

**Name of meeting:** CABINET  
**Date:** 19 DECEMBER 2012

**Title of report:** SOCIAL HOUSING REFORMS

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	Yes – changes recommended are Kirklees wide
Is it in the <a href="#">Council's Forward Plan</a> ?	Yes
Is it eligible for "call in" by <a href="#">Scrutiny</a> ?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman - 5.12.12
Is it signed off by the Director of Resources?	David Smith - 26.11.12
Is it signed off by the Acting Assistant Director - Legal & Governance?	Vanessa Redfern - 6.12.12
Cabinet member <a href="#">portfolio</a>	Place (Investment and Housing)

**Electoral [wards](#) affected:** All  
**Ward councillors consulted:** All

**Public or private:** Public

## 1. Purpose of report

- 1.1 To inform Members of the changes to social housing as set out within the Localism Act 2011, and to explain how the Council has consulted on these options for change.
- 1.2 To seek approval for a number of changes to Kirklees Council's Housing Allocations Policy (hereafter referred to as the Allocations Policy).
- 1.3 To seek approval for the Council's Strategic Tenancy policy.

## 2. Key points

- 2.1 The Localism Act 2011 has given Councils greater freedom and flexibility to make local decisions about how social housing operates in their area.
- 2.2 Specifically, the Localism Act:
  - 2.2.1 Allows Councils to have greater control over who they allow to register for social housing in their area.
  - 2.2.2 Allows Councils more flexibility as to which groups of applicants should have priority for social housing.

- 2.2.3 Those groups of people who are considered to be in urgent housing need and fall into the statutory group as having 'reasonable preference' remain unchanged.
- 2.2.4 States there is **one** statutory right of succession to a spouse or civil partner and those in an equivalent relationship as long as they have occupied the property as their main and principal home at time of the tenant's death.
- If, at the time of the tenant's death, the property is not occupied by a spouse or civil partner as their principal home, the Council can, under the Act, allow others to succeed.
- 2.2.5 Enables Councils, if they wish to do so, to discharge their duties to statutory homeless households by securing suitable accommodation in the private rented sector, without the agreement of the household.
- 2.2.6 Gives social landlords (Councils and registered providers) new powers to grant tenancies for a fixed term ("flexible tenancies") to new tenants, if they choose to do so.
- 2.2.7 The Localism Act places a new duty on every local authority to publish a strategic tenancy policy by April 2013 which sets out the Council's approach to tenancies for its own stock, and its expectations of registered providers operating locally.

### **2.3 The Council's approach to these changes**

- 2.3.1 Prior to the introduction of the Localism Act, the Council had already started to consider revisions to the existing Allocations Policy, and issues such as age designation and debt policies.
- 2.3.2 Given the new arrangements, it made sense to combine this work into one overall project looking at how social housing operates in Kirklees.
- 2.3.3 There is a clear interconnection between the impact of welfare reforms, and people's housing need, and this is incorporated into the remit of this project.
- 2.3.4 A multi agency advisory group was set up to consider these changes, and what they mean for the Council in administering its Housing Allocations policy, and for residents who approach the Council for housing advice and support.
- The advisory group's structure and composition is attached as at appendix A.
- 2.3.5 If approved, the changes will be incorporated into the Council's revised Allocations Policy and will be reflected in the Council's strategic tenancy policy.

### **2.4 Local context for social housing in Kirklees**

- 2.4.1 A "snapshot" of the housing register taken between July and August 2012 shows applications to the register is increasing, and there were over 18,000 people registered.
- 2.4.2 The latest Strategic Housing Market Assessment (SHMA) shows that there is a need for 1,457 affordable homes<sup>1</sup> to be provided per year, over the next 5 years.

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<sup>1</sup> Affordable homes" is the term given to property for sale or rent at less than the full market value  
CAB-12-042 Social Housing Reforms

2.4.3 Kirklees Neighbourhood Housing (KNH) let around 2,500 homes per year, so clearly there is a growing disparity between the numbers of people applying for social housing, and homes available.

## 2.5 Consultation programme and recommendations

2.5.1 Prior to the development of the consultation programme, work was carried out with Kirklees Federation of Tenants and Residents Association (KFTRA) to determine how best to involve and engage with local people.

