housing authorities, requires that Reasonable Preference for housing must be given to those in the categories set out in the Housing Act 1996 (as amended). The statutory Reasonable Preference categories cover:

- All statutory homeless households as defined in Part VII of the Housing Act 1996
- People who are owed a duty by Cherwell District Council 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)
- People occupying unsanitary, statutory overcrowded or otherwise unsatisfactory housing
- People who need to move on medical or welfare grounds (including grounds relating to a disability)
- People who need to move to a particular locality within the district to avoid hardship to themselves or others

The Bands that make up the Scheme

The Structure of the Banding Scheme

Cherwell District Council operates a needs based banding scheme as described below. The bands are arranged to reflect housing need with the highest band indicating the greatest need for housing. The scheme consists of three bands as summarised below:

- Band 1 – **Urgent** need to move due to Reasonable Preference
- Band 2 – **Significant** need to move due to Reasonable Preference
- Band 3 – Need to move due to Reasonable Preference

Please note that more detailed descriptions of the bands can be found in Appendix 4
A table showing the size of property households can apply for can be found on page 15.

Band 1 – Urgent need to move due to Reasonable Preference

- Hospital discharge
- Health or disability*
- Social, Welfare or Hardship**
- Abuse, Violence or Harassment
- Serious overcrowding
- Under-occupation of social tenancies in Cherwell District
- Injured Ex-Armed Forces
- Private Sector properties subject to Prohibition or Demolition Orders making property unsuitable for occupation
- Safeguarding children / vulnerable adults
- Elderly social housing tenants in Cherwell District who are willing to move to sheltered accommodation / extra care
- Release of adapted property in Cherwell District

Band 2 – Significant need to move due to Reasonable Preference

- Statutory homeless households
- Health & disability*
- Social, Welfare or Hardship**
- Overcrowded according to bedroom standard
- Armed Forces with discharge date
- People at risk of homelessness and defined in priority need under the Housing Act 1996 (as amended)
- Move-on from supported housing
- Move-on from care
- Unsatisfactory housing

Band 3 – Moderate Need to move due to Reasonable Preference

- Tied accommodation
- Agricultural workers
- Non priority homeless / intentionally homeless
- Health & disability*
- Social, Welfare or Hardship**

*see matrix for Health and Disability Appendix 5

**see matrix for Social, Welfare or Hardship Appendix 6

Social and Welfare

Applicants with a need to move on social and welfare grounds will be required to provide supporting information and be assessed in line with the social and welfare matrix.

Medical assessment and adapted homes

Applicants who have a medical need will be asked to complete a Medical Form, which will be assessed by the Council. See Appendix 7

Size of properties different households qualify to apply for

The Allocation of Accommodation: guidance for local housing authorities in England (June 2012) states that a bedroom shall be allocated to the following family members:

Adult couple
Any other single adult aged 21 or more
Pair of adolescents aged 10-20 of the same sex
Pair of children aged under 10 regardless of sex

Prohibition or demolition order

Band 1 is awarded if a statutory notice such as a prohibition or demolition order has been served which prohibits the property to remain occupied pending resolution.

Unsatisfactory housing

Band 2 is awarded where applicants existing housing is assessed against the Housing Health and Safety Rating System (HHSRS). In the most urgent cases an inspection is needed, the assessment is carried out by an Environmental Health Officer or other qualified officer.

A Category 1 Hazard is a defect where the consequences could include serious harm to applicants. For example, accommodation lacking; bathroom facilities, cooking facilities, electricity, or a water supply.

Band 2 will not be awarded, if it is possible for repairs or other remedial action to be carried out within a reasonable timescale. Where a landlord has been served with an improvement notice but remedial work has not been carried out, we may decide to award priority at our discretion.

Overcrowding

Those statutory overcrowded or overcrowded by three or more bedrooms (as directed by the Allocation of Accommodation: guidance for local housing authorities in England (June 2012)) will be granted Reasonable Preference and will be placed in Band 1. Those overcrowded according to the bedroom standard will be granted Reasonable Preference and will be placed in Band 2.

Extra room allowed for non-resident carers

Applicants with a disability or a long term health condition who have a non-resident carer may be entitled to an extra bedroom

To qualify for an extra bedroom they will need to show:

- they reasonably require overnight care and that this care is provided
- one or more persons regularly stay overnight to provide care
- there is a need for an extra bedroom that is used by a carer or carers for overnight stays as part of caring for the claimant or partner

A 'person who needs overnight care' is defined as someone who is:

- receiving Disability Living Allowance middle or higher rate care or Attendance Allowance

If they don't receive Disability Living Allowance or Attendance Allowance they must provide the Council with sufficient evidence to show that overnight care is required eg letter of confirmation from a medical practitioner

Cherwell District Council will measure overcrowding levels as directed by Allocation of Accommodation: guidance for local housing authorities in England (June 2012) 'Reasonable Preference' for property types is calculated according to housing benefit and bedroom tax rules

The table below shows the bedroom entitlement for adults and children:

Household size	Number of bedrooms allowed
Single person under 35	Studio or 1 bedroom flat (if meet eligibility criteria)
Single person over 35	Studio or 1 bedroom flat
Adult Couple	1 bedroom
2 applicants not couple	2 bedrooms
Household with 1 child	2 bedrooms
Household with 2 children	Refer to table on page 14
Household with 3 children	Refer to table on page 14
Household with 4 children	Refer to table on page 14
Household with 5 children	Refer to table on page 14

* please note people in receipt of benefits to pay their rent will only receive payment for property up to a maximum of 4 bedrooms

Proof of birth

When we have received proof of birth we will re-assess the applicant's housing need and band appropriately.

Children / access to children

For the purposes of this policy a child is defined as someone who is either under the age of 16 or who is still dependant on the applicant e.g. due to continuing education.

Where parents who do not live together, have shared care of their children the children will be treated as living with the parent who provides their main home and upon whom they are deemed to be dependant.

Fostering

Families undertaking long term fostering may be able to include foster children as part of their application to ensure that they are eligible for the appropriate sized property. Long term fostering is fostering for a period in excess of three years (not necessarily involving the same child or children). It is essential that written confirmation of the fostering arrangement is obtained from Social Services. Consideration will be given to this in assessing the application. Short term fostering is discounted.

NB: Although applicants can choose to apply for property larger than their needs so they can foster, the Welfare Reform Act states that foster children / carers can not be taken into account for payment for extra bedrooms when considering size of property applicants are eligible for, unless the foster children or carer are actually in residence at the property.

Move on from supported accommodation

Applicants will need to apply to join Cherwell's Housing Register when they are ready to leave their current accommodation. Their application must be supported by their social worker or support worker who will confirm:

- they are ready to move
- they possess the knowledge and skills to maintain a tenancy successfully
- any support arrangements that will remain in place following departure from supported accommodation

All applicants will need to meet Cherwell local connection requirements. If supporting information is not supplied the application may be disqualified.

Allocations

Applying for social housing

Once applicants are accepted onto the Housing Register they can start applying for properties. The Council advertises all properties available through its nomination agreements with partner Registered Providers through its Choice Based Letting Scheme. The eligibility of bids received will be checked against the labelling used in the advertisement. Any ineligible bids will be discarded. Where properties are advertised the allocation of a property will be based on the priority of bids received, with Band 1 applicants having the highest priority.

What are 'Allocations' under this Scheme?

An 'allocation' of accommodation under this Scheme is the nomination of a person to be an Assured or an Assured Shorthold tenant of housing accommodation held by a Registered Provider (via the Council's Nomination Rights Agreement with the Registered Provider). Often the nomination will be that of a 'Starter Tenant' of the Registered Provider whereby the Registered Provider will grant an Assured Shorthold Tenancy for a set 'probationary' period (usually 12 months) and provided the tenant successfully completes the 'probationary' period the Registered Provider will grant an Assured Tenancy

Exempt Allocations – Accommodation provided for lettings that is not covered by this Scheme

The following are not 'allocations' under this Scheme:

- an introductory / starter tenancy becoming a secure / assured tenancy
- provision of non secure temporary accommodation in discharge of any homelessness duty or power

Joint tenancies

This Allocation Scheme supports adult applicants wishing to sign as joint tenants should they choose to do so as long as both parties are eligible and qualify.

Choice Based Lettings Scheme

Statement on choice

Cherwell District Council is fully committed to the principle of enabling applicants to play a more active role in choosing accommodation in the social housing sector. We will seek to maximise customer choice whilst ensuring that those in the greatest housing need remain a priority for re-housing.

The Allocation Scheme:

- allows a broad range of applicants to be considered for accommodation
- gives applicants an unlimited choice of areas within the District
- allows applicants to consider a broad range of properties
- applies auto bidding and time limited priority to certain applications See page 23 and page 22

In summary an applicant accepted onto the Housing Register can apply for any property they are eligible to apply for, in any area where properties are advertised.

Overview

- empty properties are advertised every 2 weeks
- applicants apply for properties that meet their housing need
- applicants apply for up to three properties in any advertising cycle
- when the advertising cycle is complete shortlists are created from those who have applied and sorted into priority order as defined in the Allocation Scheme
- the applicant (normally the one at the top of the list) is selected and nominated to the landlord for a provisional offer to be made
- the landlord accepts or rejects the nomination
- the landlord offers the property to the successful applicant

- the applicant accepts or rejects the offer
- the results of shortlisting are published on our website and in the property newsletter

If the landlord rejects the nomination or the applicant rejects the offer the property will either:

be offered to the next suitable applicant on the shortlist or,
be advertised in the next lettings cycle

How can I bid?

- using the website
- by phone

Automatic applications for properties

We will provide a service to apply (bid) automatically for properties at the applicant's request. This is particularly useful for elderly or vulnerable applicants who have no-one to act on their behalf.

Auto bidding will be applied to homeless applicants owed a statutory duty by this Authority from the date duty is accepted.

Priority order

Once the advertising period has closed the computer will automatically create a shortlist of applicants for each property into priority order. The successful applicant for each property will normally be the one who is eligible for the size and type of property being offered and who is in the highest band. Where there is more than one applicant in that band, priority will be by registration date.

However, we reserve the right not to offer the property to the person highest on the shortlist, if the property offers a better match with the needs of another high priority applicant. Shortlists will be created with the following priority order:

Applicant type - but only if an applicant type preference is specified in the advert

Parish or village connection – but only if a parish or village connection preference is specified in the advert

Mobility level – but only if a mobility level preference is specified in the advert

Band – will always be used. The band order is: 1, 2 and 3

District Connection – will always be used

Size of household - but only if a preference to larger families is specified in the advert

Date in Band - to compare applicants within the same band

Employment, education and training – but only as specified in the advert or local lettings plan

Date order

Two dates are used to sort out the order of priority when deciding who to nominate for a property. These are:

- the Registration date – the date the application is received by the Council
- the Effective date - the date the application is assessed for Band 1 or 2. (This will be the same as your Registration date if your application goes straight into Bands 1 or 2)

This will ensure that those with the most urgent need will have it met in the order in which it arose.

Where two applicants with the same effective date in the same band apply for the same property the applicant with the earliest registration date will be given priority for an offer of accommodation

Applicants placed in Band 3 will be ordered by their date of registration which will also be their effective date

If applicants move down from Band 1 to band 2 they will retain their effective date from band 1

If applicants move down to Band 3 they will return to their registration date as their new effective date

Direct match

It may be necessary to nominate a particular applicant to a particular property. For example a purpose built property designed for a disabled applicant. In such circumstances the property will be placed on the website and in property newsletters with an explanation about direct matches.

Accepted homeless households will be placed on auto bidding at the point homeless duty is accepted

Applicants given time limited priority in Bands 1 or 2 may also be placed on auto bidding and given a direct match. See page 22 on time limited priority bidding

Nominations

Subject to the rules set out in the Allocation Scheme we would normally nominate the applicant at the top of the shortlist, providing they meet the criteria specified in the advert. If an applicant is successful for more than one property they will be contacted and asked to express a preference for the property they would like to be offered. Successful applicant's details will be forwarded to the Registered Provider. The Registered Provider makes the final decision on whether to accept the applicant.

Quota arrangements

Cherwell District Council groups applications in 3 categories:

General Needs

Transfers

Statutorily Homeless

General register applicant

Applicants who have been accepted onto our Housing Register as being eligible and qualified to apply for social housing.

Transfer applicant

A transfer applicant is a secure tenant or an assured tenant of one of our partner Registered Providers who lives in our district and whose application has been accepted onto our Housing Register as being in housing need.

Statutorily Homeless applicant

Applicants found to be homeless, in a priority need group and where a duty to offer housing has been accepted under sections 193 or 195 of Part 7 of the Housing Act 1996.

Sometimes it will be necessary to give preference to particular types of applicant to meet local targets. Examples of quotas include:

- transfer applicants
- homeless applicants
- applicants in particular bands
- applicants in employment, education or training

As a guide we use the following quotas to ensure we nominate properties fairly between different types of applicants.

Transfers	30%
General needs	35%
Statutorily Homeless	35%

Cherwell District Council is keen to encourage applicants to seek employment, education or training. We will adopt a quota of 30% of total vacancies received each year to be allocated to applicants in employment, education or training.

Property adverts will clearly identify when priority is being given in this way.

Quota arrangements will be published annually on the website

What is restrictive labelling and how is it applied under this scheme?

This means that greater preference will be given to those who fulfil the criteria of the specified restrictive label

Cherwell District Council reserves the right to apply restrictive labelling to adverts in order to identify particular types of applicants, giving them preference to meet local targets. Examples are:

- transfer applicants
- homeless applicants
- nature of tenure being offered
- Local Lettings Plan is in place
- disabled adapted properties
- employment, education and training
- sheltered
- extra care

Local Lettings Plans

The Council may from time to time agree a local lettings policy for specific areas or developments to reflect local circumstances. Any local letting policy will have regard to housing management considerations such as the social mix of tenants, density, age range and community stability.

Where a property is advertised in accordance with a Local Lettings Plan (LLP), the letting will be made to the applicant with the highest band and who meets the eligibility criteria of the LLP and also meets the entitlement rules around size eligibility.

Publication of results

The results of shortlisting are published on the website and in the latest edition of the property newsletter. The information provided can be used to help applicants decide which properties to apply for, by giving them a better idea how popular a particular property or area is and how long they would normally have to wait.

Applicants who have expressed an interest in the particular vacancy but are unsuccessful may request more personalised feedback on why they were unsuccessful.

The results show information about the shortlisting but no personal details. It cannot be assumed the person at the top of any list was the successful applicant.

Refusal of offers

In circumstances where an applicant has successfully bid but refused 3 suitable offers of accommodation their application will be closed and they will be disqualified from reapplying to join the register for 6 months. The exception to this rule is for statutory homeless households and refusal of their offer will result in the discharge of the Council's homelessness duty for which they will have a right of review under sections 202 and 204 of the Housing Act 1996 (as amended).

How we allocate to Statutory Homeless households under the scheme

This applies to Households for which the Council has accepted a statutory homeless duty under sections 193 (2) or 195 (2) of Part VII Housing Act 1996 (as amended). The Local Authority has a legal duty to secure accommodation for households who are homeless or at risk of becoming homeless (unless certain exceptions apply). The District Council and its partners will do all they can to prevent homelessness.

If this is not possible an assessment will be carried out by the Council's Housing Needs Team and if appropriate the statutory homeless household will be rehoused in accordance with the Allocation Scheme as it applies to homeless people.

Applicants found to be homeless, in a priority need group and where a duty to offer housing has been accepted under sections 193 or 195 of Part VII of the Housing Act 1996 will be awarded band 2.

If an applicant is assessed under Part VII of the Housing Act as intentionally homeless then the applicant will be placed in band 3 or if they satisfy the criteria for 'unacceptable behaviour' then the applicant will be deemed disqualified. (see page 9)

Applicants deemed homeless but non priority will be placed in Band 3.

It is recognised that social rented housing is not the only tenure available to accommodate statutorily homeless households and where appropriate they will be supported to secure a private tenancy. If an applicant already has an application for housing with the Council with a Reasonable Preference award, the original Reasonable Preference award date will stand even if a subsequent positive homeless decision is made about the applicant, although no extra priority will be awarded.

Choice and homelessness

Households for which the Council has accepted a statutory homeless duty under sections 193 (2) or 195 (2) of Part VII Housing Act 1996 (as amended) automatic bidding through the Cherwell Housing Register computer system will take place for up to 3 suitable offers per cycle (12 days). Properties that the Cherwell computer system bids on may be outside of the areas of choice that an applicant wishes to live in. Cherwell computer system will bid for the properties where the applicant will stand the best chance of being made an offer. There may be areas that are excluded by agreement that are unsuitable for an applicant and an offer will not be made in these areas. Such areas will be named on the household's housing application. Every effort will be made to place applicants where they would prefer to live but our main duty is to move them from inappropriate and costly temporary accommodation.

Time limited priorities bidding

Applicants who are awarded priority for an urgent or significant need may be awarded this priority on a time limited basis. This acknowledges the urgency of the situation, both for the applicant and for the council. The initial time limits are:

Band 1 - Urgent Need

A maximum of 3 months for awards until review on the grounds of:

- Emergency medical, welfare or disability
- Exceptional need to move
- Private Sector property where there is one or more Category 1 Hazard (excluding overcrowding), which make it unreasonable (in the view of a suitably qualified officer) for the premises to remain occupied pending resolution of the hazards
- Safeguarding children

Band 2 - Significant Need

A maximum of 3 months for awards until review on the grounds of:

- Medical
- Welfare / hardship
- Move-on from supported accommodation
- Move-on from care

Statutorily homeless applicants are dealt with separately. See how we allocate to Homeless households – page 21

A priority can be reviewed and cancelled at any time if the applicant's circumstances change.

All priorities will be monitored closely throughout their initial period. During this time we will expect applicants with a priority to bid for any suitable advertised properties. This means that applicants will sometimes need to compromise on their ideal choice of

housing in order to achieve the urgent move they need. It will not always be possible to meet all their aspirations within the time available. The Council will offer support with making bids, including making bids on the applicant's behalf if they need this or if they are not making bids or are bidding unrealistically

If the initial time limit is reached and the applicant has not been rehoused the Council will review the priority and may cancel it. In conducting the review the Council will take into consideration the following factors:

- Have there been any properties advertised that would have met the person's need?
- If so, we will consider the reasons why they chose not to bid or investigate why they were unsuccessful.
- Do they have a specific need for property that has not been available in the time period and no other property will resolve their housing need, e.g. they have a disability and they need a ground floor property in a specific area so they can get family support?
- Have they received appropriate support and help in accessing the Choice Based Letting scheme?
- Do the person's circumstances remain the same or has the need for priority gone?

Having considered the above factors, the Council may upon review:

- extend the priority for a further period of 3 months
- place on auto bidding
- cancel the priority

The Council will effect a final offer by making a bid on behalf of the applicant and if successful offering the property to them. If the applicant refuses this offer their priority will be re-assessed and reviewed. Time limited applicants who have already refused 1 (one) suitable offer will have their priority re-assessed and reviewed.

Auto bidding

Applicants are free to bid for their maximum number of suitable properties during a bidding cycle. If they fail to bid, Cherwell's computer system will bid for the properties where the applicant will stand the best chance of being made a nomination. When an application is placed on automatic bidding Cherwell's Housing Register computer system will place up to 3 bids per cycle (13 days) on suitable properties. Properties that the computer system bids on may be outside of the areas of choice that an applicant wishes to live in. There may be areas that are excluded by agreement that are unsuitable for an applicant and a nomination will not be made in these areas. Such areas will be named on the household's housing application.

Auto bidding will be applied to statutorily homeless households of this Authority from the date the homelessness duty is accepted.

Rural lettings schemes

We are keen to take account of factors which would contribute to sustaining rural communities whilst ensuring that we continue to give due weight to the reasonable preference categories required by legislation.

To enable this, we will set a target for the proportion of lettings in villages to be let to applicants with a connection with the village where the letting occurs.

On the initial letting of properties on new social housing developments which are not rural exception sites, a target of 50% of all lettings will be to give first priority to applicants who have a connection with the village under the terms of the Section 106 agreement and have been assessed as having at least Band 3 of housing need. If there is no-one in Band 3 or higher the property will be offered to applicants from surrounding villages named in the nominations agreement for the scheme followed by those in general housing need with a district connection.

On the re-letting of existing social housing properties in a village at least one in three will be to applicants who have a village connection under the terms of the Section 106 agreement and have been assessed as having at least Band 3 of housing need. If there is no-one in Band 3 or higher the property will be offered to applicants from surrounding villages named in the nominations agreement for the scheme followed by those in general housing need with a district connection.

Where applicants have a strong connection with a particular village, we will ask them to detail this on their application. This will enable them to be actively considered for any housing development, which takes place in areas where they hold such a connection. If an applicant is successful, they will have to provide proof of their connection before they can be approved for the nomination.

Rural exception sites

When affordable housing is built on rural exception sites, or planning obligations are attached to other affordable housing developments, there may be restrictions on the occupancy of these homes. These restrictions are intended to ensure that applicants with a village connection and in housing need as defined in the Allocation Scheme have first priority for nomination to any social rented properties.

This means that they must not only meet the eligibility / qualification criteria for joining the Housing Register but also the requirements negotiated with the original S106 agreement for each individual site.

We check village connections as specified in the section 106 agreement determined when planning permission is granted for a rural exception development to take place prior to making nominations to our partner Registered Providers.

Review Procedure

A request for review must be made in writing within 21 days of the applicant being notified of our decision. The Council will determine the review within 56 days of the request or such longer period as may be agreed with the applicant.

The review must be considered on the basis of policy, law and known fact at the date of review

When conducting the review, we will consider any representations, written or otherwise, made by the applicant or on the applicant's behalf and carry out the review on the basis of the known facts at the date of the review

If further information is required, the review period within which the decision should be made may be extended by agreement with the applicant

Reviews will be carried out by a senior member of staff at Cherwell District Council or delegated to an appropriate organisation or officer who was not involved in the original decision

If the applicant is still dissatisfied, a report is prepared for consideration by the Head of Regeneration and Housing

In the event of an applicant still remaining aggrieved, the next step to be considered is a

complaint to the Chief Executive or to the Local Government Ombudsman
Where it is decided to confirm the original decision on any issue against the interests of the applicant, we must also give our reasons

(Note: The Council's Allocation Scheme does not remove preference for 'unacceptable behaviour' but instead renders such applicants as disqualified to be from the Housing Register. As such the right to information pursuant to section 167 (4A) (b) and related right to request a review under section 167 (4A) (d) Housing Act 1996 (as amended) are not applicable in this Scheme and no applicant is prejudiced in relation to those statutory rights not being included herein.)

Homeless Applicants - Review of Suitability / Discharge of duty

Whether or not a Homeless applicant accepts an offer of accommodation made under the scheme, they have the right to request a review of the suitability of the accommodation they have been offered, under section 202 and section 204 of the Housing Act 1996 (as amended). Homeless applicants are therefore encouraged to accept the offer that has been made to them, even if they intend to request a review of its suitability. If the applicant has been accepted as being owed a statutory duty by the Council, this duty, subject to a right of review, will have ceased if the property is refused. In such circumstances the Council will discharge its duty to the applicant (who will have a right of review as stated above) and they will have to leave any temporary accommodation provided and make alternative accommodation arrangements.

What discretion is built into the scheme?

From time to time a situation may arise that is not predicted by this Allocation Scheme but the needs or circumstances are exceptional and significant. See Appendix 8

Equality and Diversity

Cherwell District Council operates an equality policy in housing and will abide by the requirements of the Equalities Act 2010.

This aims to ensure that no one is treated unfairly on the grounds of gender, race, colour, ethnic or national origin, religion, disability, marital status, sexual orientation or age.

We will treat everyone equally when considering them for housing. If an applicant feels they have not been treated fairly or feels they have been discriminated against, they should contact the Head of Housing Services, stating the grounds for their complaint.

Misleading or Fraudulent Information

Where there is suspicion or an allegation that a person has either provided false information or has withheld information, the application will be suspended during the investigation until an outcome is reached.

If the outcome of any investigation is that they did not provide false information or there was no withholding of information or such was not found to be withheld knowingly, then the application suspension will be lifted and reinstated to its previous position within the Scheme meaning that the relevant applicant should not suffer prejudice.

If the Council discovers an applicant directly, or through a person acting on his or her behalf, has given false information or deliberately withheld required information we will consider legal action. A person guilty of an offence under this section is liable on summary

conviction to a fine not exceeding level 5 on the standard scale (£5,000). The Council will disqualify the applicant from the Housing Register.

Ground 5 in Schedule 2 of the Housing Act 1985 (as amended by Section 146 of the 1996 Act) enables a landlord to seek possession of a tenancy which it has granted as a result of a false statement by the tenant or a person acting at the tenant's instigation.

Administrative process (see Appendix 9)

Which includes a full explanation and details of:

Annual review of applications
Confidentiality
Information sharing
Data protection

How serious offenders are dealt with under this scheme

At the time of registration, an applicant is asked if they or anyone who will be residing with them has a conviction of a criminal offence or anti-social behaviour order. See Appendix 10

How sheltered and extra care housing is dealt with under the scheme

As a general rule, only applicants with a proven support need are considered for sheltered accommodation. They will also need to meet any additional eligibility criteria specified by the landlord. See Appendix 11

Shared ownership / low cost home ownership

Allocation of shared ownership properties available in Cherwell is dealt with by the zone agent Catalyst –

Catalyst Housing Group
HomeBuy Department
Ealing Gateway
26-30 Uxbridge Road
London
W5 2AU
phone: 0845 601 7729
web: catalysthomebuy.co.uk

NB: It is no longer a requirement to be on the Housing Register to be considered for shared ownership, you can apply directly to Catalyst.

Build!® Project

Build!® is a registered trademark for the development of self build opportunities in Cherwell. This project is to develop self build opportunities across the district and is still under development. A separate assessment will need to be undertaken to access properties developed through the Build project. Any social rented tenancies developed through Build!® project will be advertised and allocated through Choice Based Lettings. See Appendix 12

Mutual exchange

Homeswapper

We have agreed in principle to encourage our partner Registered Providers to participate in Homeswapper, a national mutual exchange website. Most do so already and where a Register Provider does participate there is no cost to their tenants. It has the advantage of having substantial coverage across our region and elsewhere.

Anyone finding a tenant to swap with must gain the approval of their landlord to proceed to do so

List of Partner Registered Providers and how to contact them

HA	Add1	Add2	Add3	Postcode	Phone
A2Dominion Housing Group Ltd	15 th Floor, Capital House	25 Chapel Street	London	NW1 5WX	020 8840 6262
Ability Housing Association	The Coach House	Gresham Road	Staines	TW18 2AE	01784 490910
Advance Housing	2 Witan Way	Witney	Oxfordshire	OX28 6FH	01993 772885
Anchor Housing Association	2 nd Floor	25 Bedford Street	London	WC2E 9ES	020 7759 9100
Bromford Housing	1 Exchange Court	Brabourne Avenue	Wolverhampton	WV10 6AU	0330 1234 034
Catalyst Housing	Ealing Gateway	26-30 Uxbridge Road	Ealing, London	W5 2AU	020 8832 3334
English Rural Housing Association	Hall House, 9 Graphite Square	Vauxhall Walk	London	SE11 5EE	020 7820 7930
Guinness Hermitage	2 St Michaels Court	Brunswick Road	Gloucester	GL1 1JB	01452 529255
Greensquare Group	244 Barns Road	Oxford		OX4 3RW	01865 773000
Hanover Housing	Hanover House	1 Bridge Road	Staines	TW18 4TB	01784 446000
Housing 21	The Triangle	Baring Road	Beaconsfield	HP9 2NA	03701 924000
Jephson Housing	Jephson House	Blackdown	Leamington Spa	CV32 6RE	01926 339311
Lambeth Living	Hambrook House	Porden Road	London	SW2 1RP	020 7926 3497
L&Q Housing	Osborn House	Osborn Terrace	London	SE3 9DR	0844 406 9000
Methodist Housing Association	Epworth House	Stuart Street	Derby	DE1 2EQ	01332 296200
Paradigm Housing	1 Glory Park Avenue	Wooburn Green	Bucks	HP10 0DF	01494 830846
Raglan Housing Association	Wright House	12-14 Castle Street	Poole	BH15 1BQ	01202 678731
Sanctuary Housing	Hindle House	Trinity Way	Adderbury, Banbury	OX17 3DZ	0845 009 2500
South Oxfordshire Housing Association	Royal Scot 99 Station	Didcot		OX11 7NN	01235 515900
Sovereign Housing	Woodlands	90 Bartholomew Street	Newbury	RG14 5EE	01635 572220
Thames Valley Housing	Premier House	52 London Road	Twickenham	TW1 3RP	020 8607 0898

Councillors, board members, employees and their close relatives

This Scheme is designed to ensure that Cherwell District Council (and any relevant organisation) is transparent and equitable when letting homes to staff Councillors or Board Members and their relatives.

The Part VI Allocation Scheme is open to any eligible applicant and there are stringent checks in place that all applicants must follow.

Staff, Board Members, Council Members and their relatives are treated as any other applicant and must be seen to not be gaining any advantage or any preferential treatment in the course of their application, nor shall they be disadvantaged.

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

- The staff member who is applying for housing must have no direct input into any decisions regarding their rehousing. This includes not inputting the original application onto the Housing Management system or adding any priority at any time onto the application
- Staff members must also not have any involvement in the inputting of the application or awarding of priority for any relative
- Applications should be clearly marked on the housing management system that the application is that of a staff member, Board Member, Council Members or relative
- When such an applicant has bid for a property and is showing at the top of a queue, the details of the offer must be scrutinised and signed off by the Cherwell District Council Housing Needs Manager

If an offer of a property is to be made to an officer at Head of Service level or above then the offer must be countersigned by the Head of Regeneration and Housing

Sufficient financial resources

Applicants who have financial income, capital or assets which are large enough to provide access to other forms of tenure to meet their housing need will not qualify to join the Housing Register but will be offered advice on alternative housing options.

The Council considers £60,000 total income, capital or assets to be sufficient financial resource to buy a home or pay market rent in our District. The price of suitable housing will vary according to the household's needs and location within the district.

Applicants with assets above this level will not be eligible to join the Housing Register

The Council will also take into account any previous disposals of assets; income, capital or savings when calculating the financial resources available which will include disposals for nil (for example, transfer of ownership) or below market rate value.

Applicants will be asked to provide evidence of their income, savings and assets in order to verify the affordability assessment. If applicants fail to provide sufficient evidence then their application cannot be assessed and will not progress further.

Where applicants are assessed as not having sufficient financial resources, their application will be assessed according to the banding scheme.

If an assessment has to be made, for example on medical grounds, consideration is given to the following:

- whether the applicant can sell their current home
- the expected equity after the proposed sale of the property
- the applicant's current financial circumstances and commitments
- whether the applicant is eligible for a mortgage
- the supply of private rented accommodation suitable for the applicant's specific needs
- whether the applicant's housing need can be met in the private sector, taking into consideration the cost of housing in the District

If applicants demonstrate a need for alternative accommodation and they have 'insufficient resources' to secure that alternative accommodation they are placed in the band appropriate to their housing need. If information is not supplied about resources applicants will not be assessed and will not progress further.

A need for alternative accommodation might include:

- medical conditions
- disability
- frailty
- serious disrepair
- possession action
- acute financial hardship

Anyone subsequently ineligible or disqualified from the Scheme will be provided with a full written explanation for the decision and will have a right of review of the decision. Please see page 24 which deals with the right to reviews of decisions.

Description of bands

Band 1: Urgent Need to Move due to Reasonable Preference	Examples of Qualifying Circumstances / Summary of Criteria
Hospital discharge	Those who have somewhere to live on leaving hospital but it is unsuitable for their medical needs and cannot be made suitable through adaptations due to cost, structural difficulties or the property cannot be adapted within a reasonable amount of time. Where the impact is assessed as being urgent the applicant may be awarded Band 1. Those who have nowhere at all to live when they leave hospital may qualify for Band 1 if the need to move is urgent and all other reasonable housing options have been explored.
Health or disability See health and disability matrix	An applicant's condition is life-limiting, life threatening or restricted day-by-day by Disability – see Health and Disability Matrix Band 1 (Appendix 5) and the accommodation directly affects their condition.
Social, Welfare and Hardship See social, welfare and hardship matrix	<ul style="list-style-type: none"> ▪ Threat to life ▪ Emergency cases due to fire, flood or other disaster ▪ Exceptional need not covered elsewhere in the scheme ▪ Exceptional circumstances as directed by Head of Regeneration and Housing (Appendix 6)
Abuse, Violence or Harassment	High risk victims of domestic abuse, subject a MARAC (Multi Agency Risk Assessment Conference) will be eligible for additional preference as part of an agreed safety plan and will be placed in Band 1.
Serious Overcrowding	Band 1 priority is awarded to those applicant households who are subject to statutory overcrowding or occupy accommodation which is 3 or more bedrooms smaller than that for which the household is eligible. (Calculated according to the bedroom standard [see tables on pages 14 and 15]). An award will not be recognised where applicants have moved them selves into an overcrowded situation.
Under-occupation of social tenancies in Cherwell District	Registered Provider tenants who under-occupy properties and who need or are willing to move to a dwelling with fewer bedrooms than they already occupy are

	placed in Band 1.
Ex Armed Forces Personnel who have sustained serious injury, medical condition or disability during service	Any applicant who needs to move to suitable adapted accommodation because of a serious injury, medical condition or disability which he or she, or a member of their household, has sustained as a result of service in the UK Armed Forces. This award only applies where the applicant's current accommodation does not meet the requirements of the occupants in terms of adaptations.
Private Sector properties subject to prohibition or demolition order	Prohibition or demolition order granted preventing occupation of whole dwelling
Safeguarding Children / Vulnerable Adults	Serious threat to the well-being of a child / adult and their accommodation is a contributory factor to the risk. These are cases where a move is required to mitigate the risk to the child as confirmed by a Senior Manager in Children's Services / Adult Service or equivalent subject to a Child / Adult Protection Conference and agreed by the Housing Needs Manager.
Elderly social housing tenants in Cherwell District who are willing to move to sheltered accommodation	Elderly applicants who will be releasing general needs housing.
Release of adapted property	Where a tenant does not require the adaptations in their current home and will therefore be releasing an adapted property by moving and there is a suitable applicant queuing for the adapted property which will be released through a move. This award is valid if the applicant still requires adaptations provided the adaptations required are different from those in their current home.

Band 2 Significant Need to Move – Reasonable Preference	Examples of Qualifying Circumstances / Summary of Criteria
Statutory Homeless Households	All accepted statutory homeless people as defined in Part VII of the Housing Act 1996 and are owed a duty under section, 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 Cherwell District Council under section 192 (3).
Health and Disability See health and disability matrix	See Health and Disability Matrix Band 2 (see Appendix 5) There is an identified significant effect on the health or well-being of an applicant or a member of their household as a consequence of their housing situation.
Social, Welfare and Hardship See social, welfare and hardship matrix	<ul style="list-style-type: none"> ▪ There is a significant need to move in order to receive / give essential care and support ▪ The applicant or a member of their household has a physical or learning disability ▪ Take up employment, education or training – documentary evidence required ▪ Foster care <p>To be eligible for this award documentary evidence will be required.</p>
Overcrowded	Applicants overcrowded by 1 or 2 bedrooms calculated according to the bedroom standard (see tables on pages 14 & 15)
Armed Forces with Discharge date	Armed Forces applicants are awarded Band 2, 12 months prior to their official discharge date – documentary evidence will be required.
People at risk of homelessness	Those deemed at risk of homelessness and in apparent priority need as evidenced by the Housing Needs Team. This will be reviewed as part of ongoing case work every 28 days.
Move on from Supported Accommodation	An applicant is ready to move to independent settled housing on the recommendation of the support worker. Ongoing support needs have been assessed and, where appropriate, a support plan is in place.

Move on from Care	Applicants are awarded this category in accordance with protocols between the Housing Service and the County Council's Children Services Department. Applicants must be a former "Relevant Child" as defined by the Children Leaving Care Act 2002 and be a young person at risk.
Unsatisfactory Housing	Where the property is assessed against the Housing Health & Safety Rating System (HHSRS) and the defects cannot be remedied in a reasonable timescale. Assessment is carried out by an Environmental Health Officer or other qualified Officer

Band 3: Moderate Need to Move due to Reasonable Preference	Examples of Qualifying Circumstances / Summary of Criteria
Tied Accommodation	<p>Applicants living in tied accommodation relating to their employment, and who have received formal notice of termination of their employment and tenancy through no fault of their own.</p> <p>Band 3 will only be given where there is clear documentary evidence that the employer is terminating the employment and the use of the accommodation within 12 months.</p> <p>Examples of such applicants include:</p> <ul style="list-style-type: none"> • school caretakers • wardens of sheltered schemes
Agricultural workers	<p>We will grant Band 3 to displaced agricultural workers for accommodation according to the requirements of the Rent (Agriculture) Act 1976. In reaching a decision on whether an applicant is to be prioritised for housing on these grounds, the Council will need to be satisfied that:</p> <ul style="list-style-type: none"> • the dwelling from which the agricultural worker is being displaced is needed to accommodate another agricultural worker and the farmer cannot provide suitable alternative accommodation for the displaced worker • the displaced worker needs re-housing in the interests of efficient agriculture • the farm is sold and the property will no longer be available <p>The Council will take advice from the Agricultural Dwelling-House Advisory Committee (ADHAC) in all these respects.</p>
Non priority homeless / intentionally homeless - People who are not owed a duty by Cherwell District Council 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)	<p>People as defined in Part VII of the Housing Act 1996 who are found to be homeless but not in priority need or intentionally homeless</p> <p>People who are formally assessed by Cherwell District Council as of No Fixed Abode</p>
Health & disability - moderate	See matrix – Appendix 5
Social, Welfare or Hardship - moderate	See matrix – Appendix 6

Health and disability matrix

All applicants need to complete a Cherwell District Council medical form.

This matrix sets out the guidelines for assessing the housing need of an applicant, or a member of their household, where there is reason to believe their health is being adversely affected by their current housing circumstances. In all cases the assessment will focus on the extent to which existing housing exacerbates the problems being experienced and the extent to which these problems could be alleviated by a move to alternative more suitable accommodation.

The assessment will be made based on the evidence gathered from the applicant, occupational therapists and other health and social care professionals. Account will also be taken of whether the resultant housing problem has already been dealt with elsewhere in the Allocation Scheme, for example where additional priority has already been awarded for overcrowding and this is the source of the medical issues.

Health and disability matrix

Band 1 - urgent	Band 2 - Significant	Band 3 - moderate
<ul style="list-style-type: none"> ▪ Where an applicant's condition is life-limiting and rehousing is required to provide a basis for the provision of suitable care ▪ The applicant's condition is life threatening and the applicant's existing accommodation is a major contributory factor, for example, where an applicant has identified significant mental health problems which are exacerbated by their accommodation ▪ Disabled people who have restricted or limited mobility and are limited by their accommodation and unable to carry out day to day activities or have difficulties accessing facilities inside and outside of their accommodation and require rehousing into accommodation suitable for their use ▪ Hospital discharge with no suitable accommodation available 	<ul style="list-style-type: none"> ▪ There is an identified serious effect on the health or well-being of an applicant or a member of their household while they continue to live in their current accommodation but it does not cause serious barriers to day to day activity or their life is not at risk due to their current housing. ▪ Mental illness or disorder ▪ Chronic or progressive medical conditions eg MS, HIV/AIDS ▪ Infirmity due to old age ▪ Need for adapted housing and/or extra facilities, bedroom or bathroom ▪ Need for improved heating ▪ Need for ground floor accommodation ▪ Need to move following hospitalisation or long term care or to access medical treatment 	<ul style="list-style-type: none"> ▪ there is risk of deterioration in the health of the applicant or a member of their household which will make it difficult for them to manage their existing home at some point in the future

Band 1 - urgent	Band 2 - Significant	Band 3 - moderate
	<p>The Council will take into account information provided by one or more of the following:</p> <ul style="list-style-type: none"> • An applicant's GP or consultant • Social Services • Occupational Therapist • Age Concern or any other voluntary sector organisation representing the applicant 	

Social, Welfare and Hardship assessment matrix

This matrix sets out the guidelines for assessing an applicant, or a member of their household's housing need, where there is reason to believe they have exceptional social, welfare and hardship circumstances, *not covered elsewhere in the Allocation Scheme*, where it would be considered appropriate to recognise additional priority for an applicant to move.

Band 1 - urgent	Band 2 - significant	Band 3 - moderate
<ul style="list-style-type: none"> ▪ Threat to life ▪ Emergency cases due to fire, flood or other disaster ▪ Exceptional need not covered elsewhere in the scheme ▪ Exceptional circumstances as directed by Head of Regeneration and Housing 	<ul style="list-style-type: none"> ▪ There is an significant need to move in order to receive / give essential care and support ▪ The applicant or a member of their household has a physical or learning disability which is significantly impacted by their current housing ▪ Behavioural difficulties ▪ Need for sheltered housing ▪ Need to move to take up employment, education or training – documentary evidence required ▪ There is an significant need to move to provide foster care <p>To be eligible for this award you will need to provide documentary evidence</p>	<ul style="list-style-type: none"> ▪ The existing home moderately limits the care and support that can be provided to the applicant or someone in their household ▪ The environment around the home has moderate detrimental effect on the quality of life of the household

How medical assessment and adapted homes are dealt with under the scheme

Adaptations

Properties which are adapted or which are suitable for adaptation or which are otherwise potentially suitable for applicants with a disability, where other accommodation may create barriers for a disabled applicant or for other special reasons may be allocated directly to the most appropriate applicant and outside any strict order. Specially adapted properties may also be labelled so that only applicants who meet specific criteria may bid. This may, depending on the characteristics of the property, include cases where a ground floor flat is available and an applicant with very high priority requires such accommodation. Rather than select an applicant with general needs to the property the Council reserves the right to allocate to a high priority applicant in need of such accommodation.

Medical Assessment

Applicants who have a medical need will be asked to complete a Medical Form, which will be assessed by the Council. Applicants will only be offered additional preference if their current housing has a negative impact on the applicant's health or condition.

The criteria to be considered relate to the extent that the health of an applicant, or an immediate member of the applicant's household, will significantly improve by a move to alternative accommodation. The assessment is not based on the seriousness of an applicant's condition, but is solely based on the impact of their current housing on that condition and whether this would improve significantly through a move to alternative housing.

In circumstances where more than one member of the household suffers from a medical condition, the Council will take the needs of the entire household into account when making a decision.

Following assessment, the Council will decide whether or not to award priority on the basis of the information provided in the medical form and where appropriate, any additional information from the GP, hospital, or consultant.

What discretion is built into the scheme?

Management Discretion

As far as it is possible, the Council will use the banding system and registration date (See page 18) within the band to prioritise applications for accommodation. At times this will also incorporate restrictive labelling of properties through Choice Based Lettings and Local Lettings Plans to ensure that the Council is meeting its statutory obligations and helping to achieve the outcomes of Cherwell District Council's Housing Strategy.

From time to time a situation may arise that is not predicted by this Allocation Scheme but the needs or circumstances are exceptional and significant.

Where a case is considered exceptional but the applicant does not meet any of the Reasonable Preference criteria or it is felt that a higher banding than the one awarded is more appropriate then the Housing Needs Manager / Head of Regeneration and Housing of the District Council reserves the right to override this scheme and allow an applicant to have a higher priority than they would be entitled to under the Scheme. These cases should be few in number and will be closely monitored and identified in reporting on the annual lettings plan to ensure that the duty to achieve Reasonable Preference overall is not compromised.

Such cases will qualify for Reasonable Preference and will be granted additional preference and placed at the top of Band 1, irrespective of waiting time and made a direct offer of accommodation if all other housing options have been explored.

The Head of Regeneration and Housing can also be used to block an allocation in circumstances not predicted by this scheme but where the Council is satisfied someone has unfairly taken advantage of the scheme to the detriment of those in housing need. Again, these cases will be monitored and are expected to be few in number.

Administrative Processes

Review of Applications

Annual review of applications

In order to keep the Housing Register up to date all applications are subject to an annual review. The review is intended to ensure the applicant still wishes to be considered for accommodation and that the most up to date information about their housing circumstances is held.

Applicants who fail to respond to either the review or reminder letter within 28 days will have their application closed.

Confidentiality - information sharing agreement

Any information provided as part of the application process is treated in the strictest confidence and in accordance with current data protection legislation.

Sharing confidential personal information

Personal information obtained from or about an applicant registered on the Allocation Scheme, will only be used in ways that the applicant reasonably expects in order to process their application.

Privacy and confidentiality will be respected and information will normally be shared only with the applicant's implied or express consent to deliver the service they are seeking, to verify information in order to assess eligibility and priority and to answer enquiries from elected representatives and/or authorised agents acting on behalf of the applicant. This will include the sharing of information with members of the District Housing Register Partnership. (see Partner Registered Providers Appendix 1)

Data protection and information sharing

All information held is subject to the Data Protection Act 1998. The Council will seek the express consent of applicants joining the Allocation Scheme to share personal information about the applicant, and any member of their household.

Information sharing without consent

Information may be shared about the individual and their history irrespective of whether their consent has been obtained in exceptional circumstances which will include:

- In accordance with the provisions of the Crime and Disorder Act 1998 (section 115)
- Where there is a serious threat to the other party's staff or contractors
- Where information is relevant to the management or support duties of the proposed landlord or support organisation to ensure the health and safety of the applicant, a member of his or her household, or a member of staff

False statements or withheld information

It is a criminal offence for applicants and/or anyone providing information to this Scheme to knowingly or recklessly make false statements or knowingly withhold reasonably requested information relevant to their application (s171 Housing Act 1996). This includes but is not limited to information requested on the housing registration form, in response to correspondence at the renewal of the application, or relating to any other review of the application. An offence is also committed if a third party provides false information whether or not on the instigation of the applicant. This would apply at any stage of the application process.

Applicants who withhold or supply false information will be disqualified for up to 5 years.

Monitoring and evaluation

To ensure that the Allocation Scheme fully meets its aims and objectives it will be monitored and evaluated on a yearly basis. The Council reserves the right to make amendments to the Scheme to reflect changing circumstances within the District. Any major amendments will be consulted upon with all relevant stakeholders before implementation.

Housing Options

We give all applicants information on other housing options that may be available to them, to assist the applicant in making a reasonable choice as to their best prospect of securing suitable accommodation. This includes information on:

- low cost home ownership
- private sector rented property
- our rent deposit scheme
- mutual exchanges

This list is not exhaustive.

How serious offenders are dealt with under this scheme

Cherwell District Council, along with other agencies will make an assessment of the risk to the community of any applicant who has been convicted of an offence and is considered to present a significant risk to potential neighbours and/or communities.

At the time of registration, an applicant is asked if they or anyone who will be residing with them has a conviction of a criminal offence or anti-social behaviour order.

The Criminal Justice Act 2003 (“CJA 2003”) provides for the establishment of Multi-Agency Public Protection Arrangements (“MAPPA”) in each of the 42 criminal justice areas in England and Wales. These are designed to protect the public, including previous victims of crime, from serious harm by sexual and violent offenders. They require the local criminal justice agencies and other bodies dealing with offenders to work together in partnership in dealing with these offenders.

The Responsible Authority is the primary agency for MAPPA. This is the police, prison and Probation Trust in each area, working together. The Responsible Authority has a duty to ensure that the risks posed by specified sexual and violent offenders are assessed and managed appropriately. Housing departments have a duty to co-operate with the Responsible Authority in this task.

Applicants subject to MAPPA arrangements can apply for properties in the normal way. If successful, the Responsible Authority will decide if the property is a suitable allocation for the individual.

Applicants have the right to request a review – see page 24

Anti-social behaviour

Some of these applicants with a history of anti-social behaviour will be assessed as disqualified for rehousing due to evidence of past unacceptable behaviour that would warrant an outright possession order through the courts. In such cases, these applicants will be treated as disqualified.

Dependant on the severity and/or nature of the anti-social behaviour and or criminal behaviour applicants may be disqualified for a number of years although reviewed on an annual basis. (see Disqualification rules on page 9)

How sheltered and extra care housing is dealt with under the scheme

Sheltered housing

As a general rule, only applicants with a proven support need are considered for sheltered accommodation. They will also need to meet the eligibility criteria specified by the landlord. Applicants also need to be eligible for housing as per the published Allocation Scheme of Cherwell.

Therefore restrictive labelling (see page 20) will be applied to vacancies advertised through Choice Based Lettings. It is a condition of all tenancies in sheltered housing schemes that tenants agree to take the Care Line and Warden Service. Separate charges are made for these services on top of the rent.

Extra Care Housing

Cherwell District Council has nomination rights to some schemes in the district. Extra care housing is to provide older people with their own home and tenancy within a support and care environment ensuring that appropriate personal and housing support are available as required. A tenant may move into a scheme with no or low needs but can access further care as and when the needs arises as they get older or more frail. Extra Care Housing can remove the need for Residential Care for older people in many cases.

People who have assessed care needs will have them provided for by either a Personal Care Support Team who are based on site 24 hours a day and will be able to give care to tenants when this is required or a support team of their choice. The team will be able to adapt a person's care plan to suit their changing needs.

An Extra Care scheme should contain a balance of needs – it is not a residential care home. Any scheme needs to have a vibrant and active feel to it – and therefore the balance of care and support needs is key to a successful Extra Care environment. There is no exact formula to create this environment and the allocations panel will have to take a number of things into consideration when offering a property. These factors include individual circumstances, available care hours, existing needs and numbers of tenants with dementia in the Scheme etc.

All applicants will be registered and assessed for rehousing in line with Cherwell District Council's Allocation Scheme and be eligible to access Social Housing.

To be eligible for Extra Care schemes all potential tenants must:

- Be over 55 years of age or meet the eligibility criteria specified by the landlord
- Be eligible for housing as per the published Allocation Scheme of Cherwell District Council
- Be assessed by the Extra Care Scheme Manager for support that is provided.. Applicants must be deemed suitable for the Extra Care Scheme and that they do not have support needs that are unable to be met or would be detrimental to the scheme itself or other tenants

- Be prepared to agree to the Extra Care Scheme tenancy agreement
- Be made aware of the costs of moving into the Extra Care Scheme before a letting is carried out. This is especially in regard to care costs where these will be not covered by Housing Benefit.

Residents in the Scheme will be offered the opportunity to have their care provided by the contracted care provider.

It should be noted that for couples where one partner is below 55 years of age the couple may be granted a tenancy but it will be a sole tenancy only in the name of the person who is over 55 and therefore meets the criteria above. The younger partner would not be granted succession to the tenancy unless the partner meets the criteria detailed above, at the point at which an application for succession is made.

Extra Care Housing Allocations Panel

The Extra Care Housing Allocations Panel will require an up to date social care assessment in an appropriate format outlining the prospective tenant's housing and social care needs and a medical/social history to enable the panel to arrive at an informed decision as regards whether their needs can be met within the scheme.

The Allocations Panel comprises of:

- A Scheme Manager
- The Rehousing Manager
- A representative of Adult Social Care

When considering a referral for an applicant with care needs the panel will take into account as a minimum:

- the housing and support need of the applicant
- care hours required and the balance of needs within the scheme
- which property size is most appropriate for the applicant, taking into account the size of property in which the applicant has expressed as a preference
- whether the applicant has a local connection to the area

An allocation will only be made via this Panel. The panel will meet whenever a vacancy arises.

A potential tenant must also undertake a pre-offer interview with the Scheme Manager and be shown the facilities at the scheme to ensure that all parties are comfortable with the responsibilities and expectations of a tenancy within an Extra Care Housing scheme. This also gives the prospective tenants an opportunity to find out more about the scheme and to make an informed decision about moving. On completion of a successful Scheme visit a tenancy is offered and paperwork completed by the Scheme Manager.

If this visit raises issues as to the suitability of a tenancy, every step will be taken to resolve the situation in discussion with all parties. A further assessment or Panel discussion may be requested or further housing related support may be necessary.