2.5.2 A timetable for consultation was developed, using a variety of mechanisms (See Appendix B)

Two public drop in events in Huddersfield and Dewsbury were held and where asked to do so, officers attended local ward meetings and party group meetings.

2.5.3 Online consultation started in May 2012 and closed in early July 2012.

2.5.4 The consultation booklet and summary of the outcomes of the consultation are shown in the background papers.

2.5.5 Officers have been consulting on proposals to introduce an open age policy on all council properties and develop a time limited "Successful Communities Policy".

Officers have consulted on these proposals with key stakeholders including KFTRA, colleagues in Safe and Cohesive Communities, and with groups of disabled people.

2.5.6 All ward members have received an electronic copy of the consultation paper and have been asked for their views. We have received 6 responses to this consultation, from ward members.

2.5.7 Recommendations have been made following the consultation and have been agreed with portfolio lead Members. These recommendations are set out in section 6 of the report.

2.5.8 More detail for each of the recommendations can be found in the attached appendices (D – K).

## 2.6 Equalities Impact

2.6.1 An Equality Impact Assessment was carried out alongside the development of the recommendations. This assessment highlighted positive and negative issues and actions to mitigate any negative impacts of the proposed changes have been included in the assessment.

2.6.2 The assessment was undertaken by a representative working group who identified issues to consider, with reference to the Public Sector Equality Duty and having due regard to the need to:

- **eliminate unlawful discrimination**, harassment, victimisation and any other conduct prohibited by the Act;
- **advance equality of opportunity** between people who share a protected characteristic and people who do not share it; and
- **foster good relations** between people who share a protected characteristic and people who do not share it.

2.6.3 The Equality Impact Assessment has been developed in line with consideration of the options available and subsequent recommendations as set out in this report. The Equality Impact Assessment is now available on the Council's website - [www.kirklees.gov.uk/impactassessment](http://www.kirklees.gov.uk/impactassessment)

### **3. Implications for the Council**

- 3.1 If Cabinet approve these recommendations for
- changes to the Council's Allocations Policy, and
  - a strategic tenancy policy

there will be some one off capital costs. These costs will be to make changes to IT systems and to publicise the changes that we are making. In total, these costs are estimated at £10,000 but it should be noted that these costs may be subject to change once further details are confirmed. Costs can be met from existing resources.

- 3.2 The recommended changes to the Allocations Policy mean that the Council can better meet the housing needs of Kirklees residents.
- 3.3 There are clear links between these proposed changes, and the Council's vision that communities are stronger, more cohesive, vibrant and successful and increasingly more sustainable and that services are effective and productive, based on the needs of communities.
- 3.4 The changes will ensure that the Council's Allocations Policy is compliant with the relevant legislation.

### **4. Consultees and their opinions**

- 4.1 As described above, the policy changes that are available to the Council, the range of options for each policy change and the implications of such changes have been widely considered and consulted on, with a range of stakeholders.
- 4.2 Legal Services have been involved as part of the advisory group and their advice has been sought on all of the options for change. Key stakeholders such as KNH, KFTRA and registered providers are supportive of these recommendations.
- 4.3 The advisory group have also explored the approaches that other neighbouring local authorities are taking.
- 4.4 The final recommendations as set out in this report have been circulated and discussed in detail with portfolio lead Members.

### **5. Next steps**

- 5.1 To revise the Allocations Policy taking into account changes approved by Cabinet.
- 5.2 To publish the revised Allocations Policy.
- 5.3 To publish the Council's strategic tenancy policy.
- 5.4 Develop detailed action plans to implement the policy changes.

### **6. Officer recommendations and reasons**

- 6.1 The Council retains an "open access" Housing Register and introduces an additional priority band (Band E) for specific groups of people. This

would include people who already own their home, people with housing debt, with no local connection or a history of anti social behaviour.

A summary of the recommendation, current policy, issues, reasons for and evidence for change is attached as Appendix C.

6.2 Amend the Property Size Eligibility Criteria in line with Housing Benefit Legislation.

Set the level of housing debt that would result in reduced priority (Band E) at an amount that takes in to account the impact of Housing Benefit changes and Universal Credit payment schedules in order to assist those customers who need to move because they are unable to afford their current property.