If identified issues cannot be resolved (or resolved within an agreed timescale with the provider), the tenancy will be offered to the next suitable person identified by the Panel or Rehousing Officer – again subject to a successful home or scheme visit.

The Extra Care Scheme Manager will inform all applicants refused an offer of a tenancy and will give reasons for the decision. An appeals process can be invoked where any party wishes to dispute the decision reached by the Allocation Panel.

Property type and size

All applicants are eligible for a one or two bedroom property and are invited to express their preference. However, the final decision on the size of property allocated to the applicant will be made by the Panel, taking into account the applicant's preference and the government's new guidance on bedroom allowance.

Supported Accommodation

Size and type of property for which applicants are eligible

Supported housing will be available only for applicants who are eligible for that particular type of accommodation and the related support. For example, some supported housing is provided exclusively for people with learning difficulties, or for young people leaving care. Where accommodation is available only for applicants who satisfy such special criteria, this will be clearly labelled on advertisements placed on the Choice Based Lettings website.

Please refer to page 15 to see the size of property for which applicants are eligible for.

Where applicants require larger accommodation on health grounds, this will be considered on a case by case basis, taking into account the advice of a qualified medical advisor and the government's new guidance on bedroom allowance.

Including a Carer in the application

A carer is someone who, with or without payment, provides help and support to a partner, relative, friend or neighbour, who would not manage without their help. This could be due to age, physical or mental health, addiction, or disability. In all cases the carer must have been identified by the applicant as the person who is primarily responsible for providing them with care and has the need to live with them or near them.

Even if an applicant is in receipt of Carer's Allowance it may not be necessary for the carer to reside with them. A application to include a carer in a housing application will be considered if the carer has been assessed by Social Care and Health as needing to provide overnight support and cannot reasonably be expected to share a bedroom. In these circumstances the applicant must provide supporting evidence from other agencies e.g. Adult Social Care or a health professional.

In some limited circumstances it may be possible to consider cases where the carer is not in receipt of Carer's Allowance. Under these circumstances it will still be necessary for the applicant to demonstrate that the person looked after is in receipt of one of the following benefits:

- Disability Living Allowance – paid at either the middle or higher rate for personal care.
- Attendance Allowance
- Constant Attendance Allowance
- Disablement Benefit

What is the Build!® project?

Cherwell District Council has launched a self-build project, providing an alternative source of affordable housing. The principle is essentially that members of the public could be involved in building their own homes, as a community or independently to some degree or other, and would in return benefit from lower rents or purchase prices and perhaps a home design more in line with their needs. The initial project aims to provide 250 homes in the Cherwell District through a combination of self-build, part self-build and final finish, through new-build and renovation of long-term empty homes, by the end of the 2014/15 financial year.

Do I need to have skills or experience?

Certain schemes such as 'self-build housing scheme' will need professional experience and skills which we hope to procure through fellow Build!® applicants, local contractors and local suppliers. However it is feasible that groups of people with a range of skills could decide to work together on a number of properties, benefiting from each other's handy-work and economies of scale in procuring additional services. Build!® will also seek to provide training to individuals who wish to take part in self-build projects but lack the basic skills to do so, giving them opportunities to learn and apply skills in tasks on Build!® homes.

What are the build options?

- **Self-finish** - this will involve the participant completing some internal work such as fitting kitchens and bathrooms; decoration and finishes to internal walls, ceilings and floors; installing internal doors and architraves; completing external landscaping. This may include former empty properties and new-builds.
- **Watertight shell** - the building will be completed to the point where it is watertight but internal structures such as partition walls will need to be added, plumbing and wiring installed etc.
- **Serviced plot** - a plot of land with all services supplied up to its boundary, including electricity, gas, sewerage, roads and so on. Detailed planning permission will be in place for prospective buyers to build their home from scratch. This may involve them doing the work themselves, buying a 'kit home' or commissioning a builder to build the home on their behalf.

What are the possible tenures?

Homes will be available to buy on:

- shared ownership
- shared equity
- to rent at 60 to 80 per cent of open market value (depending on the level of involvement)
- open market sale - those intending to buy their own home. Cherwell will also be able to signpost them to mortgages specifically tailored for self-build.

Complaints

An applicant who is not satisfied with the service that they receive may register a complaint with the Council's Complaint procedure by telephone, e-mail or in person. All complaints will be acknowledged and investigated.

How to complain

If you have a complaint, please use one of the following methods to contact us:

- Complete the compliment/comment/complaint form available from the website
- Visit one of our offices in Bicester, Kidlington, Bodicote, Banbury
- Write to Complaints, Customer Service Centre, Cherwell District Council, Bodicote House, Bodicote, Banbury OX15 4AA
- e-mail complaints@cherwell-dc.gov.uk

Your complaint should include your details, information about what went wrong and what you want us to do about it.

Definition of Terms

Allocation	<ul style="list-style-type: none"> • The selection process by which a person becomes a secure or introductory tenant of housing accommodation held by a housing authority <i>or</i> • The nomination process by which a person becomes an assured or assured shorthold tenant of housing accommodation held by an RSL
Children	Are defined as dependents, in a household, under the age of 16 or who is still dependant on the applicant e.g. due to continuing education
Choice Based Lettings	The advert based system that we used so that applicants on our Housing Register can apply for properties. Applicants are assessed, properties are advertised and applicants apply for them
Disabled adapted properties	Disabled adapted properties are properties that have been specially built or adapted for people with disabilities
Effective date	Date used to prioritise applications in a band
General needs properties	General needs properties are suitable for applicants who do not have a need for sheltered accommodation or specially built or adapted properties. They include bedsitters and house, flats and maisonettes of any size
General register applicant	Applicants who have been accepted onto our Housing Register as being eligible to apply for social housing
Homeless applicant	Applicants found to be homeless, in a priority need group and where a duty to offer housing has been accepted under sections 193 or 195 of Part 7 of the Housing Act 1996
Housing Register	The Housing Register is the waiting list administered by Cherwell District Council on behalf of our partner housing associations

Joint Applicants	<p>Joint applicants may be:</p> <ul style="list-style-type: none"> • married couples • partners living together • others who wish to set up home together
Move-on	<p>Applicants who have been assessed by a support worker as ready to move-on from supported accommodation where Cherwell have an agreed move-on protocol</p>
Nomination agreement	<p>A legal agreement between the Council and the registered provider which states how applicants will be nominated for vacancies by the Council, the number of vacancies that must be offered to the Council for nomination and any special priorities such as village or local connection</p>
Registration date	<p>The date the Housing application was received</p>
Registered Provider (RP)	<p>A Registered Provider; the official name for housing associations, housing co-operatives and housing companies that are registered with the Housing Corporation Association</p>
Secure tenancy	<p>Tenancies granted by local authorities whenever granted and tenancies granted by Registered Providers before 15 January 1989</p>
Sheltered housing	<p>Sheltered housing is housing with visiting or residential staff</p>
Social housing	<p>Affordable housing that you rent or part rent / buy from a council or Registered Provider</p>
Tied accommodation	<p>Accommodation provided for and subject to employment</p>
Transfer applicant	<p>A transfer applicant is a secure tenant or an assured tenant of one of our partner RPs who lives in our district and whose application has been accepted onto our Housing Register</p>

Consultation Report – New Allocations Scheme

Who was consulted?

A wide variety of stakeholders were consulted including Registered Providers, Statutory and Voluntary Agencies, elected members and all applicants to Cherwell's existing Housing Register. A list is found at the end of this report.

How were they consulted?

A variety of consultation methods were used including Cherwell's website, email, face to face and telephone depending on the audience.

All existing applicants to Cherwell's Housing Register received a personal letter advising them in outline of the changes which also invited them to 3 specific briefings held in Banbury, Bicester and Kidlington. Specific briefings were also provided for elected members, Registered Providers, Partner agencies and Cherwell staff.

What was the feedback?

Feed back was generally positive.

Registered providers welcomed the new Scheme in the light of the new welfare reforms. They were particularly pleased to see the priority given to those under occupying social housing tenancies in the light of the new 'bedroom tax'. They also raised some concerns regarding the new bedroom guidance on sharing, from central government, which was fully discussed with them. Sanctuary Housing particularly welcomed Cherwell's proposal to exit the Choice Based Lettings Sub-regional partnership.

The Army was very positive about the new Scheme and the priority that will be afforded to those being discharged from the Armed Services. They were pleased to see that urgent priority Band 1 will be given to those injured in active service who need to move to more suitable housing.

Statutory Partners - Oxfordshire County Council provided responses from both Adult Services and Children's and Families Services. They broadly supported the policy but were keen to be able to influence and participate in any reviews of cases they are involved with, in relation to them being successful in gaining social housing. They enquired whether compensation awards, clients sometimes receive, will be included in assessments for sufficient financial resources.

We have advised that we are keen to continue to work in partnership with them. We will endeavour to keep them fully informed of the changes, we will still take note of any letters of support and meetings they may be holding regarding their client's housing issues. We will also provide briefing and training for staff as appropriate. They also raised concerns that by prioritising a percentage of vacancies for those in education, employment and training, they felt their clients could be disadvantaged

MAPP (multi agency public protection arrangements) provided feedback for the section in the Scheme that deals with serious offenders. Probation attended the single homeless forum briefing as did specific supported housing providers for high needs young people and mental health housing services.

Existing Applicants to Cherwell's Housing Register were generally concerned with how the new proposals may affect their personal applications. They understood and agreed with the need to impose a financial assessment and income, capital and assets threshold. They thought it fair to disqualify applicants that own their own home unless they have particular circumstances where they are not able to provide their own suitable housing. They also welcomed the new priority to assist residents of social housing to 'downsize' if they need to do so following the introduction of the bedroom tax. Three residents from Heyford Park enquired particularly regarding what effect this new Scheme would have for them in the light of the new development proposed at Heyford Park.

Parish Councils - several parishes responded fully. They are keen to see vacancies developed on rural exception sites remain prioritised to people with strong local connections. They are also keen for the Council to continue to promote rural sustainment.

Elected members attendance was high at the 3 workshops held at Bodicote House. They were fully briefed on the new Scheme and keen to understand the reasons for the new proposals. A number of questions were fully debated around qualification and disqualification from the Housing Register. The limit of £60K income capital and assets was discussed. It was considered high by several members but was generally accepted when the reasoning behind it was explained.

Voluntary Sector Partners - a specific briefing was held together with a briefing from Finance (Housing Benefit) on welfare reforms. They were keen to understand how they can continue to work with Cherwell to mitigate the impacts of welfare reforms and to continue to gain access to social housing for their clients. They also expressed some reservations regarding prioritising vacancies for those in education, employment and training.

Cherwell staff have been fully involved with the development of the new scheme. They have made many suggestions and comments which have helped form the new Scheme.

How was the Allocations Scheme changed?

After listening to feedback

- Band 1 Safeguarding Children has been changed to include both adults and children subject to joint agreement between Oxfordshire County Council and Cherwell Housing Department.
- Band 1 Abuse, Violence and Harassment is now included in Band 1 only rather than in both Bands 1 and 2.
- Priority for applicants to Cherwell's Housing Register who are participating in education, employment and training is limited to 30% of total vacancies per annum.
- The Policy will be subject to ongoing review with a further report to Cherwell's Executive to be submitted 12 months following the date of implementation.

Consultees' List

Statutory and Voluntary Agencies including:

805 (Queens Own Oxfordshire Hussars) Signal Troop
Action for the Blind
Asylum Welcome & Detainees Society
Banbury & District Housing Coalition
Banbury Citizens Advice Bureau
Banbury Community Church
Banbury Polish Association
Banbury Young Homelessness Project (BYHP)
Beacon Centre
Bicester Children's Centre
Bicester Citizens Advice Bureau
Bicester East Community Association
Bicester Food Bank
Britannia Road Children's Centre
Chasewell Community Association
Cherwell Community and Voluntary Service
Cherwell Faith Forum
Cherwell Single Homeless Forum
Dogs for the Disabled
Eve Women's Project
Farm Crisis Network
Focus Banbury Counselling Service
Friends of Britannia Road Family Centre
Friends of Frank Wise School
Grimsbury Community Association
Guide Dogs
Habitat for Humanity GB
Heyford Park Residents and Community Development Association
Home-Start Banbury & Chipping Norton
Kidlington & District Information Centre (KADIC)
Kidlington Evergreen Club
Langford Village Community Association
Leonard Cheshire Home - Oxfordshire
Ley Community Drug Services
LSP Faith Groups Representative
Member of Parliament
Mind in Banbury
Multiple Sclerosis Society (Banbury)
North Banbury Children's Centre
Oxford and Cherwell Valley College
Oxford Sexual Abuse & Rape Crime
Oxfordshire Equality and Human Rights Council
Oxfordshire Adult Learning
Oxfordshire African Community Association (OACA)
Oxfordshire Association for the Blind
Oxfordshire Association for Young People
Oxfordshire Chinese Community & Advice Centre
Oxfordshire Community Foundation
Oxfordshire Council for Voluntary Organisations (OCVA)
Oxfordshire Family Conciliation Service
Oxfordshire Family Mediation

Oxfordshire Mind
RCV Oxfordshire
Relate - Oxford
Restore
Royal British Legion (Bodicote Branch)
RPC Association
Ruscote Community Association
Salvation Army
Single Homeless Forum
Southwold Community Association
Special & Different Addiction Services
SSAFA Forces Help
SSAFA Forces Help Banbury & Bloxham
St Mary's Church Centre
Sunrise Multicultural Play Project
Sunshine Centre
Talking Newspaper Association - Banbury
The Banbury Food Bank
The Causeway Centre (MIND in Bicester)
The East Street Children's Centre
The Home Farm Trust Limited
The Kingwood Trust
The Orders of St John Care Trust
The Shout Project
West Bicester Community Association

Local Authorities including:

Oxfordshire City Council
Oxfordshire County Council
South Northamptonshire District Council
South Oxfordshire District Council
Vale of the White Horse District Council
West Oxfordshire District Council

Registered Providers including:

Registered Providers Forum
Registered Providers Development group
A2 Dominion
Anchor
Bromford
Catalyst Group
GreenSquare Group
Guinness Housing Trust
Housing 21
Paradigm Housing
Sanctuary Housing
Sovereign Group

Equalities groups including:

Age UK - Oxfordshire, City & County
Banbury Asian Forum
Cherwell Equality and Access to Services Panel
Cherwell Strategic Housing Residents Panel
Oxfordshire Learning Disability
Shifa Trust

Within CDC, stakeholders including:

Council Members
Customer Service
Equalities Officer
Fraud
Housing Services Staff
Legal
Safer Communities

Parish Councils including:

Bloxham
Bodicote
South Newington

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Executive

Revision of Private Sector Housing Policies

5 November 2012

Report of Head of Regeneration and Housing

PURPOSE OF REPORT

To seek adoption of revised private sector housing policies and revised standards for houses in multiple-occupation.

This report is public

Recommendations

The Executive is recommended:

- (1) To adopt the following operational policies in place of similarly named policies adopted in May 2008:
 - Housing (Private Sector) Policy
 - Housing Health & Safety Rating Scheme (HHSRS) Policy
 - House in Multiple Occupation (HMO) Licence Policy
 - Recovery of Costs Policy
 - House Condition Enforcement Policy
 - Private Sector Housing Grants and Assistance Policy
- (2) To adopt the house in multiple-occupation standards (entitled HMO Standards 2012) as the Council's standards in place of earlier adopted standards.

Executive Summary

Introduction

- 1.1 Experience gained in applying and enforcing the provisions of the Housing Act 2004 (which is the principle act dealing with housing conditions) has led to the conclusion that there is a need for some limited revision of policies first adopted in 2006 (when the Act became operative) and last revised in 2008. The proposed changes reflect developments in the private rented sector and changes that have taken place at the Council, but we have also taken the opportunity to update and refresh these policies. The revisions will ensure that we remain as effective as possible in improving housing conditions.

- 1.2 All of the policies to which this report relates are operational rather than strategic policies and do not therefore require approval by full Council.

Proposals

- 1.3 That the Housing (Private Sector) Policy, attached as appendix 1, is adopted in place of the version adopted in 2008
- 1.4 That the House Condition Enforcement Policy, attached as appendix 2, is adopted in place of the version adopted in 2008.
- 1.5 That the Recovery of Costs Policy, attached as appendix 3, is adopted in place of the version adopted in 2008.
- 1.6 That the HMO Standards 2012, attached as appendix 4, are adopted in place of earlier standards.
- 1.7 That the Housing Health and Safety Rating Scheme (HHSRS) Policy, attached as appendix 5, is adopted in place of the version adopted in 2008.
- 1.8 That the House in Multiple Occupation (HMO) Licence Policy, attached as appendix 6, is adopted in place of the version adopted in 2008.
- 1.9 That the Private Sector Housing Grants and Assistance Policy, attached as appendix 7, is adopted in place of the version adopted in 2008.

Conclusion

- 1.10 Adoption of these revised operational policies and HMO Standards will ensure that the Council is able to discharge its responsibilities for house conditions to best effect, taking into account developments and experience gained since 2008.

Background Information

- 2.2 In its role as Housing Authority the Council has responsibility for the condition and suitability of the housing stock across its district, whether owner-occupied, rented from a private landlord or let through a Registered Provider. The Council has a range of both mandatory and discretionary powers which it is expected to use in order to ensure that appropriate standards are achieved. In practice we use enforcement, along-side advice and both financial and practical assistance, to meet our legal obligations, achieve our responsibilities and fulfil strategic objectives.
- 2.2 Effective policies are the essential framework for this activity and ensure that we are acting in a demonstrably clear and consistent manner. It is however important that such policies are kept under review to make sure they accurately reflect changing requirements and any opportunities for improvement highlighted by practical experience of their application.

Key Issues for Consideration/Reasons for Decision and Options

Note: all of the Policies are attached as appendices. Principle changes have been shaded

3.1 Housing (Private Sector) Policy

This is the umbrella-policy under which the various other policies sit. We have taken the opportunity to refresh the text and provide some additional clarification following revision of the related policies referred-to above.

The main changes are in:

Section 1.4 - Additional explanation about the legislation the council may use

Section 1.5 - Revised statement of intent (*see also the House Condition Enforcement Policy, below*)

Section 7 - New section on empty homes, our approach and re-stated principles.

3.2 House Condition Enforcement Policy

This policy sets out our enforcement principles and our broad approach to balanced, proportional and consistent enforcement. It also includes a commitment to resolving unsatisfactory housing conditions. The main change is a revised statement of intent in section 2.1

3.3 Recovery of Costs Policy

This policy deals with the recovery of the costs incurred by the Council following certain enforcement action. The principle change is the proposed use of a specified minimum charge (determined periodically by the Head of Service) which is intended to increase the deterrent effect of non-cooperation. (See sections 1.5 -1.8)

3.4 Houses in Multiple Occupation (HMO) Standards 2012

These standards incorporate requirements set by regulation as well as those which it is for the Council to determine. They have 3 functions: they are the specific standards which apply to HMO-licensing; secondly, the space standards provide the basis for ensuring that HMOs are not overcrowded; and thirdly they serve as a good-practice benchmark which informs our HMO enforcement work and is used to advise landlords with the aim of improving conditions generally. The Standards remain principally unchanged but we have proposed a number of additions:

Sections 2.4, 8.4 and 11: Recognition of a new category of HMO – Category D, staff accommodation, with relevant space standards and requirements for cooking provision.

Section 9.2.3: New options and requirements regarding en-suite facilities in single-person rooms

Section 10.7: Suitability and requirements concerning mini-kitchens

3.5 Housing Health and Safety Rating Scheme (HHSRS) Policy

Incidental updating and minor points of clarification only.

3.6 House in Multiple Occupation (HMO) Licence Policy

Incidental changes only.

3.7 Private Sector Housing Grants and Assistance Policy

We have redrafted the introduction and made a number of incidental and modest technical changes, but the principles and approach are essentially unchanged.

The following options have been identified. The approach in the recommendations is believed to be the best way forward:

Option One Adoption of the new policies and HMO Standards

Option Two To agree the recommendation with variations

Option Three To reject the recommendation.

Consultations

The policies and the HMO Standards were available for public consultation on the Council's consultation portal for a 6-week period ending on 5 October 2012. The opportunity to comment was also emailed to all those landlords, agents and agencies on our Landlord's Forum mailing list.

3 responses were received. They are reproduced in full, with our comments, as appendix 8. None of the comments were judged to necessitate revisions to the draft policies.

Implications

Financial: The proposed policies and HMO Standards raise no financial issues at this stage. In the event of budgets being required for any work related to condition surveys over and above approved funding this would be considered on a case by case basis and funding mechanisms proposed. These budgets are monitored as part of the monthly revenue and capital dashboard.

Comments checked by Karen Curtin, Head of Finance and Procurement 01295 221634

Legal: The proposed policies and HMO Standards raise no legal issues and there are no legal implications

Comments checked by Nigel Bell, Team Leader Planning & Litigation 01295 221687

Wards Affected

All

Corporate Plan Themes

Cherwell: A district of opportunity

Cherwell: A cleaner, greener district

Cherwell: An accessible, value for money Council

Lead Member

Councillor Debbie Pickford
Lead Member for Housing

Document Information

Appendix No	Title
Appendix 1	Housing (Private Sector) Policy
Appendix 2	House Condition Enforcement Policy
Appendix 3	Recovery of Costs Policy
Appendix 4	HMO Standards 2012
Appendix 5	Housing Health and Safety Rating Scheme (HHSRS) Policy
Appendix 6	House in Multiple Occupation (HMO) Licence Policy
Appendix 7	Private Sector Housing Grants and Assistance Policy
Appendix 8	Consultation responses and comments
Background Papers	
None	
Report Author	Tim Mills, Private Sector Housing Manager
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Housing (Private Sector) Policy

The policy was originally written in 2006 and first revised in 2008. This 2012 version is the second revision.

1 Introduction

1.1 The Council's role

1.1.1 The houses and flats in the Cherwell District have enormous value. They are the major financial asset of most of their owners but are essential local and national assets as well. As Housing Authority for its District, Cherwell District Council has a responsibility for the condition of the local housing stock:

"A local housing authority must keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them under any provisions ...(of the Act)". (section 3 Housing Act 2004)

1.1.2 Home-owners have a clear first responsibility for the condition of their properties and, in most cases, take appropriate steps to ensure that their houses and flats are properly maintained. Landlords, as owners, usually have a similar incentive to maintain their properties, ensure they are attractive to potential tenants and generate the required rental income.

1.1.3 However, there are significant numbers of unsatisfactory homes in the district. Our last stock-condition survey, in 2009, estimated that there were more than 6,000, or about one in ten homes, with serious health and safety problems. Poor quality homes can have serious consequences; not only can they directly affect occupants health (and sometimes the health and safety of neighbours and visitors as well), but can also have a bearing on employment prospects, educational achievement and relationships. The Council has certain legal duties to deal with housing problems but has other discretionary powers as well. These powers are not generally dependent upon tenure so the Council may be required to take action in connection with both owner-occupied and tenanted property.

1.1.4 More than 71% of houses and flats in the Cherwell District are owner-occupied and approximately 29% rented, of which three-fifths are privately rented. The majority of all houses and flats are in good order but problems can arise for a variety of reasons and affect both owner-occupied and rented property. Some of the poorest conditions are found in privately rented accommodation and, because most tenants do not have direct control over the condition of their home, it is appropriate that the condition of privately rented accommodation has been, and continues to be, a prime focus for both legislation and the Council's attention. However, action in connection with owner-occupied premises can be needed and the Council will take action to deal with those problems where appropriate.

1.2 The purpose of this Policy

1.2.1 The Council reviews the overall condition of houses in its District by carrying out periodic house condition surveys; these have typically taken the form of sample-surveys of at least 1,000 dwellings and have been

undertaken about every five years so that changes can be monitored and acted upon. Survey information is used to help develop the Council's policies and its Housing Strategy.

1.2.2 This Policy (written in the context of the Council's *Housing Strategy 2012-17*) explains the Council's role in delivering satisfactory housing standards. It also sets out the rules, standards and legislation that apply, and how the Council intends to use its powers and responsibilities. The existence of a number of sub-policies is indicated at appropriate points in the text.

1.3 The Housing Act 2004

1.3.1 The *Housing Act 2004* is the principle legislation dealing with the regulation of housing standards. It also requires compulsory licensing of certain houses in multiple-occupation (HMOs) (see 2.2 below for definition).

1.3.2 In addition to setting out the way in which Cherwell District Council will approach its responsibilities for housing conditions, this Policy also explains how the Council will carry out the requirements of the Housing Act 2004 ('the Act') in relation to HMO licensing, the Health and Safety Rating System (HHSRS) and how we intend to use the discretionary powers in the Act.

1.4 Other legislation

1.4.1 A range of other legislation is also available to deal with property condition and property issues. Some of these statutes set mandatory responsibilities and others give discretionary powers. In some cases it may be possible to use more than one set of powers to achieve the required outcome. We are prepared to use the full range of powers available to us and will utilise whichever we consider to be the most appropriate in the circumstances of a particular case.

1.4.2 Legislation we may use includes, but is not restricted to:

- Public Health Act 1936 (*filthy & verminous premises*)
- Building Act 1984 (*defective premises*)
- Environmental Protection Act 1990 (*statutory nuisances*)
- Local Government (Miscellaneous Provisions) Act 1976 (*restoration of water, gas or electricity supplies*)
- Local Government (Miscellaneous Provisions) Act 1982 (*power to board-up*)
- Prevention of Damage by Pests Act 1949 (*rodent issues*)

1.5 Statement of intent

1.5.1 The Council wants all homes in the district to be properly managed and maintained so that they are safe, healthy and can continue to be suitable homes into the future. We are determined to eliminate poor housing conditions. Where necessary we will use the enforcement powers available to us to ensure that appropriate minimum standards are achieved without undue delay. However, we believe that enforcement alone is unlikely to achieve satisfactory or improving standards and so will assist home-owners to improve and maintain their property in accordance

with the Council's *Grant and Assistance Policy*. (See also section 6 below.)

2 HMOs and HMO Licensing

- 2.1 The aim of HMO licensing is to ensure that specified categories of property (some of which suffer from very poor conditions) meet appropriate legal standards and are properly managed. This is to be achieved by requiring that all higher-risk HMOs (as defined in Regulations made under section 55 of the Act) are licensed and meet appropriate licence conditions. (This means that most HMOs are not subject to mandatory licensing.)
- 2.2 The definition of HMO is quite complex but, put in the simplest terms, an HMO is a building occupied by more than one household. This includes houses containing bedsits, shared houses, hostels and some houses divided into flats. The Housing Act 2004 defines the term household in terms of family relationships (which are all specified in the Act). This definition means that shared houses and those occupied by unrelated people will always be HMOs (unless they fall within one of the specific exemptions set out in Schedule 14 of the Act.)
- 2.3 HMOs of 3 or more storeys which have 5 or more occupiers (forming 2 or more households) will need to be licensed. Social housing and domestic premises owned by the police, health authorities, universities and some other listed organisations are exempt from licensing, as are buildings wholly converted into self-contained flats.

Licence requirements and conditions

- 2.4 A licence will be granted where the Council is satisfied that specified requirements are met; these include the suitability of those involved with running the premises and the adequacy of management arrangements. In addition, the premises must be reasonably suitable for the intended number of occupants. The Council's *HMO Licence Policy* explains both the requirements and how the Council will reach relevant decisions.
- 2.5 Licences will usually be valid for 5 years, will specify the maximum number of occupiers or households and will include conditions. Certain conditions have to be included in all licenses but the Council is able to add others if it considers that necessary or appropriate. The application of licence conditions is dealt with in the *HMO Licence Policy*.
- 2.6 The Council will charge licence fees in accordance with its *HMO Licence Policy*.
- 2.7 HMOs will usually be subject to an inspection and assessment under the Housing Health and Safety Rating System (HHSRS, see section 4 below) undertaken in parallel with the licensing process. If that is not possible, the premises will be inspected for HHSRS purposes at a later date set on the basis of an assessment of priority.

- 2.8 It is an offence not to licence a qualifying HMO and that failure is punishable, on conviction, by a fine of up to £20,000. Any decision to prosecute will be taken in line with the Council's *House Condition Enforcement Policy*.
- 2.9 The Council intends to undertake re-inspections of licensed premises at intervals of no more than 5 years but will re-inspect more frequently where possible.

Temporary exemption from licensing

- 2.10 The Council may serve a Temporary Exemption Notice (TEN) where a landlord states to the Council that he or she is, or shortly will be, taking steps to make an HMO non-licensable. A TEN can only be granted for a maximum period of three months. A TEN will be served where an owner of a licensable HMO states in writing that he/she is taking steps to make that HMO non-licensable and states that the HMO will not be licensable within three months. The Council does not wish these notices to be used routinely and so a second notice will only be acceptable in exceptional and unforeseen circumstances. Any exception to this Policy will be agreed by the Head of Regeneration and Housing.

Rent repayment

- 2.10 Where an HMO is required to be licensed but is not licensed, the Council can apply to the Residential Property Tribunal (RPT) for a Rent Repayment Order (RRO). The RPT has the power to require that rent which has been paid in the form of Housing Benefit is repaid to the Council. (Tenants can also apply to the RPT for repayment of any rents they have paid.) (*Note: the RPT replaced the Courts for the purposes of judging appeals under the Housing Act 2004.*) The Council may seek Rent Repayment Orders in exceptional cases and these will be determined by the Head of Regeneration and Housing.

Interim and Final Management Orders

- 2.11 Where there is no reasonable prospect of an HMO which requires a licence being licensed, the Act requires that the Council must use its powers to make an Interim Management Order (IMO). These enable the Council to take over the management of an HMO and become responsible for running the property and collecting rent for up to a year. In certain circumstances this can be extended to 5 years by means of a Final Management Order (FMO), with the Council also having the power to grant tenancies.

2.12 The Council also has a discretionary power to use Interim Management Orders for other HMOs (ie those to which licensing provisions do not apply) if, on application by the Council, a Residential Property Tribunal (RTP) is satisfied that course of action is necessary to protect the health and safety of the occupants. If an IMO is made it can be followed by a Final Management Order (as above) if the Council judges it appropriate.

- 2.13 Decisions in relation to the making of (or application for) Interim Management Orders, and the making of Final Management Orders will be made by the Head of Regeneration and Housing, taking into account all the circumstances of the case.

Application of Management Regulations and HHSRS to all HMOs

2.14 Most HMOs in the Cherwell District will not require a license under the mandatory scheme. These include houses comprising only self-contained flats, 2-storey premises (regardless of the number of occupants) and 3-storey HMOs with fewer than 5 occupants. However, all HMOs are subject to HMO management regulations (made under section 234 of the Act) and must also be free from serious hazards (as assessed using the Housing Health and Safety Rating System (HHSRS) which is explained in more detail below.) The Council will apply the HHSRS in accordance with its *HHSRS Policy*. Enforcement in relation to the HMO Management Regulations will be undertaken in accordance with the Council's *House Condition Enforcement Policy*.

2.15 In order to ensure that appropriate standards are being achieved in HMOs the Council will investigate complaints but will also take steps including planned inspections to identify HMOs, and will undertake re-inspections at intervals we consider appropriate. We shall also use our powers under the HMO management regulations to require landlords to provide us with copies of gas appliance and electrical installation test certificates.

Additional HMO licensing

2.16 The Council has the power to introduce additional HMO licensing schemes which would require further categories of HMO to be licensed in all, or in parts, of the District. We have no plans to use this discretionary power at present.

3. Fire, Amenity and Space Standards in HMOs that do not require a licence

3.1 In determining appropriate requirements for HMOs which are not subject to HMO licensing (and which are not subject to an Interim or Final Management Order), the Council will rely upon the Housing Health & Safety Rating System (HHSRS) (see below), Government guidance, national guidance produced by relevant organisations (such as LACORS) and such other local standards as the Council is empowered and may see fit to introduce (see the Council's HMO Standards).

3.2 The Council will enforce minimum space standards for letting rooms having regard to its adopted space standards, the Housing Health & Safety Rating System (HHSRS) (see below), Government guidance, national guidance produced by relevant organisations (such as LACORS) and such other local standards as the Council is empowered and may see fit to introduce.

3.3 Enforcement action will be taken in line with the Council's *House Condition Enforcement Policy*.

4. Housing Health and Safety Rating System (HHSRS) and Enforcement Regime

- 4.1 The Housing Act 2004 replaced the old test of fitness (s604 of the Housing Act 1985) with the Housing Health & Safety Rating System (HHSRS). This uses risk-assessment to calculate the effect of housing conditions on the health of occupiers and others. The HHSRS is a rather more complex but comprehensive approach to dealing with house-condition problems. It involves assessment of up to 29 potential hazards and scoring of their severity as the basis for determining the need for action. If any of the more serious Category-1 hazards are found, the Council has a duty to take action. If less serious Category-2 hazards are found, the Council has discretionary power to require action.
- 4.2 The Council will use its powers under the Housing Act 2004 to carry out inspections to establish the existence of hazards. We will do so in response to complaints, or if we believe a hazard may exist. The Council's *HHSRS Policy* sets out how we will judge which of the available powers to use and in which circumstances.

5. Enforcement

- 5.1 The Council is committed to carrying out its duties in a fair and consistent manner and will follow its *House Condition Enforcement Policy* in the regulation of housing conditions.
- 5.3 The Council expects owner-occupiers to take all appropriate steps to ensure that their homes are kept in satisfactory order and to remedy hazards, problems of disrepair or nuisance. (In the case of long-leaseholders this may also necessitate invoking the terms of their leases.)
- 5.4 The Council expects landlords to take all appropriate steps to ensure that property they rent out is kept in satisfactory order and to remedy significant hazards, problems of disrepair or nuisance promptly. (In the case of long-leaseholders this may also necessitate invoking the terms of their leases.)
- 5.5 The Council expects landlords of houses in multiple-occupation (HMOs) to comply at all times with their responsibilities under the HMO management regulations (*the Management of Houses in Multiple Occupation (England) Regulations 2006*).
- 5.6 We expect tenants to treat their homes in an appropriate manner and to comply with the terms of their tenancy agreements. We also expect them to have informed their landlord of any disrepair or other problems and to have allowed sufficient time for remedial action to be taken before contacting the Council for assistance.

6. Financial and other assistance

- 6.1 We shall provide advice concerning applicable standards upon request. Other forms of assistance will be provided in accordance with the Council's *Private Sector Housing Grant & Assistance Policy*.

7 Other matters

7.1 Empty property

7.1.1 We intend to base our involvement with empty homes on the following principles:

- The Council wants empty homes to be used
- The Council will encourage and facilitate their re-use (eg by providing advice, grants and loans)
- The Council will take action to resolve specific issues caused by empty homes (where powers permit)
- The Council will take action to secure re-use of empty homes where a business case exists.

7.1.2 Grants and Loans which may be available to assist with bringing empty homes into productive use will be made in accordance with our *Private Sector Housing Grant & Assistance Policy*.

7.1.2 As stated in the principles above, we will take appropriate enforcement action where relevant standards are not being met. Hazards in empty property can be addressed by using the HHSRS and the Council also has powers to board-up empty premises and deal with statutory nuisance. In addition, the Housing Act 2004 provides the Council with the power to apply for an Empty Dwelling Management Order (EDMO), enabling it to take control of an empty property in order to bring it back into use, and the Council retains the power to make Compulsory Purchase Orders to acquire property for housing purposes. These powers will be used in cases where the Head of Regeneration and Housing, in consultation with the Lead Member for Housing, considers them appropriate.

7.2 Bed and Breakfast Hotels

The Council has the power to specifically declare certain premises to be HMOs. The Council considers that where accommodation is used as a main residence, HMO standards should apply and will use its powers in the case of bed and breakfast hotels if they are housing any persons who use the hotel as their main residence for more than 30 consecutive days or more than 30 days in any 12-month period.

7.3 Selective licensing

The Council has the power to require selective licensing of houses other than HMOs in all, or parts, of its District in certain specified circumstances and subject to government approval, but does not at present intend to utilise this discretionary power.

7.4 Appeals

The opportunity to appeal against certain decisions or actions taken by the Council is provided by a number of Acts of Parliament and is explained in the Notices and Orders the Council uses. The Housing Act 2004 makes the Residential Property Tribunal (rather than the County Court) responsible for hearing appeals under this particular Act.

House Condition Enforcement Policy 2012

1 Introduction

1.1 Adequate housing, or the lack of it, affects many areas of peoples' lives. Health, education, employment opportunities and relationships are all influenced by the place we have to call home; but housing in this area is expensive and is also often in short supply. These factors mean that housing plays an important role in our individual affairs, but also that it has to be considered as an issue in both local and national affairs as well.

1.2 One of the Council's roles is to act as Housing Authority for its district and it has duties and responsibilities for housing conditions placed on it by the Government. These are set down in Acts of Parliament, Regulations and other Statutory Instruments. In some cases relevant national standards are set by Government and in others the Council is required to set its own local standards, taking into account guidance that is issued to it. The Council also has certain other powers it can choose whether or not to use.

Enforcement Duties

1.3 The Council has a number of enforcement duties (which include the following). It must take action to address:

- Category-1 hazards in residential premises (whether tenanted or owner-occupied) (see Housing Health and Safety Rating Scheme Policy).
- Property and circumstances that give rise to any statutory nuisance.
- Licensing of certain categories of Houses in Multiple Occupation (HMOs).

Enforcement Responsibilities

1.4 The Council is also given a range of discretionary (optional) powers and can, for example, can take action to deal with:

- Category-2 hazards in residential premises.
- Overcrowding.
- Unsatisfactory standards of management in all Houses in Multiple Occupation (whether licensed or not).
- Boarding up of abandoned premises
- Damage or possible damage by rodents
- Restoration of gas & electricity supplies

1.5 This Policy (which is a sub-policy of the *Housing (Private Sector) Policy*) sets out the Council's intent and its approach to housing enforcement issues. It is applicable to all of the Council's housing enforcement activities. (The separate *Housing Health & Safety Rating Scheme Policy* (HHSRS Policy) explains how certain enforcement decisions are made in connection with hazard-resolution for the purposes of the Part 1 of the Housing Act 2004, but the *House Condition Enforcement Policy* is still relevant.) This policy has been drafted to take account of guidance provided by the Government and, following consultation with other Oxfordshire authorities.

2 Statement of intent

2.1 The Council wants all homes in the district to be properly managed and maintained so that they are safe, healthy and can continue to be suitable homes into the future. We are determined to eliminate poor housing conditions. Where

necessary we will use the enforcement powers available to us to ensure that appropriate minimum standards are achieved without undue delay. However, we believe that enforcement alone is unlikely to achieve satisfactory or improving standards and so will assist home-owners to improve and maintain their property in accordance with the Council's *Grant and Assistance Policy*.

3 Procedures

3.1 Inspections and Visits

3.1.1 Council Officers will, wherever possible, seek to arrange visits and inspections at times to suit those concerned, but urgent matters may necessitate inspections without prior notice.

3.1.2 The Council will normally arrange inspections and re-inspections with owners, landlords and/or their agents but, in the case of complaints, will typically visit the complainant in the first instance to assess the facts of the case.

3.1.3 Any findings and conclusions will be confirmed in writing at the earliest opportunity in a clear and straightforward manner. The Council will accommodate at least one meeting with the landlord, home owner or their agent if requested, to discuss matters before taking further action, unless urgent action is judged necessary.

3.1.4 In the event that an inspection or visit cannot be agreed, the Council will seek a warrant of entry to the property where the law provides for this. In determining whether it is appropriate to seek a warrant of entry the Council will take into account all the circumstances of the case including the urgency or otherwise of the inspection and any previous experience of dealings with the particular owner or landlord.

3.2 Remedial Action

3.2.1 If the Council requires remedial action to be carried out following a visit, that will be put in writing and we will explain why it is necessary and when it must be done. If the Council considers it is necessary to serve a formal notice it will do that in accordance with its *HHSRS Policy* (where that applies) or the following sections of this policy.

3.2.2 In any notice, legal requirements will be clearly distinguished from any advice.

3.2.3 An informal approach will be applied where this is appropriate, but will typically only be possible in those cases where any shortcomings are judged by the Council to be of a relatively minor nature, where the relevant landlord, agent or owner has established a good track-record or has demonstrated a willingness and the ability to put matters right promptly.

3.2.4 In the event that an informal approach fails to bring about an appropriate response, for example if no response is received within a reasonable period of time taking into account the nature of the works required, works fail to start when agreed, fail to make proper progress or are completed to an inadequate standard, formal action will be taken.

3.2.5 Formal action will commence without prior notice:

- when the Council encounters serious shortcomings, or

- in cases where we are unable to establish ready contact with the relevant owner or agent, or
 - in cases where the landlord or owner has previously shown a disregard for their responsibilities or has committed persistent breaches of housing law.
- 3.2.6 We shall take account of factors such as those listed below when determining what deadlines to set for the commencement and completion of works or deadlines for compliance. Relevant factors may include:
- the nature of the works
 - any ill effects that are likely to result if the work is delayed
 - the duration of the problem and the point at which it has been reported to us
 - any prior knowledge on the landlord or agent's part
 - the nature of any attempts to remedy the problem.
- 3.2.7 The Council will take into account financial and other practical constraints that may affect landlords' and agents' ability to act, whilst recognising that these do not limit obligations or legal duties to achieve appropriate standards.
- 3.2.8 The Council will consider properly made written requests for the extension of deadlines where unforeseen problems have delayed works, but not simply to accommodate lack of sufficiently early action.
- 3.3 **Ensuring compliance: Prosecution and Work in Default**
- 3.3.1 The Council will monitor every notice it issues to ensure it is complied with. Where this requires that Officers carry out additional inspections to ensure compliance, inspections will be made in accordance with section 3.1 above.
- 3.3.2 Where a notice has been issued that requires work be carried out and has not been complied with in accordance with the timetable in the notice or as agreed in writing with the Council, the Council will undertake work-in-default and/or prosecution where it judges it appropriate to do so. In all such cases the Council will seek to recover all the eligible costs of undertaking such work in accordance with its *Recovery of Costs Policy*.
- 3.3.3 Prosecution will, in general, be reserved for those cases in which individuals have:
- blatantly disregarded the law, or
 - put others at serious risk, or
 - those instances in which there is either no alternative remedy (such as work-in-default), or
 - where the Council determines that it is not in a position to undertake work-in-default; or
 - where there is a history of similar offences.
- 3.3.4 In determining whether or not to prosecute, the Council will have regard to the Code for Crown Prosecutors.
- 3.3.5 In the event a prosecution is commenced the Council will seek the costs of the Prosecution from the defendant in the event of a guilty plea or a finding of guilt following a trial. Any exception from this must be agreed by the Chief Officer
- 3.3.6 We will confirm any decision to undertake work-in-default or prosecution in writing.

***Note:** Landlords are expected either to provide any agent acting for them with sufficient authority to act on their behalf in the event that they, the agent, is contacted by the Council; or to ensure that they maintain appropriate communication with their agent in order that appropriate decisions and responses can be provided to the Council. The failure of an agent to respond to communication from the Council, or any failure to act, will be treated as a failure by the landlord.*

4 The Principles of good enforcement

Cherwell District Council has adopted the Central & Local Government Concordat on Good Enforcement; by doing so we commit ourselves to the following policies and procedures:

- **Standards:** We will draw up clear standards setting out the level of service and performance that can be expected from us, and will publish both the standards and our annual performance against them.
 - **Openness:** We will provide information and advice in plain language about the rules that we apply and will make this information available as widely as possible. We will be open about how we set about our work and will discuss general issues or particular problems with anyone experiencing difficulties.
 - **Helpfulness:** We believe that prevention is better than cure and we will provide appropriate advice wherever possible. In particular we encourage landlords, prospective landlords, agents and tenants to contact us if they need advice or assistance.
 - **Consistency:** We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases we will ensure that arrangements are in place to promote consistency and the achievement of appropriate standards.
 - **Proportionality:** As far as the law allows, we will take into account the circumstances of the case and the attitude of those involved when considering what action to take.
 - **Complaints about service:** We will provide an easily accessible, well-publicised, effective and timely complaints procedure.
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Recovery of Costs policy

This policy was first introduced 2006 and revised in 2008. The 2012 version is the second revision.

1. Recovery of costs associated with the service of notices etc. under Part-1 Housing Act 2004

- 1.1 The *Housing Act 2004* provides for the use of certain notices and orders to deal with house-condition issues. It also allows the Council to recover certain costs incurred in association with them.
- 1.2 Although the government may set a limit on the maximum amount that can be charged it has not done so (and indicated in 2005 that it had no plans to do so¹). However, local authorities are expected only to charge the reasonable costs of enforcement and should take into account the personal circumstances of the person(s) against whom the enforcement action is being taken.
- 1.3 The Council's *Housing Health & Safety Rating Scheme Policy* (HHSRS Policy) sets out the circumstances in which the various notices etc. will be used and costs recovered. That policy also allows for the relevant Head of Service² to determine whether any variation to the stated approach is appropriate.
- 1.4 Unless the Head of Service considers that there is a legitimate reason for departing from the stated policy, the Council will recover the costs associated with taking all relevant enforcement actions.
- 1.5 Under its 2008 Recovery of Costs Policy the Council determined the costs it should recover, in each case, on the basis of the actual time spent by officers on chargeable activities and on the appropriate hourly rate for those officers. However, that approach prevented us from telling people who might be subject to formal enforcement action what our charges would be (which is likely to have reduced any deterrent effect). It has also meant that, in certain similar cases, we have calculated different charges simply because of property location relative to the Council's Bodicote offices.
- 1.6 This 2012 policy introduces a new approach: The Council will recover a specified minimum charge (for the sake of clarity), but will recover an increased amount when it is judged appropriate to do so, taking into account the time spent on the relevant activities in any particular case³. The additional charge is only likely to apply when for example, the enforcement action relates to a large, unusually complex or particularly

¹ ODPM Response to Consultation, September 2005

² Currently the Head of Regeneration and Housing

³ For example: original inspection, the process of hazard rating or notice & schedule preparation (in the case of Improvement Notices only)

defective premises (all of which will mean that the enforcement process takes more time).

1.7 The Head of Service will be responsible for determining (periodically) what the specified minimum charge will be and, in doing so, will take into account:

- standardised / average travelling costs
- inclusive salaries of relevant officers and any appropriate standardised / average employment costs
- estimates of the time typically taken on the various relevant activities

1.8 The Head of Service will also specify periodically how, and in what circumstances, costs over and above the specified minimum charge will be determined.

2. Recovery of costs associated with work-in-default

2.1 A number of the statutory notices used by the Council allow it to undertake work-in-default in the event that notice recipient(s) fail to carry out works required by those notices. The Council can then recover the costs it has incurred.

2.2 The Council will rely upon its *House Condition Enforcement Policy* in determining whether or not to undertake work-in-default in each particular case.

2.3 The Council will seek to recover all of the costs associated with undertaking work-in-default (including for example, time spent by its officers, administrative costs, contractor's costs, the cost of any specialist reports, supervisory costs etc.)

2.4 The Council will calculate the cost of officer time (for activities other than travel) on the basis of the actual time spent by officers on the chargeable activities and will charge that time at an appropriate hourly rate.

2.5 The Head of Service will be responsible for determining (periodically) what hourly rate or rates should be applied and may determine that a standardised / average employment cost should be used.

2.6 The Head of Service will also be responsible for determining (periodically) how travelling cost will be calculated and may determine that a standardised / average travelling cost should be used.

2.7 The Council will normally invoice the responsible person(s) for the cost of work but will in addition make the cost of work-in-default a charge on the relevant premises in all cases where the applicable legislation provides for this to be done. Accrued interest will be added to charges at an appropriate rate determined by the Council.

2.8 Any exceptions to this approach will be determined by the relevant Head of Services.

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Cherwell District Council

HMO standards 2012

1. Introduction

- 1.1 This document sets out the HMO standards which apply in the Cherwell District. The 2012 standards are a revision of those introduced by the Council in 2008 and replace them.
- 1.2 They are the standards the Council will use to determine the 'suitability for occupation' of HMOs for licensing purposes in accordance with the provisions of the Housing Act 2004, the Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 (as amended) and its own *HMO Licensing Policy*.
- 1.3 The Council will also use the bedroom space-standards in this document as the relevant standard for overcrowding enforcement in all other HMOs.
- 1.4 In the case of HMOs which are not subject to licensing, the standards in this document (other than bedroom space standards) are not enforcement standards but constitute good-practice guidance which the Council believes should be achieved. We will take this good-practice guidance into account when assessing hazards and so it will help inform decisions about the need for enforcement.

2. Types of HMO

At various points in this document, the relevant standards are set with reference to the type of HMO in question. The 4 types referred to are:

- 2.1 **Houses occupied and let by rooms (Category A)**
These are HMOs occupied and let as individual rooms. There is likely to be exclusive occupation of habitable rooms (usually in the form of bed-living rooms) and some sharing of amenities such as bathroom, toilet and possibly kitchen. Each occupant is likely to live independently of all others with little social interaction between the tenants. Occupants will usually have single tenancy agreements and will have taken up occupation at different times. Such houses will typically lack a communal living room. Bedsits are an example of this type of accommodation but houses comprising a mixture of bedsits and self-contained units are also covered.
- 2.2 **Houses occupied on a shared basis (Category B)**
These are HMOs where for certain activities the occupiers live as a single household but for others do not. Usually, but not always, the house will have been rented by an identifiable group of sharers as opposed to separate, lone individuals or a number of couples or families. Occupiers are typically small groups of students, work colleagues or friends. They will have exclusive use of certain rooms, usually the bedrooms, but share the kitchen, dining facilities, bathrooms, WCs etc. and there is likely to be a communal living room. There will be a significant degree of social interaction between the tenants and often, but not always, a single joint tenancy agreement.

2.3 **Temporary accommodation for households with no other permanent home (Category C)**

This category deals with premises such as Hotels, Hostels or Guest-houses which become HMOs because they are providing accommodation for people who have no other permanent place of residence. The category includes bona-fide hotels used for this purpose, whether on a permanent or temporary basis, and whether this is their sole activity or they accommodate a mixture of homeless households and commercial guests. (Note that the Council can issue a Declaration under section 255 Housing Act 2004 to confirm its judgement that premises are in use as an HMO to which the Act applies.)

2.4 **Properties occupied as staff accommodation (Category D)**

This category covers properties used for staff accommodation. It will usually be found above restaurants and the use of the accommodation will be specifically tied to the commercial premises. All of the residents will be employees of the business providing the accommodation.

2.5 **Judgements about HMO type**

In order that the Council can apply and use the standards in this document it will need to make judgements about the type of HMO in question. These will be made on the best information available following reasonable enquiry and will rely upon 'best fit'.

3. **Heating**

3.1 The Council will assess the suitability of heating in all habitable rooms, bathrooms and shower rooms by means of the Housing Health & Safety Rating System (HHSRS); but will, in particular, take into account the adequacy of thermal insulation, the adequacy of heat output, the control available and the suitability of arrangements for payment of fuel bills so as to secure continuity of supplies.

3.2 Pre-payment meters which control power supplies to shared facilities (such as fire detection, lighting, heating and hot-water) are unsuitable for use in HMOs because of the potential for disputes over responsibility for payment and the likelihood that supplies will be interrupted when credit payments expire. They are not recommended in any HMOs and will not be accepted in licensed HMOs of types A, C and D¹. (Pre-payment meters serving only independent facilities within a letting room, which are not required by or accessible to other residents, are acceptable in principle.)

3.3 All space heating appliances must be fixed. Portable or removable appliances are not acceptable.

4. **Fire Protection**

4.1 The Council will assess the suitability of means of escape and other fire precautions by means of the Housing Health & Safety Rating System (HHSRS); but will, in particular, take into account national guidance on fire safety standards issued by LACORS, Building Regulations and such other guidance as it judges appropriate.