Review the level of housing debt that would result in reduced priority (Band E) annually.

Amend the review procedure and introduce a two stage review procedure.

Award Band B (Care & Support) for hostel/supported housing residents who meet specific criteria for move on.

A summary of the recommendation, current policy, issues, reasons for and evidence for change is attached as Appendix D and E.

6.3 Applications from prospective foster carers or adoptive parents (supported by Children's Services) are awarded Band C and are able to bid for properties that are large enough to accommodate the number of children they have been approved to foster/adopt.

A summary of the recommendation, current policy, issues, reasons for and evidence for change is attached as Appendix F.

6.4 One statutory right of succession to a secure tenancy is extended when, at the time of the tenant's death, the property is not occupied by a spouse or civil partner of the tenant as his or her only or principal home **and** an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy.

- Where there is no surviving spouse or partner and another person has lived with the tenant as their sole or principal home they would succeed to the tenancy if certain qualifying conditions are met.

A summary of the recommendation, current policy, issues, reasons for and evidence for change is attached as Appendix G.

6.5 Agree that the private rented sector can be used to discharge the Council's duty to homeless households, where suitable property is available and meets the safeguards required by law.

A summary of the recommendation, current policy, issues, reasons for and evidence for change is attached as Appendix H.

6.6 An open age policy is adopted on all council properties (excluding the Council's retirement living schemes, formerly sheltered) and a time limited "Successful Communities Policy" is used in the circumstances as described.

A summary of the recommendation, current policy, issues, reasons for and evidence for change is attached as Appendix I

- 6.7 To retain the current tenancy arrangements and not to introduce flexible tenancies.

A summary of the recommendation, current policy, issues, reasons for and evidence for change is attached as Appendix J.

- 6.8 The Council's strategic tenancy policy is adopted and published. A strategic tenancy policy for Kirklees has been drafted (Appendix K) and is Kirklees Council's response to the duty as set out under the Localism Act.

**7. Cabinet portfolio holder recommendation**

Cllr Cathy Scott and Cllr Peter McBride support these recommendations.

**8. Contact officer and relevant papers**

Karen Oates, Commissioning Manager (Housing Access and Support):  
Tel: 07976 497679  
Email: karen.oates@kirklees.gov.uk

**9. Assistant director responsible**

Kim Brear, Streetscene and Housing

# Social Housing Reforms Advisory Group

KFTRA Rep – Anita Duce, Patricia Hillary  
KNH Board – Cora Carter MBE  
RSL Partners – Sadeh Lok,  
Yorkshire Housing  
Fusion Housing – Denise Rooney

**Chair**  
Helen Geldart, Kirklees Council

<u>Kirklees Council</u>	<u>KNH</u>
Cath McGurk	Paul Buckley
Nicola Clayton	Elizabeth Firth
David Bundy	
Tina Cooper	
Adrian Wisniewski	

Karen Oates, Kirklees Council

KC  
Legal  
Services

## Project Teams

<b><u>Workgroup 1</u></b> Tenancy Strategy	<b><u>Workgroup 2</u></b> Allocations	<b><u>Workgroup 3</u></b> Homelessness	<b><u>Workgroup 4</u></b> Tenure	<b><u>Workgroup 5</u></b> Equalities
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Lead:  
Nicola  
Clayton

Lead: Tina  
Cooper

Lead: Cath  
McGurk/ Denise  
Rooney

Lead:  
Adrian  
Wisniewski

Lead: David  
Bundy

Appendix B

**Consultation Programme**

	28-Mar	16-May	11-Jul	12-Sep	14-Nov	02-Jan	26-Mar	07-May	18-Jun	30-Jul	10-Sep	22-Oct	03-Dec	07-Jan	14-Jan		
<i>Project Board dates</i>	30	18	14	15	18	4	28	9	20	1	12	24	5				
<i>Engagement period</i>		9/5 to 29/6															
<i>Consultation drop in events</i>		9/5, 14/06															
<i>Joint event with Kishg and KHF</i>		15-May															
<i>Allocations workshop</i>		16-May															
<i>Place Briefings</i>	1st FEB												12				
<i>KFTRA events</i>	30-Apr	02-May															
<i>Scrutiny</i>																	
<i>Briefing sessions with Members (see detailed timetable)</i>		13-Jun															
<i>Think Tank Session</i>		22-Jun															
<i>Project Board consultation session</i>																	
<i>Labour Group</i>										2							
<i>Conservative Group</i>										23							
<i>KNH Board Consultation</i>										10							
<i>Emerging findings session</i>																	
<i>Project Board sign off</i>												24					
<i>Cabinet</i>													19				
<i>Tenancy Strategy in place</i>															15		

## Kirklees Council Housing Allocations Policy Review Recommendation – Access to the Housing Register.

### Access to the Housing Register

Retain an “open access” Housing Register and introduce Band E for specific groups e.g. owner occupiers, people with housing debt, no local connection, history of ASB.

#### Current Policy

Customers must be registered on the Kirklees Housing Register before they can be considered for a council property or be nominated to a Registered Social Landlord.  
The Council registers everyone over 16 who apply for housing assistance unless they do not qualify because they are subject to immigration control.

We use a banding scheme to compare the needs of customers on the housing register. Customers have their housing needs assessed and placed into one of four bands. The bands are:

#### Band A – Multiple Housing Need.

Households that are experiencing a combination of at *least* two of the following issues:

- Statutory homeless households
- Households with high care and/or support needs
- Households with high medical needs
- *or* be a retiring school caretakers living in Kirklees Council tied accommodation.<sup>2</sup>
- *or* under occupying households giving up two or more bedrooms

<sup>2</sup> Allocation policy considerations pertaining to employees of Kirklees Council retiring and leaving Tied Accommodation –approved by Cabinet 29<sup>th</sup> October 2008

## Appendix C

	<p>Band B – High Housing Need.</p> <ul style="list-style-type: none"> <li>• Statutory unintentionally homeless households with a priority need</li> <li>• <i>or</i> have high medical needs</li> <li>• <i>or</i> need to move to give or receive essential care and support</li> <li>• <i>or</i> Kirklees Council tenants occupying an adapted property which they do not need.</li> <li>• <i>or</i> households in social housing tenancies within Kirklees assessed as severely overcrowded i.e. two bedrooms deficient <sup>3</sup></li> </ul> <p>Band C – Low Housing Need. Band C can be awarded for a number of different circumstances e.g.</p> <ul style="list-style-type: none"> <li>• Homeless non priority households</li> <li>• Intentionally homeless households</li> <li>• Homeless households not resident in Kirklees</li> <li>• Overcrowded licensees</li> <li>• Households wanting to move to give or receive care and support</li> <li>• Lower medical needs</li> <li>• Kirklees Council tenants who are overcrowded</li> <li>• Kirklees Council tenants who are under occupying their property</li> <li>• Permanent decant moves for Kirklees Council tenants</li> <li>• Kirklees Council tenant wanting to transfer from a furnished tenancy</li> <li>• Kirklees Council tenant wanting to move to a designated older persons tenancy</li> </ul> <p>Band D – Non urgent Housing Need.</p> <p>All households who do not qualify for Bands A, B or C are awarded Band D.</p>
<p>Issue</p>	<p>Applications to the Housing Register have increased monthly since the launch of Choose ‘n’ Move in 2009 when there were 8039 applications to the current level which is in excess of 18,000.</p> <p>Applications to the Housing Register are reviewed regularly and those people who no longer want housing</p>

<sup>3</sup> Housing Allocations Policy - proposed changes to tackle overcrowding and under occupation approved by Cabinet on 6 July 2010.