¹ The Management of HMOs (England) Regulations 2006 place a duty on managers of all HMOs to maintain gas & electricity. Failure to do so is an offence. The Council may also take enforcement action in connection with any HMO if arrangements for the supply of gas or electricity are judged to give rise to a serious hazard assessed using the Housing Health & Safety Rating System.

4.2 Requirements will vary according to assessed risk. Matters taken into account will include: The size of the property, number of storeys, layout, number of occupants, type of accommodation and any particular characteristics applying to the intended tenant group. Assessed risk may vary if occupation changes.

4.3 An inadequate number of power points or their unsuitable location can result in increased fire risk as a result of overloading or the use of inappropriate or unsuitable extension leads. The Council will assess the adequacy of power-points on the basis of the guidance provided by the most recent edition of the IET Wiring Regulations. (Particular attention will be given to the adequacy of provision of bedsit rooms in Category A premises.)

5. Ventilation

5.1 The Council will assess the suitability of ventilation by means of the Housing Health & Safety Rating System (HHSRS), taking into account its impact on matters such as Pollutants and Hygrothermal Conditions, but will require the following:

5.2 All habitable rooms, kitchens, bathrooms and toilets must have a minimum floor to ceiling height of 2.14m (7ft) over not less than three quarters of the room area. Any floor area where the ceiling height is less than 1.5m (5ft) will be disregarded.

5.3 All habitable rooms, kitchens, bathrooms and toilet compartments should be ventilated directly to external air by a window which has an openable area equivalent to one-twentieth of the floor area. Where it is not practicable to have a window in a kitchen, bathroom or toilet compartment, mechanical ventilation will be acceptable provided it can provide the number of air changes specified by Building Regulations and is fitted with a 20-minute over-run device operated from an appropriate lighting circuit.

5.4 All habitable rooms, kitchens, bathrooms and toilet compartments must be provided with a permanent means of ventilation.

6. Water supply

6.1 The Council will assess the suitability of water supply to all appliances including those in kitchens, letting rooms, WC cubicles, bathrooms and shower rooms, by means of the Housing Health & Safety Rating System (HHSRS); but will, in particular, take into account the following: supplies must be wholesome, sufficient and uninterrupted. Water for drinking purposes should draw directly from a mains supply.

7. Drainage

7.1 The Council will assess the suitability of drainage by means of the Housing Health & Safety Rating System (HHSRS), taking into account its impact on matters such as Personal Hygiene, Sanitation and Drainage, but will expect dwellings to be provided with an effective system both above and below ground for the drainage of foul, waste and surface water. All new drainage works must comply with current Building Regulations.

8. Space standards

8.1 Houses occupied and let by rooms (Category A)

8.1.1 One-person Accommodation:

One Room Letting

Bedsit with integral cooking facilities	11m ² (120 sq ft)
Bedsit with no cooking facilities in room	8.5m ² (90 sq ft)

Two Room Letting

Bedroom	6.5m ² (70 sq ft)
Kitchen	5.5m ² (60 sq ft)
Bedroom/Living Room (with separate kitchen)	8.5m ² (90 sq ft)
Kitchen/Living Room (with separate bedroom)	8.5m ² (90 sq ft)

8.1.2 Two Person Accommodation

One Room Letting

Bedsit with integral cooking facilities	16m ² (170 sq ft)
Bedsit with no cooking facilities in room	13m ² (140 sq ft)

Two Room Letting

Bedroom (with separate living room)	10m ² (110 sq ft)
Kitchen	5.5m ² (60 sq ft)
Living Room (with separate kitchen)	11m ² (140 sq ft)
Kitchen/Living Room (with separate bedroom)	13m ² (120 sq ft)

(Note: See below for space standards in shared kitchens)

8.2 Houses occupied on a shared basis (Category B)

8.2.1 Study/bedrooms

One-person unit of accommodation:

Study/bedroom (where separate living room provided)	6.5m ² (70 sq ft)
Study/bedroom (where no separate living room provided)	8.5m ² (90 sq ft)

Two-person unit of accommodation:

Study/bedroom (where separate living room provided)	10m ² (110 sq ft)
Study/bedroom (where no separate living room provided)	13m ² (140 sq ft)

In both cases the living room must be of suitable size (see below) and suitably furnished. It cannot be a kitchen/dining room and should be separate from the kitchen or kitchen/dining room.

8.2.2 Other Room Sizes

Living room (1-6 persons)	11m ² (120 sq ft)
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8.2.3 The Council will use its discretion in determining appropriate room sizes for larger numbers of occupants than those shown and in exceptional other circumstances.

(Note: See below for space standards in kitchens)

8.3 Temporary accommodation for households with no other permanent home (Category C)

8.3.1 Bedrooms

One person (where separate living room provided)	6.5m ² (70 sq ft)
One person (where no living room provided)	8.5m ² (90 sq ft)
Two person (where separate living room provided)	10m ² (110 sq ft)
Two person (where no living room provided)	13m ² (120 sq ft)
Three person (separate living room must be provided)	10m ² (110 sq ft)
Four person (separate living room must be provided)	13m ² (120 sq ft)

8.3.2 Living rooms

Living room (1-5 persons)	11m ² (120 sq ft)
Living room (6-10 persons)	14m ² (150 sq ft)

8.3.3 The Council will use its discretion in determining appropriate room sizes for larger numbers of occupants than those shown and in other exceptional circumstances.

8.3.4 Occupation by families with a child aged 16 years old or less or including a pregnant woman will be restricted to a maximum duration of 6 weeks.

(Note: See below for space standards in shared kitchens)

8.4 Properties occupied as staff accommodation (Category D)

8.4.1 Bedrooms

In Category-D accommodation more than one household will be allowed to inhabit a particular room provided this is agreed with the occupants before they begin their occupation, the occupants are in the same employment and the room sizes below are met.

One person (where separate living room provided)	6.5m ² (70 sq ft)
One person (where no living room provided)	8.5m ² (90 sq ft)
Two person (where separate living room provided)	10m ² (110 sq ft)
Two person (where no living room provided)	13m ² (120 sq ft)
Three person (separate living room must be provided)	15m ² (161 sq ft)
Four person (separate living room must be provided)	20m ² (215sq ft)

In all cases the living room must be of suitable size (see below) and suitably furnished. It cannot be a kitchen/dining room and should be separate from the kitchen or kitchen/dining room.

8.4.2 Other Room Sizes

Living room (1-6 persons)	11m ² (120 sq ft)
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8.4.3 The Council will use its discretion in determining appropriate room sizes for larger numbers of occupants than those shown and in exceptional other circumstances.

(Note: See below for space standards in kitchens)

8.5 Matters applying to all rooms regardless of HMO type

- 8.5.1 In order to be counted, floor-space must be “usable space”. Space occupied by chimney breasts and bulkheads will not be counted as usable space but skirting boards will be ignored. Any part of a floor which has a ceiling height of less than 1.5m² (5ft) will be disregarded for the purpose of measuring the total space in the room.
- 8.5.2 Rooms must be able to accommodate the required amount of appropriate furniture, allow its effective use and provide sufficient space for movement around the room. Where this is judged not to be the case, for whatever reason, including unusually irregular or narrow layout, or the number and relative location of doorways, additional floor space over and above the minimum may be required.
- 8.5.3 The space standards given in this document are the minimum acceptable but there may be exceptional circumstances in which some variation is appropriate. Any permissible variation will be confirmed in writing by the Head of Regeneration and Housing.
- 8.5.4 In situations not expressly covered by these standards the Council will determine whether to apply whichever of its 4 adopted standards it judges most applicable, or an alternative, according to the facts of the case. The standard to be applied will be confirmed in writing by the Head of Regeneration and Housing.

9. Personal Washing Facilities and WCs

9.1 Location

- 9.1.1 Shared facilities must be accessible from a suitable common area.
- 9.1.2 WC cubicles, bathrooms and shower-rooms should not be more than one floor distant for the letting-rooms they serve.

9.2 Layout and space

- 9.2.1 WC cubicles, bathrooms and shower-rooms must be laid out in such a way to enable safe, unhindered use of the facilities. Bathrooms and shower-rooms must, in particular, allow users to undress, dry themselves and dress in a safe manner.
- 9.2.2 In order to judge suitability the Council will have regard to the following dimensions. Where facilities or available space fall short of these requirements they may be judged unsuitable:-

Amenity	Amenity size	Activity space*
Shower	800 x 800mm	900 x 700mm
Bath	1700 x 700mm	1100 x 700mm
Basin in WC cubicle	Hand-wash size only	-
Basins in other locations	500 x 400mm	1000 x 700mm
WC	700 x 400mm	800 x 600mm

(*Note: activity spaces may overlap)

- 9.2.3 In the case of en-suite facilities in rooms occupied by one person only, the Council may accept a reduction in the activity space within the en-suite, provided the following requirements are met: 1) the en-suite bath/shower-room is accessed directly from the habitable room in question; 2) the habitable room can provide

appropriate activity space; 3) access to the facilities is not unreasonably compromised or hazardous as a consequence of the reduced space available, and 4) that use of the facilities is not judged unreasonably compromised or hazardous. Reduction in the activity space for WCs is least likely to be acceptable. Any agreed variation to the standard activity space will be confirmed in writing.

9.3 Room dimensions

Rooms of the following dimensions are likely to be judged acceptable for the proper and safe use of the amenities shown. Where they fall short of these requirements, are irregular in layout or unduly narrow, they may be judged unsuitable:

Room containing only	Dimensions
Shower	1600 x 900mm
Bath	1700 x 1400mm
Shower & basin	2000 x 900mm
Bath & basin	1700 x 1600mm
Shower, WC & basin	1900 x 1700mm
Bath, WC & basin	2000 x 1700mm
WC & basin	1500 x 800mm

9.3.1 Some reduction in en-suite size may be acceptable for en-suite facilities in rooms occupied by no more than one person. See section 9.2.3 above. Any agreed variation to the standard bath/shower-room size will be confirmed in writing.

9.3.2 Provision of en-suite facilities must not reduce the area of the associated habitable room below the minimum areas specified in Section 8 of these standards, and must not compromise the layout or appropriate use of the habitable room.

9.4 Bath & shower rooms

9.4.1 Each bath and shower must be provided with a constant supply of hot and cold running water. The supplies must be adequate and capable of effective temperature control.

9.4.2 Baths must be provided with an appropriate tiled splash-back to all abutting walls and must be sealed to the splash-back to prevent leakage. Showers must be provided with fully tiled walls (or an acceptable purpose made cubicle enclosure) and fitted with a suitable water-resistant curtain or shower-cubicle door.

9.4.3 Bathrooms and shower-rooms must be provided with easily cleaned, non-slip flooring.

9.5 WC cubicles and rooms containing WCs

9.5.1 WC cubicles and rooms containing WCs must have smooth, non-absorbent wall and ceiling finishes which can be readily and easily cleaned. The floor covering must be slip-resistant flooring and, where the cubicle or room is in shared use, must be impervious and capable of being readily and easily cleaned.

9.5.2 WC cubicles and rooms containing WCs must not open directly onto the area of a kitchen where food is prepared.

9.5.3 Separate WC cubicles must be fully compartmented and have a lockable door.

9.6 **Wash basins in rooms**

9.6.1 A wash basin with continuous supplies of hot and cold running water and with a tiled splash-back must be provided in each letting in a Category-A house unless there is a sink in the letting or the occupant has sole access to a room containing a basin or sink.

9.6.2 A wash basin with continuous supplies of hot and cold running water and with a tiled splash-back must be provided in each letting in Category-C premises unless the occupant has sole access to a bathroom containing a basin.

9.6.3 Wash basins will not be required in bedrooms in Category-B or Category-D houses

9.7 **Wash basins in bathrooms and WCs**

9.7.1 A wash basin with continuous supplies of hot and cold running water and with a tiled splash-back must be provided in each separate toilet compartment and each bathroom or shower-room containing a toilet.

9.7.2 Wash basins with continuous supplies of hot and cold running water and with a tiled splash-back must be provided in all shared bathrooms (whether or not a WC is present) unless basins are provided within separate letting rooms.

9.8 **Sharing ratios**

WCs and bathrooms/shower-rooms in shared use must be provided in the numbers specified in the following table. Households with exclusive access to a WC and a bathroom/shower-room will be excluded from the assessment of the number of sharers and the required numbers of shared WC and bathroom facilities.

Number of people sharing (irrespective of age)	Facilities required (minimum)
1 - 4	1 bathroom and 1 WC with wash basin (the bathroom and toilet may be combined) <i>-minimum provision is one bathroom containing toilet, basin and bath or shower-</i>
5 - 6	1 bathroom and 1 separate WC (the WC may be contained in a second bathroom) <i>-minimum provision is one bathroom containing toilet, basin, bath or shower and one separate toilet, but two bathrooms with toilet, basin, bath or shower is acceptable-</i>
7 - 10	2 bathrooms and 2 separate WCs with wash basins (but one of the WCs may be contained within one of the bathrooms). <i>-minimum provision is two bathrooms containing toilet, basin and bath or shower and one separate toilet-</i>
11-15	3 bathrooms and 3 separate WCs with wash basins (but two of the WCs may be contained within two of the bathrooms).

	<p><i>-minimum provision is three bathrooms containing toilet, basin and bath or shower and one separate toilet-</i></p>
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10. Facilities for the Storage, Preparation and Cooking of Food

** See also section 11 in relation to Category-D premises.*

10.1 Location

Each occupant must have access to a suitable kitchen which should not be more than two floors distant from the letting-room(s) occupied by the user(s) in question.

10.2 Availability

10.2.1 Kitchen facilities must be available for use 24-hours a day.

10.3 Layout, dimensions and space

10.3.1 Each kitchen must be large enough and laid out in such a way as to enable safe, unhindered use of the facilities. In particular, there must be adequate space for cookers, sinks and worktops and these must be placed in appropriate positions in the room and in relation to each other.

10.3.2 Kitchens must be a minimum of 1.8m wide so as to allow safe circulation and sufficient room for items to be safely retrieved from the oven.

10.3.3 Cookers must be located away from doors, door-openings and windows.

10.3.4 Sinks, worktops and immediately adjacent walls and floors should be non-porous and smooth, so as to facilitate cleaning. Walls abutting cookers, sinks and worktops should be provided with tiled splash-backs.

10.3.5 Where 2 sets of facilities are provided in one kitchen, the layout must allow both sets to be safely used at the same time. No more than 2 sets will normally be acceptable in a single room.

10.3.6 In cases where more than one kitchen is provided, each must be equipped with a suitable sink, traditional cooker and appropriate worktop.

10.3.7 The Council's Guidance note entitled: *Kitchen Layouts*, sets out the relative location of appliances and the location and extent of worktop we expect to be achieved. Kitchens which fail to comply with this guidance are likely to be judged unsuitable.

10.3.8 In order to judge suitability of shared kitchens the Council will also have regard to the following space standards. Where they are not met a kitchen may be judged unsuitable:-

Kitchen	(1-6 persons)	7m ² (75 sq ft)
Kitchen/diner	(1-6 persons)	13m ² (140 sq.ft)

10.4 Kitchen Facilities

Each kitchen must be provided with the facilities set out below, which comprise a 'set of facilities'. Where the number of users is such that 2 or more kitchens are

required (see Sharing Ratios below), each kitchen will require a 'set of facilities'. Similarly, (where the size of the room permits it) the provision of 2 kitchens in a single room will require provision of 2 full sets of the facilities below.

10.5 Food preparation facilities

- 10.5.1 A stainless-steel sink with integral drainer, on a secure base, provided with constant supplies of hot and cold running water and connected to a drainage system. Both water supplies must be adequate and capable of effective temperature control. The cold supply must be direct from the mains supply. A tiled splash back must be provided to walls abutting the sink and drainer.
- 10.5.2 A minimum of one undivided and securely supported worktop measuring 1000 x 600mm plus additional lengths of worktop necessary to ensure provision on both sides of each cooker and next to each sink bowl (in accordance with the Council's guidance provided sheet entitled *Kitchen Layout*). A tiled splashback must be provided to walls abutting all worktops.
- 10.5.3 A gas or electric cooker with 4 rings/burners, oven and grill, all of which are capable of simultaneous use. (In kitchens to which only a single household of no more than 2 people has access, the cooker can be a 2-ring 'Baby Belling' type, but this must stand on securely fixed additional worktop (ie worktop over and above that specified above).
- 10.5.4 A minimum of 2 twin 13amp sockets provided at appropriate heights directly above fixed worktop(s) plus such additional sockets, in appropriate locations, as are needed to serve fixed appliances such as washing-machines and fridges.
- 10.5.5 Sinks, worktops and immediately adjacent walls and floors should be non-porous and smooth, so as to facilitate cleaning. Walls abutting cookers, sinks and worktops should be provided with tiled splash-backs.
- 10.5.6 **Sharing ratios**
Kitchens in shared use must be provided according to the following tables (and must be provided with a full 'sets of facilities' in each case). Any household with exclusive access to a kitchen will be excluded from this assessment.

10.5.6.1 Category A premises

Number of people sharing (irrespective of age)	Facilities required (minimum)
1 - 5	1 kitchen (as above)
6 - 10	2 kitchens (as above)

10.5.6.2 Category B & C premises

Number of people sharing (irrespective of age)	Facilities required (minimum)
1 - 5	1 kitchen (as above)

6	1 kitchen (as above) plus the provision of a microwave cooker
7 - 12	2 kitchens (as above) plus the provision of 2 microwave cookers

10.6 Food storage facilities

10.6.1 Category A & C premises

10.6.1.1 Each household must be provided with the following, which may be provided in a shared kitchen (provided there is sufficient space) or in the household's letting room:

10.6.1.2 A food storage cupboard in the form of either a 500mm wide fixed base cupboard or a 1000mm wide wall cupboard. The space below a sink unit is unsuitable for food storage and cannot be counted. If the cupboard is provided in a shared kitchen it must be capable of being locked.

10.6.1.3 A refrigerator (of notional size (h) 850 x (w) 580 x (d) 580mm, such as is intended to fit under standard worktop) incorporating an adequate freezer compartment. (The refrigerator must be connected to a dedicated socket.)

10.6.2 Category B premises

Each shared kitchen must be provided with the following:

10.6.2.2 A food storage cupboard in the form of either a 500mm wide fixed base cupboard or a 500mm wide wall cupboard for each household. The space below a sink unit is unsuitable for food storage and cannot be counted.

10.6.2.3 Refrigerator(s) of total capacity 142 litres (5 cubic feet). Plus additional freezer capacity of 56 litres (2 cubic feet). (The refrigerator(s) and freezer(s) must be connected to dedicated sockets.)

The penalty for failure to have the required licence is a fine of up to £20,000 so it's important that landlords make sure they check with the Council if they are in any doubt.

10.7 Mini-kitchens

10.7.1 A number of manufacturers make compact all-in-one mini-kitchens typically comprising sink, fridge, storage and some form of cooking facility (most usually hot plates). Unless these units satisfy the requirements for kitchen provision set out above, they will not be judged to provide adequate facilities for the storage, preparation and cooking of food. They are, in particular, unlikely to provide sufficient worktop, food storage or an appropriate cooker. As a result the provision of typical mini-kitchens will not be accepted as an alternative to the kitchen and cooking provisions set out in the sections above. However, mini-kitchens can provide an additional level of facilities welcomed by residents, and may allow some limited reduction in the provision of sinks, cookers and microwaves in shared kitchens. Any such revision will be determined following an assessment of the circumstances of each case and confirmed in writing.

10.7.2 Mini-kitchens must be securely fixed and appropriately connected to services. Cold water supplies must be directly from the cold-water main. Their installation must avoid the creation of actionable hazards identified by means of the HHSRS.

10.7.3 Mini-kitchens will not be acceptable in rooms of less than 8.5m² and may not be acceptable if the available, free floor space in the room is reduced below 8.5m² as a result of their installation.

11. Kitchen facilities in Category-D premises

11.1 The Council requires either the provision of kitchen facilities exclusive to each household or shared kitchens with a minimum ratio of one set of kitchen facilities to five occupiers, all as specified in Section 10. However the Council may consider some relaxation of this standard where there is an element of meal provision within the residential accommodation (or associated commercial premises) as part of the occupants' terms of employment. The circumstances in which relaxation may be possible are as follows:

11.2 Full Meal Provision

11.2.1 Full meal provision means a service, provided on the premises, which makes available three meals a day which the Council considers to be sufficient and suitable for the occupants. These meals are to be provided on each day on which the accommodation is occupied.

11.2.2 The dining facilities must be readily accessible (and, in any event, not more than five minutes walk away from the lodgings) and provided by the employer.

11.2.3 The following facilities should also be provided within each bedroom, irrespective of any meal provision:

- A refrigerator (of notional size (h) 850 x (w) 580 x (d) 580mm, such as is intended to fit under standard worktop) incorporating an adequate freezer compartment. (The refrigerator must be connected to a dedicated socket.)
- A food storage cupboard, minimum (minimum size 600mm x 500mm x 600mm)
- Hot and cold drinks must also be available at other times between meal times.

11.3 Partial meal provision

Where there is only partial meal provision by the employer the occupants will require the use of kitchen facilities whenever meals are not available. Ideally this will be through the provision of exclusive use or shared facilities as set out in Section 10. In certain circumstances the use of the commercial kitchen may be accepted. However, for this arrangement to be acceptable, the Council will have to be satisfied that access by the occupants to the kitchen is available at all times. In addition, the Council's Public Protection Team will have to be satisfied that there is appropriate and effective management of the kitchen, that all of the users have adequate food safety training to be using the commercial kitchen and that all users are complying with all applicable food hygiene regulations. **(Note: Failure to meet these obligations could result in prosecution under legislation concerned with food safety and hygiene.)**

11.4 In addition each occupant must be provided with:

- A refrigerator (of notional size (h) 850 x (w) 580 x (d) 580mm, such as is intended to fit under standard worktop) incorporating an adequate freezer compartment. (The refrigerator must be connected to a dedicated socket.)
- A food storage cupboard, minimum (minimum size 600mm x 500mm x 600mm)
- Provision to make Hot and cold drinks at all times.

Housing Health & Safety Rating Scheme Policy

The policy was first introduced 2006 (the 0605 version) and revised in 2008 (0809 version). This 2012 version is the second revision.

1. Introduction

- 1.1 The fitness-standard (which had been in force in broadly the same form for many years) was repealed by the *Housing Act 2004* and replaced by the Housing Health & Safety Rating System (HHSRS). The HHSRS applies to all residential premises, whether owner-occupied or rented (including homes rented from a Registered Provider (formerly known as Registered Social Landlords and Housing Associations)). It uses risk-assessment to calculate the effect of 29 possible hazards on the health of occupiers and others. The HHSRS is more complex than the fitness-standard it replaced but provides a more modern and comprehensive approach for dealing with house-condition problems.
- 1.2 The Council has a duty to inspect premises where we suspect the existence of a hazard. *The Housing Health & Safety Rating System (England) Regulations 2005* specify how hazards are to be scored to determine their severity. If a hazard is assessed as constituting a Category-1 hazard (the more serious of the 2 types) the Council has a duty to take action. If less serious, Category-2, hazards are found, the Council has discretionary power to require action.
- 1.3 The *Housing Act 2004* also sets out an enforcement regime for the HHSRS which includes a range of actions that can be used to deal with hazards. The enforcement actions include notices and orders which can be issued for the following purposes:
- to require improvement (Improvement Notice)
 - to prohibit use of a dwelling or part of a dwelling (Prohibition Order)
 - to formally notify the owner of the property about a hazard (Hazard Awareness Notice), or
 - to require demolition (Demolition Order).
- (It is also possible in some circumstances for the Council to make a Clearance Area by means of a Clearance Area Declaration)
- 1.4 The Improvement notices can be used to bring about repair and necessary improvement but can also address fire protection and the provision of facilities. Prohibition Orders are similar to former Closing Orders (*Housing Act 1985*) but are more flexible: They can be used to prevent use of a whole dwelling or a part, and can be used to restrict use entirely or just by individuals with specified characteristics (for example vulnerable groups such as those aged under 5 or over 60). There are also powers to take emergency remedial action or emergency prohibition action, without prior notice, to deal with situations posing imminent risk of serious harm.
- 1.5 This Policy takes account of guidance provided by the Government and, following consultation with other Oxfordshire authorities, sets out how the

Council will use its powers and reach its decisions in relation to the Housing Health & Safety Rating System (*Part 1 of the Housing Act 2004*).

1.6 The Council's *House Condition Enforcement Policy* sets out our general approach to enforcement: It explains that where it is appropriate to do so we shall try to resolve issues informally but will use our formal powers wherever necessary to achieve the required outcome. This *HHSRS Policy* explains how we shall use the formal powers provided by *Part 1 of the Housing Act 2004* once we have decided that an informal approach is not, or is no longer, appropriate.

2. Hazard Categories

2.1 The Council has a duty to take action in response to a Category-1 hazard and will take appropriate action to discharge this duty in all cases. (When a Category-1 hazard is identified we must decide which of the enforcement options specified in the *Housing Act 2004* it is most appropriate to use. These options are explained in more detail below.)

2.2 The same range of options exists in relation to Category-2 hazards if the Council decides to take action, but we do not have to do so. We are not intending to take action in response to Category-2 hazards as a matter of course but will do so in any of the following circumstances:

- Cases involving any significant Category-2 hazard(s) when a Category-1 Hazard is also present;
- Category-2 hazards assessed as falling within bands D, E & F (whether or not any Category-1 hazard also exists).
- Cases in which premises are suffering from a significant number of Category-2 hazards including one or more hazards in bands D, E or F;
- Cases involving vulnerable elderly people who would, on the advice of the Welfare Authority, derive particular benefit from having Category-2 hazards addressed;
- Cases involving vulnerable individuals who would, on the advice of the Welfare Authority or other relevant support agency, derive particular benefit from having Category-2 hazards addressed;
- Any other exceptional case determined by the Head of Regeneration and Housing.

3. Choice of appropriate enforcement action

Subject to the principles and policies set out within this and other relevant policy documents, the Council must determine which of the specific enforcement options made available under the *Housing Act 2004*, it will use in each case. As required by section 8 of the Act, the Council will provide a statement of reasons with any notice or order it serves, explaining why we decided to take the relevant action rather than any other alternative action. The enforcement options available to the Council are as follows:

- Improvement notices
- Prohibition orders
- Hazard Awareness Notices
- Emergency Remedial Action or Emergency Prohibition Orders
- Demolition Orders
- Clearance Areas

It is appropriate that the facts and circumstances of each case should be taken into account in deciding the appropriate course of action. The Council will endeavour to do so but, in broad terms, expects to use the various enforcement powers in the following situations:

3.1 Improvement Notices

3.1.1 The Council anticipates that Improvement Notices will be an appropriate and practical remedy for most hazards in most cases. Repair and / or improvement is generally considered to be cost-effective because of the demand for and high value of property in the District.

3.1.2 Where the Council determines that an Improvement Notice should be served in respect of a Category 1 Hazard, it will require works that will either remove the hazard entirely or will reduce its effect so that it ceases to be a Category-1 hazard, and will take whichever of these 2 options it considers appropriate, having considered the circumstances of the case. If the Council determines that the hazard should be reduced rather than removed entirely, we intend to require works we judge sufficient to prevent a recurrence of the Category-1 hazard in question for 5 years.

3.1.3 Where the Council determines that an Improvement Notice should be served in respect of a Category-2 Hazard, we will require works we judge sufficient either to remove the hazard or reduce it to an appropriate degree, and will make these decisions having considered the circumstances of the case.

3.1.4 The Council has the power to suspend an Improvement Notice once served and will consider this course of action where it is reasonable, in all the circumstances, to do so. The following are situations in which it may be appropriate to suspend an Improvement Notice:

- The need to obtain planning permission (or other appropriate consent) that is properly required before repairs and / or improvements can be undertaken.
- Works which cannot properly be undertaken whilst the premises are occupied and which can properly be deferred until such time as the premises fall vacant or temporary alternative accommodation can be provided.
- Personal circumstances of occupants (for example, temporary ill-health) which properly suggest that works ought to be deferred.

3.1.5 When deciding whether it is appropriate to suspend an Improvement Notice the Council will have regard to:

- the level of risk presented by the hazard(s);
- the turnover of occupants (eg tenants) at the property;

- the response of the landlord or owner or their failure to respond;
- any other relevant circumstances.

3.1.6 Suspended Improvement Notices will be reviewed after a maximum of 12 months and then at intervals of not more than 12 months, but suspension will not normally exceed 6 months.

3.1.7 Any variation to the approach described above in relation to Improvement Notices of all types will be determined by the Head of Regeneration and Housing.

3.2 Prohibition Orders

3.2.1 Prohibition Orders can be used in respect of both Category 1 and Category 2 hazards and are likely to be used:

- if repair and / or improvement appear inappropriate on grounds of practicality or excessive cost (ie the cost is unrealistic in terms of the benefit to be derived). A typical situation might be a dwelling or part of a dwelling where adequate natural lighting or adequate fire escape cannot realistically be provided. Or
- in an HMO, to prohibit the use of specified dwelling units or of common parts. This might, for example, be used if the means-of-escape from those parts is unsatisfactory and cannot realistically be improved.
- to specify the maximum number of persons who may occupy a dwelling where it is too small to meet the needs of a larger number; in particular, where there are too few bedrooms or insufficient floor space.
- in relation to premises lacking certain facilities but which are none-the-less suitable for a reduced number of occupants.

3.2.2 In addition to prohibiting all use of the premises or part in question (other than uses specifically approved by the Council), Prohibition Orders can be used to prevent specific uses (section 22 (4)(b) Housing Act 2004); this option may be employed to prevent occupation by particular descriptions of persons. The Council may consider use of this power appropriate in situations such as the following:

- premises with steep staircases or uneven floors which make them particularly hazardous to elderly occupants.
- premises with open staircase risers or widely spaced balustrades that make them particularly unsuitable for infants.

3.2.3 The Council has the power to suspend a Prohibition Order once served and will consider this course of action when the facts of a particular case appear to justify it. Situations such as the following may make that course appropriate:

- the need to restrict only future occupation and avoid or delay disruption to current occupants,
- the anticipated vacation of the premises (or part) by a particular resident, such as an elderly person in the case of an Order that will prohibit occupation by persons of such description.

- 3.2.4 Suspended Prohibition Orders will be reviewed after a maximum of 12 months and then at intervals of not more than 12 months, but suspension will not normally exceed 6 months.
- 3.2.5 Any variation to the approach described above in relation to Prohibition Orders of all types will be determined by the Head of Regeneration and Housing.
- 3.2.6 The Council will consider properly made requests for alternative uses of premises or part-premises which are subject to a Prohibition Order, and will not withhold its consent unreasonably. Any such consent will be confirmed in writing.

3.3 Hazard Awareness Notices

- 3.3.1 Hazard Awareness Notices are most likely to be used to notify owner-occupiers of the existence of hazards but might also be applicable where:
- it is judged appropriate to draw a landlord's attention to the desirability of remedial action;
 - to notify a landlord about a hazard as part of a measured enforcement response;
 - an occupant has expressed a particular view that this course is desirable (eg a private tenant who is concerned that service of an Improvement Notice will affect renewal of their shorthold-tenancy; or a tenant who, because of persistent ill-health, might not be able to tolerate works).

3.4 Emergency Remedial Action

- 3.4.1 The situations in which Emergency Remedial Action and Emergency Prohibition Orders may be used are specified by sections 40 – 45 of the *Housing Act 2004*. Specifically, the Council must be satisfied that:
- a Category-1 hazard exists, and that
 - the hazard poses an imminent risk of serious harm to health or safety, and that
 - immediate action is necessary

If these conditions are met the Council intends to take appropriate emergency action, but we do not anticipate that this will be a frequent event. In most circumstances the Council expects to be able to proceed as set out in sections 3.1- 3.3 above.

- 3.4.2 Situations in which emergency action may be appropriate include:
- residential accommodation located above commercial premises which lack a safe means of escape in the event of fire because there is no independent access;
 - risk of electrocution, fire, gassing, explosion or collapse.

3.5 Demolition Orders

Demolition Orders are a possible response to a Category-1 hazard (where they are judged the appropriate course of action). However, it is

considered unlikely that the Council will use this power and we will generally seek to use one of the other enforcement options. In determining whether to issue a Demolition Order the Council will take account of Government guidance and will consider all the circumstances of the case.

3.6 Clearance Areas

The Council can declare an area to be a Clearance Area if it is satisfied that each of the premises in the area is affected by one or more Category-1 hazards (or that they are dangerous or harmful to the health & safety of inhabitants as a result of bad arrangement or narrowness of streets). It is considered unlikely that the Council will use this power and we shall generally seek to use one of the other enforcement options. However, in determining whether to declare a Clearance Area the Council will act only in accordance with *section 289 of the Housing Act 1985* (as amended) and having had regard to relevant Government guidance on Clearance Areas and all the circumstances of the case.

4. Failure to Comply with Notices, Orders etc

- 4.1 The *Housing Act 2004* makes failure to comply with an Improvement Notice an offence punishable by a fine of up to £5000. In addition, the Council may decide to undertake work-in-default. Taking one course of action does not exclude the other. The Council expects to undertake work-in-default where this is a realistic and practical option but will consider prosecution for serious and / or repeated offences. Any decision as to the appropriate course of action following a failure to comply with an Improvement Notice will be made in accordance with the *House Condition Enforcement Policy*.
- 4.2 Failure to comply with a Prohibition Order is also an offence punishable by a fine of up to £5,000. Following conviction, it is an offence to carry on using the premises in breach of the Prohibition Order, attracting a daily fine. Any decision as to whether to prosecute following the failure to comply with a Prohibition Order will be determined in accordance with the *House Condition Enforcement Policy*.
- 4.3 The Council will recover its costs in connection with work-in-default and will do so in accordance with its *Recovery of Costs Policy*. Any exception to this approach will be determined by the Head of Regeneration and Housing.
- 4.4 The Council will recover the costs incurred in carrying out works associated with Emergency Remedial Action and will do so in accordance with its *Recovery of Costs Policy*. Any exception to this approach will be determined by the Head of Regeneration and Housing.

(The Recovery of Costs Policy also addresses the recovery of costs associated with the preparation and service of notices and orders. See also sections 5.1.2, 5.2.2 & 5.3.2 of this policy.)

5. Tenure

The HHSRS is tenure neutral; that is, it applies as much to owner-occupied dwellings as to rented dwellings. Similarly, the actions which can be taken to resolve problems are not dependent upon ownership or the occupier's status, so all enforcement options are available to the Council regardless of whether the premises in question are owner-occupied, privately rented or belong to a social landlord (now called Registered Providers but previously known as Registered Social Landlords and Housing Associations). However, we judge that owner-occupiers are usually in a position to take informed decisions concerning maintenance and improvement issues which might affect their welfare and are then able to set their financial priorities accordingly; whereas tenants, and particularly non-RSL tenants, are not usually able to do so in the same way. For this reason the Council judges that it is appropriate for tenure to help inform its decisions about appropriate action:

5.1 Owner-occupiers

5.1.1 General approach

5.1.1.1 The Council anticipates that Hazard Awareness Notices will frequently be the appropriate course of action and intends to use Improvement Notices, Prohibition Notices and their emergency equivalents only in cases involving:

- vulnerable elderly people who, on the advice of the Welfare Authority, are judged not-capable of making informed decisions about their own welfare
- vulnerable individuals who, on the advice of the Welfare Authority or other relevant support agency require the intervention of the Council to ensure their welfare is best protected
- hazards that are judged likely to affect persons other than the owner-occupier
- serious risk of life-threatening harm, such as electrocution or fire
- any other exceptional case determined by the Head of Regeneration and Housing.

5.1.1.2 Unless an identified hazard is judged to pose an imminent risk of serious harm, the Council will contact the owner to confirm its involvement, explain the nature of the hazard and confirm the action it is intending to take. The Council will take account of any proposals or representations made by, or on behalf of the owner by the Welfare Authority or other relevant organisation, in determining what action it will then take.

5.1.1.3 Any exceptions to this approach will be determined by the Head of Regeneration and Housing.

5.1.2 Recovery of costs associated with service of notices etc.

5.1.2.1 The Council will not seek to recover costs associated with the service of Hazard Awareness Notices or those associated with serving Improvement Notices or Prohibition Orders or their emergency

equivalents in all cases. But we will usually seek to recover our costs in cases such as the following:

- where an owner has failed to respond to a written request for action given as part of a measured enforcement response and this failure gives rise to a need to serve either an Improvement Notice or a Prohibition Order
- where the Council has been given an undertaking concerning works and the terms of the undertaking have not been met
- where works carried out in response to a Notice are considered by the Council to be inadequate and require further formal action by the council

5.1.2.2 Any exceptions to this approach will be determined by the Head of Regeneration and Housing.

5.1.2.3 The *Recovery of Costs Policy* sets how any rechargeable costs will be calculated.

5.2 Social landlords

5.2.1 General approach

5.2.1.1 Social Landlords (now called Registered Providers (RPs) but previously known as Registered Social Landlords and Housing Associations) exist to provide suitable and properly maintained accommodation for their tenants. They are managed by Boards (which typically include tenant-representatives) and their performance is scrutinised by the Homes and Communities Agency (HCA). RPs normally employ staff to both manage and maintain their properties and will usually have written arrangements for reporting problems, setting out the response times they aim to achieve, and also for registering any complaints about service-failure.

On that basis the Council will not normally take action against an RP unless:

- it is satisfied that the problem in question has been properly reported to the RP and
- the RP has then failed to take appropriate action, taking into account its published or other realistic response targets.

5.2.1.2 If the Council determines that it is appropriate to take action we will then normally notify the RP that a complaint has been received and / or a hazard identified and seek their comments and proposals. Only in cases where we judge that an unsatisfactory response has been received will the Council take further action, and will then determine which of the available enforcement options is the most appropriate, taking into account the facts of the case.

5.2.1.3 Any exceptions to this approach will be determined by the Head of Regeneration and Housing.

5.2.2 Recovery of costs associated with service of notices etc.

5.2.2.1 In the event that an Improvement Notice or Prohibition Notice is served, the Council will seek to recover the associated costs and will do so in accordance with its *Recovery of Costs Policy*.

5.2.2.2 The Council will not normally seek to recover costs associated with the service of Hazard Awareness Notices.

5.2.2.3 In the case of Emergency Prohibition Orders and Emergency Remedial Action, the Council will determine whether the RP might reasonably have been aware of the hazard(s) in question and might properly have taken action that would have resolved the problem. If we conclude that this is the case, we will seek to recover the costs associated with our decision-making and notice service and will do so in accordance with our *Recovery of Costs Policy*.

5.2.2.4 Any exceptions to this approach will be determined by the Head of Regeneration and Housing.

5.3 Private landlords

5.3.1 General approach

5.3.1.1 The Council will proceed in accordance with its *House Condition Enforcement Policy*; that is, we shall seek to proceed informally to start with, unless we judged that:

- a hazard is particularly serious (whether or not immediate action is required, and whether the hazard in question is likely to affect a tenant, an employee or a member of the public), or
- there are extensive serious hazards (whether or not immediate action is required, and whether the hazards in question are likely to affect a tenant, an employee or a member of the public), or
- the landlord in question is known to have failed, on a previous occasion, to take appropriate action in response to an informal approach.

In cases where an informal approach is judged appropriate we will contact the landlord (or his / her agent) to confirm our involvement, explain the nature of the hazard and seek the landlord / agent's proposals for remedying the problem. Unless we already hold the required information, a Requisition for Information Notice is also likely to be served at this point. If satisfactory proposals have been received and agreed, and provided matters then proceed to a satisfactory conclusion, we will not normally need to take any further action to discharge our duties.

5.3.1.2 Landlords are expected either to provide any agent acting for them with sufficient authority to act on their behalf in the event that they are contacted by the Council, or to ensure that they maintain appropriate communication with their agent in order that appropriate decisions and responses can be provided to the Council. The failure of an agent to respond to communication from us or any failure to take appropriate action will be treated as a failure by the landlord.

5.3.1.3 If the Council receives:

- no response from the landlord / agent, or
- a response it judges inadequate, or
- proposals that were judged acceptable but which are not then followed-through (for example if works fail to start when agreed, fail to make proper progress or are completed to an inadequate standard),

we shall determine whether to take any further informal action or to proceed with formal action by taking whichever of the available enforcement actions we judge to be the most appropriate in accordance with this Policy. In the case of further informal action we will require:

- in the case of a landlord who has failed to provide a response: that an adequate response is received and then followed through
- in the case of a landlord who has previously provided proposals that were judged acceptable but which have not then been followed-through: that those proposals are carried through to the required conclusion by the agreed date (or any such revised date that we may judge it appropriate to set).

5.3.1.4 If, having pursued any such further informal action, the Council concludes that the landlord / agent has failed to take appropriate action, we will take formal action.

5.3.2 Recovery of costs associated with service of notices etc.

5.3.2.1 In the event that an Improvement Notice or Prohibition Notice is served, the Council will seek to recover the associated costs and will do so in accordance with its *Recovery of Costs Policy*.

5.3.2.2 The Council will not normally seek to recover costs associated with the service of Hazard Awareness Notices.

5.3.2.3 In the case of Emergency Prohibition Orders and Emergency Remedial Action, we shall determine whether the landlord might reasonably have been aware of the hazard(s) in question and might properly have taken action that would have resolved the problem. If we conclude that this is the case, we will seek to recover the costs associated with our decision making and notice service and will do so in accordance with our *Recovery of Costs Policy*.

5.3.2.4 Any exceptions to this approach will be determined by the Head of Regeneration and Housing.

House in multiple-occupation (HMO) Licence Policy 2008

The policy was first introduced in 2006 and revised in 2008. This 1207 version is the second revision.

1. Introduction

- 1.1. Following the introduction of the Housing Act 2004 (and regulations made under it¹), HMOs with 3 or more storeys² which are occupied by 5 or more persons who form 2 or more households³, need to be licensed.
- 1.2. HMOs owned by the police, health authorities, and universities are exempt. Social housing and properties converted into self-contained flats with proper building regulation approval are also exempt.
- 1.3. In accordance with legislative requirements, licences will be granted by the Council where the following requirements are met:
 - The house or flat in question is reasonably suitable for occupation by the intended number of occupants (either the number specified in the application or another number set by the Council) or can be made suitable by the imposition of licence conditions.
 - The proposed licence-holder and manager are fit and proper persons.
 - The applicant is the most appropriate person to hold the licence
 - The manager is either the person having control or an agent or employee of the person having control.
 - The proposed management arrangements are satisfactory.
- 1.4 The following sections explain how the Council will reach its decisions on these matters.

2. Reasonably suitable for occupation

In reaching this decision the Council will take account of standards set by Regulations made under section 65(3) of the Act. Where these Regulations are not specific (for example where they require the Council to judge adequacy, suitability or practicability), we will use our adopted *HMO Standards* (which include space standards), and will have regard to such other standards as we judge appropriate, including Building Regulations, British Standards and any other standards we judge relevant.

¹ Including: The Licensing of HMOs (Prescribed Descriptions) (England) Order 2006;

² and certain other HMOs located in buildings of 3 or more storeys

³ Specifically defined in legislation

The standards set by regulations⁴ which the Council must take into account when assessing whether or not a HMO is suitable for occupation are summarised below. These are:

2.1 **Heating**

Each unit of accommodation in an HMO must be equipped with adequate means of space heating.

2.2 **Shared bathrooms and toilets**

- Where some or all bathroom facilities are shared there must be an adequate number of bathrooms, toilets and wash-hand basins (suitable for personal washing) for the number of persons sharing.
- Where reasonably practicable there must be a wash-hand basin with appropriate splash-back in each unit (unless the unit has a sink).
- All baths, showers and wash hand basins must be equipped with taps providing an adequate supply of cold and constant hot water.
- All bathrooms must be adequately heated and ventilated.
- All bathrooms and toilets are to be of an adequate size and layout and must be suitably located in relation to the accommodation.
- All baths, toilets and wash hand basins are to be fit for purpose.
- All bathrooms and toilets in an HMO must be suitably located in or in relation to the living accommodation in the HMO.

2.3 **Exclusive-use bathrooms and toilets**

Where there are no adequate shared facilities, each unit must be provided with the following exclusive-use facilities, either within the unit or within reasonable proximity:

- An enclosed and adequately laid out and ventilated room with a toilet and bath or fixed shower supplying adequate cold and constant hot water.

2.4 **Shared kitchens**

Where kitchen facilities are shared there must be:

- A kitchen, suitably located in relation to the living accommodation, of such layout and size and equipped with facilities to adequately enable the occupants of the house to store, prepare and cook food;
- The kitchen must be equipped with the following equipment, which must be fit for purpose and supplied in sufficient quantity for the number of occupants.
 - Sinks with draining boards;
 - An adequate supply of cold and constant hot water to each sink supplied;

⁴ The Licensing and Management of HMOs and Other Houses (Miscellaneous Provisions) (England) Regulations 2006

- Installations or equipment for the cooking of food;
- Electrical sockets;
- Worktops for the preparation of food;
- Cupboards;
- Refrigerators with freezer compartments (or separate freezers);
- Refuse disposal facilities; and
- Extractor fans, fire blankets and fire doors

2.5 **Exclusive-use kitchens**

Where individual units are provided with their own kitchen facilities there must be:

- Adequate appliances and equipment for the cooking of food;
- A sink with an adequate supply of cold and constant hot water;
- A worktop for the preparation of food;
- Sufficient electrical sockets;
- A cupboard for the storage of kitchen utensils and crockery
- A refrigerator

2.6 **Fire protection**

Appropriate fire precaution facilities and equipment must be provided.

3. **Fit and proper person**

3.1 In order to issue a licence the Council must be satisfied that the proposed licence holder is a fit and proper person and the most appropriate person to hold the licence. We must also be satisfied that any proposed manager of the house is the person having control or is an agent or employee of the person having control of the house, and that the proposed manager is a fit and proper person.

3.2 The Council will consider a person to be fit and proper if we are satisfied that:

- They do not have any unspent convictions that may be relevant to their role as either licence holder or manager and, in particular, any conviction involving fraud or other dishonesty, or violence or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003.
- They have not been found by a court or tribunal to have practised unlawful discrimination on grounds of sex, colour, race, ethnic or national origins or disability in, or in connection with, the carrying on of any business.
- They do not have any unspent conviction in relation to any housing, public health, environmental health or landlord and tenant law; including any civil proceedings in which judgement was made against them.

- They have not had a licence refused, been convicted of breaching the conditions of a licence under Parts 2 or 3 of the Act; or have acted otherwise than in accordance with a Code of Practice approved under section 233 of the Act that concerns a property in their ownership (whether or not in the Council's district).
- They do not own or have not previously owned or managed property that has been the subject of an interim or final management order or a special interim management order under the Housing Act 2004.

3.3 In addition, the Council may also take in to account whether any person associated or formerly associated with the applicant or manager has done any of these things, if we consider this information relevant.

4. Satisfactory management arrangements

4.1 In order to issue a licence the Council must be satisfied that the proposed management arrangements for the house are satisfactory. If we are to be satisfied, we will expect, in particular, the licence holder to have in place the following arrangements:

- A person to whom the tenants can report defects at the HMO, this will also include an emergency contact, and for this information to be displayed in written form in the premises.
- An established system for periodically inspecting the HMO to identify any repairs or maintenance.
- The ability to finance and to undertake repairs and maintenance in an appropriately timely fashion.
- Where the manager is not the owner of the property, the manager must be able to fund and implement urgent repairs in those situations where it is not possible to obtain the owner's approval without undue delay.
- A system to deal with any anti-social behaviour caused by tenants or their visitors, which causes nuisance or annoyance to people living in the vicinity.

4.2 The Council may also consider whether any person proposed to be involved in the management of the house has a sufficient level of competence. In this connection the Council may take into account matters such as the frequency and nature of any validated complaints we receive in connection with the property or its management, and the adequacy of any required response.

5. Licence Conditions

Licences will be issued for 5 years, unless there is a particular reason for a shorter period, and will specify the maximum number of occupiers or households for which the house is judged suitable. This number will be determined on the basis of room sizes and the kitchen, bathroom and WC facilities available.

Draft licences must be issued to applicants within a reasonable period of time; the aim is to issue these within 12 weeks of the application.

The applicant will be given at least 14 days to make any representations regarding the proposed licence and the Council will take these into account before issuing the actual licence.

Licences will be issued with conditions. These will include mandatory conditions, which must apply to all HMO licences, and may also include discretionary conditions which can be made in relation to the management and condition of the HMO and may be property specific.

5.1 Mandatory conditions

The following mandatory conditions will apply to all HMO licences:

- The licence holder must provide the Council with a copy of the gas safety certificate for the property every year (assuming that gas is supplied to the house).
- The licence holder must keep electrical appliances and furniture supplied by him or her in safe condition, and must supply the Council on demand, with a declaration as to their safety.
- Smoke alarms must be installed in the property, must be kept in working order, and the licence holder must supply the Council on demand, with a declaration as to their condition and positioning.
- Tenants must be provided with a written tenancy agreement.

5.2 Discretionary conditions

The Council will apply the following discretionary conditions in all relevant cases. Requirements that:

- the house will be provided with appropriate fire precautions and equipment, including physical fire resistance, fire doors, fire alarms and emergency lights where these are judged necessary.
- fire detection equipment, alarm system, fire fighting equipment and any emergency lighting must be subject to an annual inspection by a competent person and a copy of their inspection report be provided to the Council within 28 days of the inspection.
- specified facilities and equipment will be provided within a timescale set by the Council, in order that the property can be brought to the required minimum standards.
- any repairs to the facilities and equipment that are necessary to ensure that they are fit for purpose, will be completed within a timescale set by the Council.

- The premises must comply with statutory management regulations within a timescale set by the Council.

The Council may also apply other conditions where these are considered necessary having taken into account the facts of the case.

6. Licence fees

The Council will charge a fee for each licence. The fee will periodically be reviewed and will be set in accordance with available best-practice guidance. The Council may determine that different fees will apply in different situations and may, for example, set a lower rate for re-licensing. Fees will be set periodically by the Lead Member for Housing by means of A Lead Member Decision.

7. Application for licences

Licence applications must be accompanied by the specified fee, must include the information specified by regulations, any further information required by the Council and must be in a form acceptable to the Council.

If Council Officers are already familiar with a property the Council may determine that it is appropriate to issue the licence without making a site visit at the time of application. It may also be possible to issue a licence on the basis of the information provided as part of the application, but in most cases an Officer from the Council's Housing Service will carry out an inspection before licensing a HMO in order to assess compliance with the licensing requirements and the number of people for whom the HMO is suitable.

As part of the licensing process, HMOs will be prioritised for assessment under the Housing Health and Safety Rating System (HHSRS). The Council must ensure that all Category-1 hazards have been addressed within 5 years of the licence being granted, but is intending that this will be achieved in a shorter time and assessment will usually be undertaken as part of the licensing inspection.

It is an offence not to licence a qualifying HMO and that failure is punishable by a fine of up to £20,000. Any decision to prosecute will be taken in line with the Council's *House Condition Enforcement Policy*.

8. Variation of licences

The Council may vary a licence either with the agreement of the licence holder or, without agreement, if it considers there has been a change of circumstances since the time when the licence was granted.

Change of circumstance will be taken to include any discovery of new information.

9. Revocation of licences

The Council may revoke a licence either with the agreement of the licence holder or in the following circumstances:

- Where the Council considers that the licence holder or any other person has committed a serious breach of a licence condition or repeated breaches of a condition, or
- Where the Council no longer considers that the licence holder is a fit and proper person to hold the licence, or
- Where the Council considers that the management of the premises is no longer being carried out by fit and proper persons;
- Where the premises has ceased to be an HMO requiring a licence, or
- Where the Council considers that, were the licence to expire at that time, it would not grant a further licence because of the structure of the premises.

10. Appeals

The licence applicant, anyone with an estate or interest in the premises, a person managing the premises or anyone on whom the licence would place any restriction or obligation, may appeal to a Residential Property Tribunal against the Council's decision to either grant or refuse a licence, or in connection with decisions in relation to revocation or variation. The appeal period is set as 28 days.