## Appendix C

	<p>in Kirklees or who do not respond to the review are removed from it, so this figure is a fairly accurate indicator of current demand in Kirklees.</p> <p>The growth in applications to the Housing Register with no restriction on who can apply may give unrealistic expectations to those people who wish to live within Kirklees and perceive the acceptance of their application as confirmation that they will at some point be offered a tenancy.</p>
<p><b>Reason for change</b></p>	<p>The Localism Act 2011 gives local authorities greater freedom to set their own policies about who should qualify to go on the waiting list for social housing in their area. This means that they are now able, if they wish, to prevent people who have no need of social housing from joining the waiting list.</p> <p>Authorities are still obliged to ensure that social homes go to the most vulnerable in society and those who need it most.</p> <p>Previously almost anyone could apply to live in social housing, whether they need it or not. As social housing is in great demand and priority is rightly given to those most in need, many applicants have no realistic prospect of ever receiving a social home. The previous arrangements encouraged false expectations and large waiting lists.</p> <p>We may choose to allow only certain groups of people who need social housing to join the register. For example, people who live or work in Kirklees and have a clear need for social housing because they can't make other arrangements to meet their housing need. This change could potentially help us manage our housing register to better meet the needs of local communities.</p>
<p><b>Evidence for change.</b></p>	<p>The consultation on social housing changes within Kirklees began in April 2012 and continued until the end of July.</p> <p>On access to the Housing Register consultees were asked:  How far do you agree or disagree that...</p> <ul style="list-style-type: none"> <li>...anyone (regardless of where they live) should be able to apply for social housing in Kirklees</li> <li>...only those with a local connection to Kirklees (e.g. family, work) should be able to apply</li> <li>...people who have broken certain rules (e.g. owing money for rent or repairs, anti-social behaviour) should be excluded from being able to apply</li> </ul> <p>There were 133 responses to this question. The majority of respondents felt there should be some sort of restriction as to who can apply to the housing register, with more support given to excluding people from the register who have a history of anti social behaviour. 75% of on line respondents and 65% of stakeholder</p>

Appendix C

	<p>event attendees agreed that people who have broken certain rules should be excluded from applying.</p> <p><i>“I agree that tenants who have caused problems for others on their estates through anti social behaviour should be excluded”</i></p> <p>There were a number of references to the importance of a review process to consider improved behaviour and changing circumstances.</p> <p>Overall, more people thought that only applicants with a local connection to Kirklees should be able to apply, rather than anyone regardless of where they live. This was also the view of the Scrutiny Panel.</p> <p><i>“In order to create sustainable communities, only those with a local connection should be able to access council housing”</i></p> <p><i>“Limited supply of social housing should be directed to those who have a local connection”</i></p> <p>There was some concern expressed, particularly at KNH Strategy Committee, that excluding people from applying to the housing register would “mask” the true picture of housing demand, and may lead to a false impression that there is a diminished need for social housing. A better approach was seen to be in the prioritising of applicants - use a rationing process, for example give less priority for people with a record of anti social behaviour, or no local connection.</p>
<p>Recommendation</p>	<p>Retain an “open access” Housing Register and introduce Band E for specific groups e.g. owner occupiers, people with housing debt, no local connection, history of ASB.</p> <hr/> <p>The existing Bands A-D would remain and a fifth band (E) would be added.</p> <p>Band E would include:</p> <ul style="list-style-type: none"> <li>• Applications from owner occupiers who have resources available to them to secure accommodation.</li> <li>• Applications from people who don’t have a local connection to Kirklees</li> <li>• Applications from people who have existing housing debt</li> <li>• Applications from people who have a history of anti social behaviour.</li> </ul> <p>The housing register application would be amended to request information about any properties owned by the applicant, local connection to Kirklees and current or previous service in the armed forces.</p>

## Appendix C

The local connection criteria would not apply to:

(a) members of the Armed Forces<sup>4</sup> and former Service personnel, where the application is made within five years of discharge.

(b) bereaved spouses and civil partners of members of the Armed Forces leaving Services Family Accommodation following the death of their spouse or partner

(c) serving or former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service

The local connection criteria would be met if the applicant had a spouse, partner, parent, grandparent, child or sibling currently living in Kirklees *or* they need to move to Kirklees to provide essential care and support.

The level of housing debt that would result in a Band E assessment would be set at an amount that takes in to account the impact of Housing Benefit changes and Universal Credit payment schedules in order to assist those customers who need to move because they are unable to afford their current property as a direct result of welfare benefit changes.

A Band E award for anti social behaviour would be evidence based and have a clear review and appeal process.

Customers in Band E would be advised that they can bid for properties but will only be considered if there are no bids from customers in Bands A to D.

Band E would not apply to customers who are accepted as statutory homeless and within one of the priority need groups *or* members of the armed services *or* existing KNH tenants who are under occupying their property *or* owner occupiers who have an assessed medical need and wish to access sheltered accommodation.

This would retain the ability to measure demand for social housing within Kirklees and give customers realistic information about the chance of them being offered a tenancy.