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Private Sector Housing Grant and Assistance Policy 2012

1. Introduction

- 1.1 This policy explains the different types of help the Council can give to improve the condition and suitability of homes in its district. It also explains our broad approach to giving grants and other forms of financial assistance (such as loans), the principles we shall use to decide which will be made available, and our rules for processing and administering them.
- 1.2 It is a revision of the Private Sector Housing Grants and Assistance Policy 2008, which itself replaced the earlier Housing Renewal Policy 2003. Neither of those earlier policies remains in operation.
- 1.3 The policy has been written to take account of the targets set by the Council in its Housing Strategy 2012-2017, but it needs to be read in light of the *Housing (Private Sector) Policy 2012*, to which it is, in-effect, a sub-policy.
- 1.4 We have taken the opportunity to bring the policy up-to-date and ensure that the job titles and references to Council departments etc reflect the changes the Council has made since 2008. The broad approach set by the previous policy remains in place in this version, although there are some modest technical changes. The Council intends to keep the policy under review and will consider alternative approaches to the giving of grants and loans and any new initiatives we believe will help us meet our strategic targets.
- 1.5 Although this policy includes reference to Disabled Facilities Grants (DFGs) and the sections dealing with the proper administration of grants (sections 7-11) are applicable to DFGs as they are to other grants and loans, the rules determining the circumstances in which DFGs can be given, eligible works and the amount of grant available in each case, are all specified in legislation. For that reason, they have not been included or reproduced here. The Council's *Disabled Facilities Grant Policy 2010* explains how we shall make those judgements about eligibility that are the responsibility of the Council, how we shall make judgements about priority and how we shall manage any waiting list.
- 1.6 The policy does not set out which forms of financial assistance (grants and loans) may be available at any particular time. We have reached the conclusion that a policy which prescribes the detail of each grant and loan would require regular revision and, because it would then need to pass through the process of formal approval by the Council's Executive in response to each technical change, would be excessively unwieldy and would restrict our ability to keep our grants and loans responsive to changing circumstances.
- 1.7 Instead, the relevant head of service¹ and the relevant lead member² will determine which grants and other forms of financial assistance (other than mandatory Disabled Facilities Grants) will be available. In each case these must be set in accordance with the principles set out in this Policy. Details of

¹ Currently the Head of Regeneration and Housing.

² Currently Lead Member for Housing

those specific grants and other forms of financial assistance will be specified in separate documents which will effectively become appendices to this Policy.

- 1.8 Not everyone takes advantage of advice, grants or loans even when they are available. Sometimes the Council will need to use enforcement powers to solve problems and improve homes. Our Enforcement Policy sets out how and when we will use our enforcement powers.

2. Background

- 2.1 The Regulatory Reform (Housing Assistance) Order 2002 came into effect on 18 July 2003 and repealed most of the legislation dealing with grants for owners and landlords. Disabled Facilities Grants (DFGs) are now the only mandatory grant, that is, the only grant the Council is obliged to give³.
- 2.2 In the past we could only provide financial assistance in the particular ways set out in acts of parliament. Since 2003 the Regulatory Reform Order (RRO) has given the Council the flexibility to decide how best to solve local house-condition problems. However, if the Council is to use this flexibility the RRO says it must have a policy which sets out what help it will give and in what circumstances. That is what the Private Sector Housing Grant & Assistance Policy is intended to do.

3. Strategic aims and priorities

- 3.1 The Cherwell Sustainable Community Strategy 2010 confirms the Council's and its partners' vision for the district and set four ambitions:
- Opportunities for all (dealing with community issues)
 - A diverse and resilient economy (dealing with economic issues)
 - Connected and protected (dealing with infrastructure and environment)
 - Resourceful and receptive (dealing with the community leadership)
- 3.2 These ambitions are given focus in the Cherwell Community Plan 2016 which includes the following broad aims:
- Maximise affordable housing across a range of tenures
 - Enable home adaptations for disabled people
 - Rejuvenate Cherwell's housing and its environment
- 3.3 The Housing Strategy 2012 -17 (which was produced following substantial research into housing need, stock condition and local housing market conditions) then sets out the Council's housing priorities and objectives in detail. Section 4.3 (below) explains what we plan to achieve.

³ Provided all the eligibility rules are met. These are set out in the Housing Grants, Construction & Regeneration Act 1996 and various regulations made under that Act.

4. Principles for the provision of assistance

4.1 Advice

The Council will endeavour to provide advice on-request about the things we deal with. There will be no charge for this unless the request is judged to be a qualifying request under the Freedom of Information Act (in which case we will tell you and confirm if there is to be a cost). Advice may be given in person, by telephone, in writing, by email and, in some cases, by means of leaflets. We will also make information available on our website (www.cherwell.gov.uk). We cannot however act for individuals in place of professional advisors such as solicitors, surveyors, architects or engineers. In particular, we cannot get involved in neighbour-disputes (unless the circumstances mean we have to take enforcement action), and we cannot assist with civil disputes.

4.2 Focussing our work

Because public funds are limited we cannot help everyone by giving them financial assistance; many people are properly able to provide for and help themselves in any event. For this reason grants and loans will be used to help those people in greatest need and to assist in the achievement of the Council's strategic housing targets. *(Note : In the rest of this document the term 'grant or loan' means grant, loan or other form of financial assistance).*

4.3 Our objectives

In accordance with the aims and priorities in its Housing Strategy, the Council will consider providing financial assistance to achieve the following:

- **Ensuring homes are safe, warm and well managed:**
- Maintaining physical standards within housing
- Affordable warmth and sustainable energy
- **Increasing the supply and access to housing:**
- Supply and access to private rented sector
- Refurbishing and decommissioning stock
- Bringing empty homes back into use
- **Providing housing for our most vulnerable residents:**
- Delivery of disabled facilities grants
- Delivery of Home Improvement Agency services

4.4 Eligibility for assistance and conditions

In order to make sure we are helping the right people we will set appropriate eligibility criteria for each of our discretionary grants and other forms of financial assistance. We may also set conditions about how the house or flat which is the subject of the grant can be used and who may occupy it. Different criteria will apply to different forms of assistance but they will be drawn from the following lists of possible criteria. Once they have been set they will apply to all grants of that type. *(Note: Eligibility rules and conditions for mandatory DFGs are given in legislation. They are not set by the Council and so are not included below).*

4.4.1 Eligibility may be restricted to any of the following tenures:

- Owner-occupied
- Private-rented
- Shared-ownership

4.4.2 **Eligibility may be restricted to any of the following:**

- Owner-occupiers
- Owner-occupiers who have been in residence for a specified period
- Owner-occupiers of specified age or with resident dependents of specified age
- Tenants
- Tenants with repairing obligations
- Tenants of specified age or with resident dependents of specified age
- Vulnerable households
- Households in financial need
- Households in which a member is subject to a disability
- Private Sector Landlords
- Landlords providing accommodation to households threatened with homelessness

4.4.3 **Future use criteria may require that landlords:**

- Make premises available for letting for a specified period
- Give nomination rights to the Council for a specified period
- Agree to accept tenants in receipt of specified benefits for a specified period
- Restrict the rent to a maximum level specified by the Council for a specified period
- Let or re-let to qualifying tenants (of a type determined by the Council) for a specified period
- Repay some or all of the grant (on a basis determined by the Council) if other conditions are not met
- Repay some or all of the grant or loan upon sale or transfer of the property

4.4.4 **Future use criteria may also require that owners:**

- Repay some or all of the grant or loan if they cease to occupy the property

4.5 **Making the most of our resources**

In order to make sure that the Council is getting the best value from its grants in terms of its officers' time, the targets it has to meet, its legal duties and value for money, we may make conditions about the standards which works have to achieve, about multiple applications and about the amount of grant or loan available. Different criteria may be used for different types of grant or loan. The following lists show the conditions we may use. Once they have been set they will apply to all grants and loans of that type.

4.5.1 **Conditions may prohibit:**

- More than one grant or loan per dwelling
- More than one grant or loan of the same type being given within a specified period
- More than one grant or loan of any type being given within a specified period

4.5.2 **Conditions may also be used to limit:**

- The maximum grant or loan
- The minimum grant or loan
- The maximum total value of grants or loans paid for any one property
- The maximum total value of grants or loans paid for any one property over a specified period

- The rate (% of agreed cost of works) at which grant or loan is paid
- The maximum sum or % rate at which eligible fees may be paid

4.5.3 ***In the case of loans and equity release, conditions may specify that:***

- Interest will be charged at a specified %
- Capital and any interest must be repaid in certain circumstances, at certain intervals or by certain dates

4.5.4 ***Conditions may also require that particular standards are achieved and that works must deal with:***

- Hazards assessed as being category-1 hazards under the Housing Health & Safety Rating System
- Hazards assessed as being category-2 hazards under the Housing Health & Safety Rating System (or certain categories of those hazards)
- Defects causing the premises to fail the Decent Homes standard
- Inadequate levels of insulation
- Public safety issues
- Matters affecting the health or safety of particularly vulnerable occupants
- Particular issues affecting vulnerable occupants' ability to continue living in their homes
- Security risks affecting vulnerable occupiers

5. Deciding what grants we will give

- 5.1 In order to provide flexibility, to ensure that financial assistance continues to be effective and deliver the required objectives, the types of discretionary grants and loans available and the particular criteria and conditions that will apply to each type will be determined and approved by the Head of Regeneration and Housing in consultation with the Lead Member for Housing.
- 5.2 The criteria and conditions applying to each type of financial assistance will be set in accordance with this policy and a summary of the grant including its applicable conditions and criteria will be approved in writing. Those documents (for as long as they remain effective) will form an appendix to this policy.
- 5.3 Once approved, grants and loans will continue to be available until either they are cancelled in writing by the Head Regeneration and Housing in consultation with the Lead Member for Housing; or until the allocated budget for the particular grant or loan has been committed.
- 5.4 If the Council is allocated funding for discretionary grants or loans through government department, agency or other source and is required to give formal acceptance, or if approval of an additional capital budget is required, the matter will be referred to Members in accordance with the Council's standing orders.

6. Exceptional circumstances

- 6.1 In exceptional cases, variations to the criteria applied to particular grants and loans may be agreed by the Head of Regeneration and Housing. In particular, the Council wants to be able to provide assistance, without undue delay, to

anyone whom it judges likely to suffer degrees of injury or harm that outweigh their ineligibility under the standard criteria. Any decision to agree an exceptional variation to the established criteria applying to a grant or loan will be confirmed in writing by the Head of Regeneration and Housing.

- 6.2 Where an application for a particular type of grant or loan covered by this policy raises an issue that is not specifically covered by the policy, the Head of Regeneration and Housing will determine whether and in what circumstances assistance can be provided. This decision will be confirmed in writing.
- 6.3 If any case raises an issue which seems likely to set a precedent for other similar cases or which would in effect create a new type of grant or loan outside the terms of this policy, the Head of Regeneration and Housing will determine whether to recommend a revision of the policy. Cases of this sort will not be treated as exceptional cases.

7. Documents and estimates

- 7.1 Applications for financial assistance must be made using an application form approved by the Council⁴.
- 7.2 The Council will determine what other documents have to be completed and will issue these to applicants. They must be returned as part of the grant application.
- 7.3 When works have to be carried out the Council will either produce or agree and approve a schedule setting out those works and will usually require estimates to be made using this schedule.
- 7.4 We will usually ask for at least 2 estimates so that we can be sure the costs are reasonable. Contractors submitting estimates must provide their details, including: name, address, telephone number(s) and VAT number (if VAT has been included). The Head of Regeneration and Housing must approve the use of a single estimate in any particular case or type of case.
- 7.5 We will not accept incomplete applications, estimates that are not provided in the correct form or prices we judge to be unreasonably high.

8. Grant Approvals

- 8.1 We will not approve any grant if work has been started or completed before we have given approval (unless we have made exceptional prior arrangements in writing).
- 8.2 For most types of grants and loans we will inspect the premises to determine what works are required and eligible as part of the approval process, but we may rely upon a partner-organisation to inspect on our behalf.
- 8.3 Once we have approved a grant we will confirm that in writing. The Council is not committed to providing any funding or any particular sum until we have given that written approval.

⁴ For mandatory DFGs the content of the application is set down in legislation.

- 8.4 The Council will not commit to varying an approval in order to pay for additional or unforeseen works, but may do so if it judges the works and the costs to be appropriate and if it is given sufficient notice and opportunity to visit the site, prior to the works being undertaken, to assess the circumstances and the need for the extra works.
- 8.5 For most types of grants and loans we will re-inspect premises to ensure satisfactory completion of all relevant works prior to release of funds, but we may rely upon a partner-organisation to inspect or confirm satisfactory completion on our behalf.

9. General Grant Conditions

The following conditions will apply in all cases:

- 9.1 Grant work must be completed within 6 months of the grant approval date (except in the case of Disabled Facilities Grants, which must be completed within 12 months) or such longer period as has been agreed in advance, and in writing, by the Council. Grants that remain incomplete may be cancelled. If this proves necessary the Council will confirm cancellation in writing.
- 9.2 All works must be completed in accordance with the agreed specification and to the standard of workmanship required by the Council. Payment will not be made until the work has been properly completed to the Council's satisfaction.
- 9.3 Works must be undertaken by the contractor(s) on whose estimate(s) the grant has been assessed and approved. In exceptional circumstances the Council may agree to a different contractor doing the work, but this must be agreed in advance of the work being done and will be confirmed by the Council in writing.
- 9.4 Payment of grant will only be made once the Council has received an appropriate, bona-fide invoice(s) from the approved contractor.
- 9.5 The Council may give a qualified approval in certain circumstances. (For example, approval may be given for a scheme of works with payment not being guaranteed until the following financial year.) This will allow some payments to be made for preliminary or ancillary fees. For example fees for drawings and legal costs.
- 9.6 All grants will be repayable in full in the event that a specified condition is breached.
- 9.7 All applicable grant conditions will be recorded in the Land Charges Register.

10. Complaints

- 10.1 Any complaint concerning a grant or loan should in most situations be referred, in the first instance, to the case-officer.
- 10.2 If the case officer cannot deal with the complaint it will be referred to their line-manager who will investigate and take appropriate action.

- 10.3 If the case officer does not deal with the matter to the applicant's satisfaction or if it is inappropriate for the case officer to deal with it, the complaint should be made to the relevant line-manager or to the Head of Regeneration and Housing.
- 10.4 Once a complaint has been reviewed we will confirm our conclusions in writing.
- 10.5 If there is a dispute between a contractor and the grant applicant we will provide mediation assistance where we can. However, unless the Council is acting as formal agent on behalf of the applicant, we will only be able to intervene informally. In such cases we will provide written advice to the applicant.

11. Definitions

Disability

- Means a disability recognised (for Disabled Facilities Grant purposes) by an Occupational Therapist employed by the Welfare Authority, a General Medical Practitioner (GP) or an appropriate authority or organisation.
- Disability may also mean receipt of (or entitlement to) such qualifying benefit as the Head of Regeneration and Housing may from time-to-time specifically determine in writing.

Financial Assistance

Means a grant, loan or other financial assistance provided by the Council under the terms of this policy.

Financial need

An occupant is in financial need if they or an adult member of their household:

- Are in receipt of a qualifying benefit (including any qualifying component of a benefit or of Universal Credit) that the Council may periodically determine. (Qualifying benefits will be determined by the Head of Regeneration & Housing.)
- Are eligible for a qualifying benefit (whether or not it is currently in payment)
- Have a zero financial contribution under a Test of Resources of a type approved and confirmed in writing by the Head of Regeneration and Housing
- Have a zero contribution under the Test of Resources prescribed for Disabled Facilities Grants (DFGs)

Owners

Are freehold owners or leasehold owners with an unexpired term of at least 5 years.

Qualifying Benefits

Those benefits (or specific components of a benefit or of Universal Credit) that the Council may periodically determine. (Qualifying benefits will be determined by the Head of Regeneration & Housing.)

Specified period

Means the length of time for which conditions will apply.

Tenants

Persons occupying the premises under the terms of a Protected Tenancy, an Assured Tenancy or an Assured Shorthold tenancy but who are not members of the owner's family.

Transfer of property

Means transfer to someone who is not the surviving spouse or partner of the applicant.

Vulnerable

An occupant is vulnerable if they, or a member of their household:

- Have a recognised disability (including for example: physical disability, infirmity, frailty, mental health problem and learning disability)
 - Are aged 60 or over
 - Are aged 16 or under
 - Have a need for immediate assistance to prevent injury or harm which outweighs their ineligibility for assistance on other grounds
 - Are an adult undergoing rehabilitation
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1. Response from a Letting Agent via the Consultation Portal

Do you have any comments about the attached policies and about the proposed changes in particular?

New legislation and help in the housing industry especially for the private landlord is always a good thing. My only concern is will this information reach those landlords who need the information most?

Do you have any other comments?

I am pleased to see the council are addressing the private sector housing as some homes in the area of Grimsbury are in need of urgent attention. I have seen that the council are buying properties in that area but the time between buying and bringing those homes up to standard is questionable. A house in West Street (70) has been in very poor condition for some years. The council purchased the house in January 2012 and as yet no work has commenced on that property. The council needs to follow through on what it starts and set an example.

2. Response by email from AgeUK

The policies do seem to cover all the main issues that we would concern ourselves with such as the safety and potential harm to health of elderly people living in rented accommodation – or in fact in their own properties.

Housing (Private Sector) Policy

Only addition I would like to see is something in relation to dealing with Anti-Social Behaviour. They have specifically mentioned things like pest control etc but anti-social behaviour can be a serious issue for some of our elderly clients who might end up living in fear due to anti-social neighbours – drugs, violence, noise etc. So, a stronger line on this would be useful.

Response

We agree that these are serious issues, but they are not covered by housing-legislation. We have a dedicated team (The Anti-social Behaviour Team, led by Rob Lowther, tel 01295 221623) which deals with matters of this sort using different legislation.

The policy states that the Council will address issues “without undue delay”. Can a minimum time scale be given?

Response

Except in the most serious cases we try to resolve problems informally. We are always conscious of making sure this doesn't become protracted, but it can require a bit of negotiation. In cases where an informal approach fails (or is inappropriate) and we have to use a formal notice, we are required to specify completion deadlines that are reasonable (and which can be subject to appeal), taking into account the nature and scale of the work involved. In addition, different notices specify different minimum completion periods. As a result it is not possible to quote a minimum time that would suit all circumstances. In all cases our aim is to get problems resolved as quickly as possible. (NB we get about 65% of cases resolved informally. In the case of the most frequently used Housing Act notices we are entitled to recover the cost we incur in producing them, so there is in effect a financial penalty associated with their use, which acts as an incentive to getting informal agreement.)

Clarification required: What determines an empty dwelling? Is there a timescale that a property is left empty before it is deemed vacant? This would be useful in the case of say an elderly person who has no relatives and is taken into hospital/care – at what stage does someone decide that their property is deemed “vacant”.

Response

For all practical purposes a property is considered to be a long-term empty after 6 months (this is all tied into Council Tax, Empty-homes/New Homes bonus

calculations, returns for the Government and so on). We know that a great majority of long-term empty homes actually resolve themselves and are re-used within about 12 months, so, although we try to encourage early re-use, we only really become concerned when a home has been empty for 2 years or more; at least, that is our current approach. It is those properties we plan to concentrate on. The question of homes that become empty as a result of owners going into long-term residential care is a difficult one. We do plan to contact those owners to suggest some options and ways in which we could assist, but recognise that these cases raise sensitive issues. Unless there are serious issues over dilapidation I don't anticipate we would want to initiate enforcement action, but we do get complaints about matters such as gardens becoming overgrown, so there are issues for neighbours as well as absentee-owners in-care.

Recovery of Costs Policy

There procedures to recover costs seem reasonable.

House Conditions Enforcement Policy

This again seems reasonable. Just need clarification that this covers homeowners who live in their properties -as opposed to rent them out - and who might need repairs to their properties in order that they can continue to live there. (I am sure this is the case but it would be nice to have it confirmed) It would be good to see access to any funding in these circumstances made simple so that elderly people needing to access this type of grant are not confused or deterred from doing so.

Response

The Housing Act (the principle enforcement tool) is tenure neutral and concerned with achieving satisfactory housing conditions through the resolution of hazards. We are therefore concerned with both owner-occupied and rented homes. Our enforcement approach is to try to resolve problems informally where we can. In practice we would only take formal enforcement action against elderly owner-occupiers in exceptional circumstances (and our HHSRS Policy, which is one of the policies subject to consultation) explains our approach). We are able to provide financial assistance in some situations and much of that effort is aimed at vulnerable home-owners. Our Home Improvement Agency service (including the Small Repairs service) is intended to make access to grants and practical assistance (and loans in some situations) as simple as it can be. In most cases the HIA is able to take care of the whole process. Leaflets for our Small Repairs Service and Essential Repairs Grants are attached - hopefully you are familiar with these.

3. Response from HMO landlord

It is my view and that of a number of my tenants that the application of some of your policies are most unhelpful.

Your restriction on room size means that you have denied me potential income of £3,000 per year in two houses and removed from the accommodation market two rooms which were always in heavy demand because of the lower rents and very low income of many potential tenants who are residents of Banbury. Such persons work most of the time, they are not on benefit but want to maximize their available income after rent. There is space in both rooms for a single bed, a small wardrobe and a bedside table, which is all that such tenants require. There is ample common room space in addition to the kitchen in both houses and yet your inspector instigated an overcrowding order purely based on room size which makes little sense to low income workers. The result is that they have to take bigger rooms at higher rents and maybe apply for housing benefit, which cost us all more money. In these times of austerity, I believe that this room size policy is out of step with the demands of the market and should be changed.

Response

The Council's HMO standards specify a minimum size of 6.5m² for a room in an HMO (or 8.5m² if there is no shared living room the tenant can use). This standard has been used and enforced by the Council since 1994. It remains unaltered and continues to be an appropriate minimum. The Council's space standards are in keeping with the approach taken by many other authorities. (Although not directly applicable to HMOs, it is relevant to note that rooms smaller than 6.5m² are not considered to be of suitable size for occupation by an adult for the purposes of assessing Statutory Overcrowding.)

A second comment concerns your application of fire prevention measures, which most tenants consider to be "over the top". In one of my HMOs, while the fire door on the kitchen is essential, an additional door required between the lounge and hence front door exit and the staircase would in fact impede rapid exit from bedrooms. The door also impedes the carrying of luggage and other bulky items from outside to and from bedrooms and is therefore regularly jammed open by tenants. Given the high cost of fitting such doors (about £600 each), I believe more consideration of required movements in the house is necessary, probably resulting in the application of fire doors to the kitchen area only, which is I believe the case in Oxford City.

I hope you find these comments useful and deserving of some common sense consideration by the Council, instead of the current blind application of some standards which cannot really be afforded, given that we have an accommodation crisis, particularly affecting the lowest paid workers.

Response

The Council's HMO Standards specify the following:

We will assess the suitability of means of escape and other fire precautions by means of the Housing Health & Safety Rating System (HHSRS); but will, in particular, take into account national guidance on fire safety standards issued by LACORS, Building Regulations and such other guidance as it judges appropriate. Requirements will vary according to assessed risk. Matters taken into account will include: The size of the property, number of storeys, layout, number of occupants, type of accommodation and any particular characteristics applying to the intended tenant group. Assessed risk may vary if occupation changes.

We are satisfied that this remains the correct approach.

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Executive

Collective Energy Switching Scheme

5 November 2012

Report of Head of Environmental Services

PURPOSE OF REPORT

To inform members of collective energy purchasing and switching scheme proposals and provide information for progressing a scheme in Cherwell

This report is public

Recommendations

The Executive is recommended:

- (1) To take forward a collective switching scheme for domestic energy consumers in Cherwell and to collaborate with other interested Districts to achieve the best deal for residents
- (2) To further explore engaging iChoosr as an intermediary to negotiate with energy companies in order to achieve the best value for money
- (3) To consider the setting up of a working group to implement and deliver a collective switching project

Executive Summary

Introduction

- 1.1 Collective energy switching offers households the opportunity to sign up to a scheme that allows an intermediary to negotiate with energy companies on their behalf in order to secure the householder a discounted energy price. This is the result of the energy companies being influenced by the number of people engaged in the scheme.
- 1.2 The Eco Bicester Project team has been looking into the possibility of a collective switching and bulk energy purchasing scheme since November 2011. A report into the feasibility was presented to the Eco Bicester Strategic Delivery board in January and July 2012. It was agreed that a District Wide collective switching scheme should be considered formally by the Council.
- 1.3 The Cherwell Housing Strategy 2012-2017 Strategic Housing priority four

covers affordable warmth and sustainable energy. Sustainable energy is about delivering affordable energy with reduced environmental impacts in a financially viable way. A collective switching scheme will complement the Council's Housing Strategy and has the potential to deliver part of the above priority.

- 1.4 The transition to a low carbon economy as outlined in the Cherwell Low Carbon Environmental Strategy needs to be achieved whilst minimising costs to consumers, particularly those in poorer households. Collective switching and bulk buying of energy allows the purchase of green energy and has demonstrated that renewable energy suppliers can compete on price with other sources of energy.
- 1.5 A lot of households in rural Cherwell do not have access to mains gas, and have to rely for their heating on oil, delivered in tankers. It is more expensive and suffers more price fluctuations. The proposed project of collective energy switching does not cover domestic oil because the ORCC has for a couple of years been operating a bulk buying scheme for domestic oil.

Proposals

- 1.6 To agree to take forward the development of a collective switching scheme for domestic energy consumers in Cherwell through a working group
- 1.7 To collaborate with other interested Districts to achieve the best deal for residents as there is strength in numbers of householders signing up
- 1.8 To agree to work with iChoosr as an intermediary to negotiate with energy companies in order to achieve the best value for money

Conclusion

- 1.9 A collective energy purchasing and switching scheme will complement the Council's Housing Strategy by combating fuel poverty as well as the Council's Low Carbon Environmental Strategy by making the costs of green tariffs more compatible with other tariffs.
- 1.10 A collective energy purchasing and switching scheme across more Districts will make the scheme more successful as there is strength in numbers. Cherwell would like to open up the scheme when it is set up to other interested District within Oxfordshire but also in Northamptonshire.

Background Information

Fuel Poverty

- 2.1 Households are finding it increasingly difficult to pay for fuel. Retail energy prices have more than doubled in less than seven years. The Office for Gas and Electricity Markets (Ofgem) estimated the average household fuel bill was approximately £600 in 2004 which had risen to £1,310 in 2012. Low income households are affected more by increases in fuel prices because they spend a higher proportion of income on fuel. A household is classed as being in fuel poverty when it spends more than 10% of its disposable income on fuel. The Department of Energy and Climate Change (DECC) reported in 2009 that the proportion of households in fuel poverty in the UK had risen from 18% to 24% in two years. This equates to 5.7 million households.
- 2.2 At the spending review in 2010, the Government announced that it would commission an independent review to consider the current level and definition of fuel poverty. In March 2012, Professor John Hills, independent lead of the review, published his report, making several recommendations on how fuel poverty can be measured in the future. In February 2012 as the report was being written official statistics showed that UK carbon emissions rose for the first time in seven years primarily because of the increased use of gas to heat people's homes during the particularly cold winter months
- 2.3 In Cherwell it is estimated that the proportion of households in fuel poverty currently stands at 9.7% which is equal to approximately 5,500 households (Source: Annual Fuel Poverty Statistics 2010 published by the Department of Energy and Climate Change in 2012). Cherwell's Private Sector Housing Team uses its range of interventions (advice, support and enforcement) to tackle fuel poverty in the district. A collective switching scheme would complement the Council's Housing Strategy and has the potential to deliver part of the above priority.

Collective Switching and Bulk Purchase of Energy

- 2.4 In late September 2012 the Government announced a £5 million funding pot aimed at collective energy schemes for local authorities. The funding will be made available to authorities or third sector bodies which produce the most innovative methods of helping local residents or businesses to slash their energy bills – and forms part of the coalition's intensifying campaign to tackle soaring fuel bills. Speaking at the Liberal Democrat conference on 23 September, energy secretary Ed Davey said competition for the cash would encourage councils to establish schemes which reduced household energy bills. Elsewhere, Peterborough City Council announced its bulk-buying and energy switching programme would offer discounts for both households and small and medium-sized enterprises.
- 2.5 Households could make a difference to their energy bills by switching suppliers, however a study by Ofgem in 2008 found that 'confident consumers' who were proficient at sourcing better deals, were in the minority and that most customers lacked confidence and knowledge to switch. The concept of collective switching is a relatively new idea in the UK. This new approach is being championed by DECC and Consumer Focus, the statutory consumer champion, since an Energy Summit held in autumn 2011. A DECC working group produced a fact sheet for organisations and individuals

considering setting up a collective switching scheme.

- 2.6 One of the options set out in the fact sheet is for providers to work with a partner or outsourcing the scheme or parts of it. It advises taking legal advice on the implications on the individual proposals. The Government continues to work with the Local Government Association (LGA) to promote collective switching but this work is in its early stages. Collective Switching was an agenda item at the LGA Leadership Board October 17 – further outlining LGA involvement.
- 2.7 The consumer advice group, Which? ran a national internet campaign (“The Big Switch”) earlier in 2012. It enabled households to be part of a collective switch and negotiated a deal for 10% of the householders who signed up for the scheme with the other 90% offered a tariff by that was available as an individual customer regardless of whether they are part of the collective switching group or not. The Big Switch was the first large scale scheme offered by a UK organisation. Which? partnered with campaigning group 38 degrees to encourage people to register and spread the word. Other schemes include “The Peoples Power” (www.thepeoplespower.com), a not for profit Community Interest Company (CIC) which encourages individuals to sign up to its collective switching scheme to getting a better deal on energy and green energy tariffs.
- 2.8 Collective Switching and bulk buying of energy as a county wide initiative has been raised at the Oxfordshire Environment Group. There is considerable interest in neighbouring districts to set up a scheme. The Oxfordshire Environment Group reports through the Oxfordshire Environment and Waste Partnership.

Eco Bicester

- 2.9 The Eco Bicester Project team has been looking into the possibility of a collective switching and bulk purchasing scheme since November 2011. As part of the feasibility and research into a bulk purchasing scheme officers have investigated the concept and discussed proposals with Government departments (DECC), consumer groups (Consumer Focus and others) and other local authorities either running a scheme or considering a scheme (particularly South Lakeland District Council which is currently running a pilot scheme). Discussions have also taken place with an intermediary working with Local Government in Europe and England (iChoosr). The Council’s Procurement and Legal teams have been consulted throughout this process.
- 2.10 Local authorities are well positioned to reach a wide audience, for greater sign up, and, where necessary, are able to work in partnership to collaborate with other authorities. Cherwell District Council is able to facilitate such a project and strong links with the community means that it is uniquely positioned to enable this interaction. A strong benefit of the collective purchasing model is that it is available to, and supports, everyone.

iChoosr

- 2.11 iChoosr is a Belgian company operating an intermediary platform that has pioneered collective switching on the European mainland. Since its conception in 2008 its operations have extended to the Netherlands and it is currently working in the UK. In the Netherlands and Belgium more than half a million consumers registered for its collective switching programmes for gas,

electricity and heating oil.

- 2.12 The scheme in Belgium has also been used to purchase green energy and has demonstrated that renewable energy suppliers can compete on price with other sources of energy. This initiative to encourage low carbon energy was led by local politicians committed to reducing the environmental impact of energy supply and consumption.
- 2.13 iChoosr is a specialist in the area of collective switching and has experience of working with local government and energy suppliers. From an initial investigation there does not appear to be any other body offering the same service to local authorities

South Lakeland District Council – collective switching pilot

- 2.14 South Lakeland District Council (SLDC) in Cumbria has progressed a pilot scheme following Cabinet approval on 27th June 2012, to take forward collective purchasing. A summary of the project is provided below.
- 2.15 SLDC set up the project between May and July 2012 including the negotiation of a legal agreement with iChoosr, a communications plan and website and contact centre for the registration going live. SLDC is currently inviting interest from its residents in signing up to the scheme, “Power up your community”, launched on 1st August 2012 and including a series of road shows to promote the scheme. Since the launch, over 1,669 people have registered their interest in the scheme. Registration closed on 18th September 2012 and the auction for energy suppliers took place on 25th September 2012.
- 2.16 Following the auction residents who have signed up will be contacted to explain the new offer and the amount of savings they could make on their fuel bills. They will have approximately four weeks to choose whether or not to accept the offer following which the collective switch will take place. Once the switch has taken place a share of the switching fee will be received from the supplier and this will be used by SLDC to combat fuel poverty within the District.
- 2.17 A survey will take place amongst a sample of the residents that registered for the scheme to evaluate their experience and why they did or did not switch. This will be undertaken by SLDC and iChoosr. An internal SLDC review will take place to investigate the success of the scheme. The purpose of the review would also be to determine the future of the pilot project.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 This report is presented to provide information on a collective switching and bulk purchasing for Cherwell District Council residents with the intention of inviting other local authorities in the area to join in. The key issues are

whether the Council should support and promote a scheme for its residents, the benefits, the cost and the resource implications.

- 3.2 There is likely to be a positive impact economically for those residents who sign up to the scheme and receive a more competitive, lower price for their energy. The social impact will also be that those residents who switch will be indirectly supporting those residents in fuel poverty through the share of the switching fee received by the Council. After covering some of the promotional costs, this would assist in supporting Council initiatives and programmes such as Brighter Futures in Banbury which has provided support, advice and information to the elderly to help them alleviate the pressures of higher fuel costs. A collective switching scheme would contribute to meeting the objective of reducing fuel costs for residents.
- 3.3 The scheme can also have environmental benefits, if the auction was to include green energy suppliers. This would make a contribution to the corporate objective of being a cleaner, greener Cherwell and would be particularly appropriate in Eco Bicester.
- 3.4 Research has established that iChoosr has the knowledge and extensive experience in collective switching therefore it is recommended that iChoosr is considered as partners to operate the pilot scheme.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

- Option One** Progress with a scheme working with iChoosr
- Option Two** Do not progress with a scheme
- Option Three** Investigate other options

Consultations

- None** The issues in this report have not been the subject of consultation

Implications

- Financial:** There are no financial implications arising directly from this report.

Comments checked by Joanne Kay, Service Accountant
01295 221545

- Legal:** The precise terms of a contract with iChoosr or any other provider will need legal consideration and any contract award will need to be made in compliance with Contract Procedure Rules.

Comments checked by Kevin Lane, Head of Law and Governance – 0300 0030107

Risk Management: There are no risk implications arising directly from this report.

Comments checked by Gavin Halligan-Davis, Interim Corporate Performance Manager 01295221563

Wards Affected

All

Corporate Plan Themes

A District of Opportunity – work with partners to tackle disadvantage in the District
A Cleaner, Greener District – work with partners to improve the energy efficiency of homes and enable more residents to achieve more affordable energy bills
An Accessible, Value for Money Council

Lead Member

Councillor Nigel Morris,
Lead Member for Clean and Green

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Ed Potter, Head of Environmental Services
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Executive

Localism Act 2011 – Assets of Community Value

5 November 2012

Report of Head of Law and Governance

PURPOSE OF REPORT

To enable the Executive to consider the implications of the provisions of the Localism Act 2011 in relation to assets of community value and to approve appropriate decision-taking mechanisms to ensure that the statutory requirements can be met.

This report is public

Recommendations

The Executive is recommended to:

- (1) Note the implications of the provisions of the Localism Act 2011 in relation to the obligation of the Council to maintain a list of assets of community value ('the List').
- (2) Delegate authority to the Head of Housing and Regeneration in consultation with the Lead Member for Estates and the Economy to consider and determine nominations for inclusion on the List.
- (3) Delegate authority to the Director of Development in consultation with the Leader of the Council to consider and determine requests from asset owners for review of decisions to include an asset on the List.
- (4) Delegate authority to the Head of Housing and Regeneration in consultation with the Head of Finance and Procurement to consider and determine applications for compensation from asset owners for loss and expense incurred through assets being included on the List.
- (5) Delegate authority to the Director of Development in consultation with the Director of Resources to consider and determine requests for review of compensation determinations from asset owners for loss and expense incurred through assets being included on the List.

Executive Summary

Introduction

Section 87 of the Localism Act 2011 and accompanying regulations applies to Council to establish a list of assets of community value. This report outlines the main provisions of the legislation and proposes an appropriate set of delegations to ensure that the statutory requirements can be met by the Council.

Background Information

- 2.1 Section 87 of the Localism Act 2011 obliges the Council to maintain a list of land in its area that is land of community value. The list must be known as 'The List of Assets of Community Value'. Once land is included on the List the entry must be removed from the List five years after the date of the entry. If it has not been disposed of prior to this. A list must also be maintained of assets which are nominated but not included on the List. These provisions and associated Regulations came into force on 20th September 2012.

Nomination

- 2.2 A building or other land in the Council's area is land of community value if, in the opinion of the Council:
- An actual current use of the building or other land that is not an ancillary use furthers the social well-being or social interests of the local community and
 - It is realistic to think that there can continue to be non-ancillary use of the building or other land which will further (whether or not in the same way) the social well-being or social interests of the local community.
- 2.3 A building or other land in the Council's area that is not currently land of community value can be included on the List if, in the opinion of the Local Authority:
- There is a time in the recent past when an actual use of the building or other land that was not an ancillary use furthered the social well-being or interests of the local community and
 - It is realistic to think that there is a time in the next five years when there could be non-ancillary use of the building or other land that would further (whether or not in the same way as before) the social well-being or social interests of the local community.
- 2.4 Certain land or buildings cannot be included on the list. The principal exclusion is residential property and this includes gardens, out-buildings and other associated land, including land that it is reasonable to consider as part of the land with the residence. There is, however, an exception to this general exclusion of residential property from listing and that is where an asset which could otherwise be listed contains integral residential quarters such as

accommodation as part of a pub, or a caretaker's flat. It is also not possible to list land licensed for use as a residential caravan site, or the operational land of statutory undertakers.

2.5 Nominations for inclusion on the list can only be made by:

- A Parish Council where the asset is located or a neighbouring Parish Council i.e. a parish which shares a border with the parish containing the asset, or
- A voluntary or community body as defined in the legislation.

A voluntary or community body may be:

- An unincorporated group with membership of at least twenty-one local people who appear on the electoral roll within the relevant Local Authority or a neighbouring Local Authority.
- A neighbourhood forum established under Section 61F of the Town and Country Planning Act 1990, or
- A community interest group with a local connection. This must be a charity, a community interest company, a company limited by guarantee that is non-profit distributing or an industrial and provident society that is non-profit distributing. To establish a local connection, the body's activities must be wholly or partly concerned with the Local Authority's area or a neighbouring Local Authority's area.

2.6 A nomination for inclusion of an asset on the List must be determined by the Council within eight weeks. It is, therefore, clearly necessary to ensure that delegated authority is given to appropriate officers to enable this time limit to be complied with. The nomination must meet certain minimum standards including:

- A description of the nominated land including its proposed boundaries.
- A statement of all the information which the nominator has with regard to the current occupants of the land and the identity of all those holding a freehold or leasehold interest in the land.
- The nominator's reasons for thinking that the land is of community value and
- Evidence that the nominator is eligible under the legislation to make a nomination.

Right to Review of Listing Decision

2.7 Although the owner of the asset must be notified of the nomination request and can make representations to the Council before the listing decision is taken, there is a further right of internal review by an asset owner against a listing decision. This must be determined within eight weeks. Again, it is therefore necessary to enable officers to determine a review under delegated authority so that the statutory requirements can be met. It is also, obviously,

necessary for there to be a separation of functions so that the reviewing officers were not involved in determining the original listing decision.

- 2.8 The proposal, therefore, is that the listing decision is undertaken by the Head of Housing and Regeneration in consultation with the Lead Member for Estates and the Economy while the review decision is determined by the Director of Development in consultation with the Council Leader.

Effect of Listing

Although the legislation has widely been portrayed as a 'community right to buy' this is not a true description of its legislative impact.

- 2.9 Once an asset has been included on the list nothing further will happen unless and until the owner decides that he wishes to dispose of it, either via a freehold sale or the grant of a lease of at least twenty-five years.
- 2.10 The asset owner must notify the Council of an intention to dispose of the asset. Inclusion of an asset on the list is a registered local land charge. If the asset is part of a registered title a restriction will be placed on the Land Register as well. The owner will only be able to dispose of the asset after a specified period of time has expired.
- 2.11 Initially a six week moratorium period is imposed during which the asset owner is unable to dispose of the asset and the Parish Council or appropriate community group is able to make a written request to be treated as a potential bidder for the asset. If no such request is made, the owner is entitled to dispose of the asset as he sees fit at the end of the six-week period.
- 2.12 If the Parish Council or relevant group does make a request to be considered as a bidder during the initial six-week moratorium, the period is extended to six months from the date of the notification of the intention to dispose. During this period the Parish Council/community group can work up a detailed bid and the owner may continue to market the asset and negotiate potential sales, but he may not exchange contracts or enter into a binding contract to do so later.
- 2.13 After the end of the moratorium period, whether for six weeks or the full six months, the asset owner remains free to dispose of the asset to whoever they choose and at whatever price they desire and no further moratorium will apply for the remainder of a protected period which lasts eighteen months from the date of notification of the intention to dispose.
- 2.14 It will, therefore, be realised that this is not a community right to *buy* but merely a community right to *bid*. No obligation is imposed on the asset owner to dispose of the asset to the Parish Council or community group and there is no obligation to offer a discount from the market value in the event that the asset is disposed of to the Parish Council or community group.
- 2.15 Certain types of disposal are exempt from the moratorium requirements. These include:
- Actual disposal to the Parish Council or local community group during the moratorium period.
 - Disposals made by way of gift.

- Disposals by personal representatives in accordance with the will or under intestacy rules.
- Disposals between family members.
- Part-listed land i.e. sale of a larger site where only part is included on the list.
- Disposal by a lender under a power of sale, and
- Compulsory purchase disposals.

Right to Compensation for Listing

- 2.16 Private owners (as opposed to public authorities) may claim compensation for loss and expense incurred as a result of the listing. Such compensation could include a claim arising from a period of delay in entering into a binding agreement to sell which is wholly caused by the imposition of the moratorium. This could feasibly extend to an intervening fall in the market value of the land in the event that a particular disposal is lost as a result of the imposition of the moratorium.
- 2.17 The Council must consider the compensation claim, determine it and give written reasons for its decision. It is recommended that determination of compensation applications is delegated to the Head of Housing and Regeneration in consultation with the Head of Finance and Procurement.
- 2.18 There is also a right to seek an internal review of a compensation decision. Given the separation of duties which is again required here it is recommended that this part of the process be delegated to the Director of Development in consultation with the Director of Resources.
- 2.19 New Burdens grant support is being provided by the Government to meet the costs of compensation payments. The Government has also indicated that it intends to meet costs of compensation payments of over £20,000 in any financial year. This could be a single large claim or a combined total of smaller claims exceeding this threshold.

Other Rights to Challenge

- 2.20 There is no right to request a review of a decision not to include an asset on the list. However, a Parish Council or community group could potentially seek judicial review of the decision if it was procedurally or legally flawed.
- 2.21 It is also possible for the asset owner to seek to challenge the listing of an asset and/or the outcome of a compensation review decision by making an application to a Tribunal.

Conclusion

- 2.22 It should be noted that, while the bulk of the legislative provisions assume that a third party asset owner is affected by an application for inclusion on the list, a nomination could be made to relation to an asset owned by this Council. The procedure outlined above would still need to be followed although there would obviously be no right to compensation for the Council in the event that one of its assets was included on the list.

Key Issues for Consideration/Reasons for Decision and Options

The reasons for the recommendations set out above are:

- 3.1 To enable the Executive to understand the full implications of the legislation.
- 3.2 To enable determinations in relation to listing and compensation to be dealt with in a timely way in accordance with statutory requirements.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

- Option One** To accept the recommendations as set out.
- Option Two** To reserve the relevant decisions to members. Executive could decide that the listing and compensation determinations outlined above should be reserved to members. However, this is not recommended because of the statutory time limits that are imposed, the fact that determinations will involve a factual assessment applying legislative tests with limited scope for the exercise of discretion, and the need to ensure a separation of roles to accommodate the rights to review.
- Option Three** To delegate authority to officers other than those recommended. Executive could decide that alternative officers to those recommended should be given the necessary delegated authority. This is not recommended because the responsibility for assets and estates is vested in the Head of Housing and Regeneration and the compensation decisions should be subject to assessment and determination by qualified finance officers.

Consultations

Head of Housing and Regeneration

Implications

- Financial:** This legislation has a clear impact on the Council's resources, both in terms of officer time and direct budgetary implications.
- As far as potential claims for compensation are concerned the New Burdens grant settlement figure for this financial year amounts to £4,873. As indicated above, the Government has stated in its accompanying non-statutory guidance on the legislation that, in the event that the Council has a compensation outlay exceeding £20,000 in any financial year, the amount exceeding that threshold would be repaid.
- In the event that a Council asset was listed the Council would be unable to proceed with an intended disposal in a timely fashion because of the imposition of the

moratorium. This would lead to increased ongoing maintenance costs for the relevant asset and the possibility of a proposed disposal being lost.

Comments checked by Karen Curtin, Head of Finance and Procurement,
Karen.curtin@cherwellandsouthnorthants.gov.uk

Legal:

The legal implications are fully set out in the above report.

Comments checked by Kevin Lane, Head of Law and Governance,
Kevin.lane@cherwellandsouthnorthants.gov.uk

Risk Management:

If the Council does not proceed as recommended there is a risk of non-compliance with its statutory duties under the Localism Act 2011.

Comments checked by Gavin Halligan-Davis, Interim Corporate Performance Manager, gavin.halligan-davis@cherwellandsouthnorthants.gov.uk

Document Information

Appendix No	Title
None	
Background Papers	
None	
Report Author	Kevin Lane, Head of Law and Governance
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Executive

Local Government Resources Review (LGRR) Update and 2013/14 Budget Process Update

5 November 2012

Report of Head of Finance and Procurement

PURPOSE OF REPORT

To inform the Executive of the latest position on the LGRR project regarding council tax and pooling localisation and an update on 2013/14 budget planning.

This report is public

Recommendations

The Executive is recommended to:

- (1) Note the latest position on council tax localisation and consultation responses.
- (2) Note the latest position on business rates localisation and pooling.
- (3) To delegate authority to the Chief Executive and Director of Resources, in consultation with the Leader of the Council and the Lead Member for Financial Management to make an application to join an Oxfordshire pool if the financial modeling supports.
- (4) Note the changes to the budget timetable.

Executive Summary

- 1.1 In September and October 2012 the Executive received an update report on the Local Government Resource Review (LGRR) including the introduction of localised Council Tax Support to replace Council Tax Benefit and changes to the way in which business rates are collected and distributed. This summary provides members with updated information on progress since the last report.

Council Tax Localisation

- 1.2 Cherwell District Council has agreed with other major preceptors in Oxfordshire that for year 1 of the new scheme the status quo should be maintained and that there will, in effect, be no change to the current support which is in place. Proposals to offset the budget reduction will be prepared as part of the 13/14 budget process.
- 1.3 On this basis a public consultation started on Thursday 23 August 2012 and finished on Wednesday 3 October.

- 1.4 Cherwell sent 500 paper questionnaires to current benefit claimants and another 500 to non claimants. There was also a press release at the beginning of the consultation and there was an electronic version on the council's website with information on the scheme and details of how to access the portal.
- 1.5 Comments were collected via Cherwell District Council website, there was also sample of local residents who received consultation letter and paper copy of the survey. A total of 212 responses were submitted, a response rate of 42% was achieved.
- 1.6 The hi-level results show that 50% of respondents agreed or strongly agreed with the proposal to retain existing scheme for Year 1 and only 14% disagreed or strongly disagreed.
- 1.7 Department for Communities and Local Government have recently announced that additional funding of £100m will be available to support local authorities in the implementation of the new Council Tax Reduction Scheme. The funding will be for one year only.
- 1.8 To apply for a grant billing authorities must meet certain criteria when designing a new scheme:
 - Those people who would be entitled to 100% support under current CTB arrangements pay between zero and 8.5% of their Council Tax liability.
 - The taper that is currently in place at 20% must not increase above 25%
 - There must be no sharp reduction in support for those entering work.
 - Although not one of the scheme criteria the Government would not expect local authorities to impose large increases in non-dependant deductions.
- 1.9 Applications for funding can only be made after the deadline for adopting schemes on 31 January 2013. The deadline for applications is 15 February 2013.
- 1.10 As we are planning no changes in Year 1 we could meet the criteria for 0% change. If deemed to comply with the requirements the allocation for Cherwell District Council would be eligible for the grant and the shares will be as follow:
 - Cherwell £23,962
 - County £136,269
 - TVP £18,099
- 1.11 As the billing authority Cherwell District Council would have to apply for the funds (in February 2013) on behalf of all major preceptors so we would apply for £178,330 but keep £23,962. This would be treated as windfall income for the authority.
- 1.12 Based on the consultation findings and the grant funding available in Year 1 officers in Oxfordshire will continue to work with view to finalising a county wide council tax reduction scheme for member approval before the end of December 2012.

Business Rates Localisation

- 1.13 The Council confirmed its intention to consider pooling in a response to the DCLG in September on the basis that if we were to pool the levy rate that we have at 87% would be substantially reduced to circa 25-40% which would mean more funding for the local area. However with this additional reward come additional risks. The modelling is still ongoing and a recommendation on whether to formally submit an application to pool by the deadline of 9th November will be made w/c 5th November 2012.

- 1.14 We are in regular discussion with all district councils and the County to develop the financial models, understand what additional financial benefits a pooling arrangement could deliver, what the risks are, agree the principles of the proposed pool and how any additional funds should be shared. The next meeting to finalise discussions is scheduled for 1 November 2012.
- 1.15 Given the timescales involved it is recommended that authority is delegated to the Chief Executive and Director of Resources, in consultation with the Leader of the Council and the Lead Member for Financial Management to make an application to join an Oxfordshire pool if the financial modelling supports.
- 1.16 A full report detailing the recommendation and next steps will be presented to the December 2012 Executive.

2013/14 Budget Update and Timetable

- 1.17 The Council agreed its budget guidelines and timetable at the Executive meeting in October 2012 which showed a first draft of the budget being presented at the December 2012 meeting. Work has commenced on preparing budget working papers and understanding the implications of LGRR.
- 1.18 Latest intelligence suggests the information regarding the financial settlement for local authorities will not be available until at least the 19 December 2012 so as a result the first draft of the budget will be presented to the Executive in January 2012.
- 1.19 Council will be asked to agree the 2013/14 budget and corporate plan (and the service plans that underpin delivery) at their meeting in February 2013.

Implications

Financial: These are contained in the body of the report. There are no direct costs or other direct financial implications arising from this report.

Legal: None directly from this report however a local authority must budget so as to give a reasonable degree of certainty as to the maintenance of its services. In particular, local authorities are required by section 32 of the Local Government Finance Act 1992 to calculate as part of their overall budget what amounts are appropriate for contingencies and reserves. The Council must ensure sufficient flexibility to avoid going into deficit at any point during the financial year. The Chief Financial Officer is required to report on the robustness of the proposed financial reserves.

Comments checked by Kevin Lane, Head of Law and Governance, 0300 0030107.

Risk Management: The Council is required to set both revenue and capital budgets. Failure to integrate the preparation of these budgets with service priorities and planning will compromise the Council's ability to deliver on its strategic objectives.

Comments checked by Denise Taylor, Corporate Accountant, 01295 221982.

Equality and Diversity Impact assessments will be carried out in advance of formulation of budget proposals.

Wards Affected

All

Corporate Plan Themes

All

Executive Lead Member

Councillor Ken Atack
Lead Member for Financial Management

Document Information

Appendix No	Title
None	
Background Papers	
None	
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