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<sup>4</sup> In all of the above, “armed forces” means the regular forces and the reserve forces as defined in s.374 of the Armed Forces Act 2006 and former members of both.

## Kirklees Council Housing Allocations Policy Review. Recommendation – Property Size Criteria.

Allocations															
Amend the Property Size Eligibility Criteria in line with Housing Benefit Legislation.															
Current Policy	<p>Customers must be registered on the Kirklees Housing Register before they can be considered for a council property or be nominated to a Registered Social Landlord.</p> <p>We use a banding scheme to compare the needs of customers on the housing register. Customers have their housing needs assessed and placed into one of four bands. The bands are:            Band A – Multiple Housing Need.            Band B – High Housing Need.            Band C – Low Housing Need.            Band D – Non urgent Housing Need.</p> <p>As part of the assessment of housing need we assess the optimum number of bedrooms required in relation to the Kirklees Standard. Customers are then able to bid for the size of property that they need. The table shows the minimum property size that a customer will be eligible for depending on their household size.</p> <table border="0"> <thead> <tr> <th style="text-align: left;"><b>Size of Household</b></th> <th style="text-align: left;"><b>Minimum property size</b></th> </tr> </thead> <tbody> <tr> <td>Single person</td> <td>0 – 1 bed property</td> </tr> <tr> <td>Couple</td> <td>1 bed property</td> </tr> <tr> <td>Two people (not living as a couple)</td> <td>2 bed property</td> </tr> <tr> <td>1 child family</td> <td>2 bed property</td> </tr> <tr> <td>2 child family (children same sex)</td> <td>2 bed property</td> </tr> <tr> <td>2 child family (children opposite sex)</td> <td>3 bed property</td> </tr> </tbody> </table>	<b>Size of Household</b>	<b>Minimum property size</b>	Single person	0 – 1 bed property	Couple	1 bed property	Two people (not living as a couple)	2 bed property	1 child family	2 bed property	2 child family (children same sex)	2 bed property	2 child family (children opposite sex)	3 bed property
<b>Size of Household</b>	<b>Minimum property size</b>														
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2 child family (children same sex)	2 bed property														
2 child family (children opposite sex)	3 bed property														



## Appendix D

From 1st April 2013 housing benefit for people of working age, living in the social rented sector (SRS) will change. Those found to have more bedrooms than they are entitled to under the size criteria rules (under-occupying), will have a percentage deduction applied to their eligible rent.

Claimants receiving housing benefit for social housing will have the amount they can receive restricted based on the number of bedrooms their household requires measured against the same size criteria already used in Local Housing Allowance (LHA).

LHA rules allow one bedroom for each of the following:

- a couple
- a person who is not a child (aged 16 and over)
- two children of the same sex
- two children who are under 10
- any other child, (other than a foster child or child whose main home is elsewhere).
- a carer (or group of carers) providing overnight care

Those that are considered to be under-occupying their accommodation will see a reduction in their housing benefit calculated by a reduction of:

14% of the total eligible rent for under-occupation by one bedroom; and  
25% of the total eligible rent for under-occupation by two bedrooms or more.

This change will come into force for all existing and new claimants to Housing Benefit from 1 April 2013 except claimants who are:

- over pension age
- living in a shared ownership property
- living in temporary accommodation
- living in non mainstream accommodation e.g mooring charges for house boats
- living in supported exempt accommodation

## Appendix D

<p><b>Reason for change</b></p>	<p>The current Housing Allocations Policy on size criteria is different to the Housing Benefit Regulations. This means that customers living in a KNH tenancy that is larger than HB Regulations allow for will have their HB reduced from 1st April 2012.</p> <p>This will lead to an increase in rent arrears as some households will be unable to make up the shortfall from their other income.</p> <p>New applications are being assessed within the current policy and some households are being offered tenancies that they will be unable to afford when the HB changes are implemented.</p>
<p><b>Evidence for change.</b></p>	<p>Those that are considered to be under-occupying their accommodation will see a reduction in their housing benefit calculated by a reduction of 14% of the total eligible rent for under-occupation by one bedroom; and 25% of the total eligible rent for under-occupation by two bedrooms or more.</p> <p>KNH estimate that there are 390 tenants who are under occupying by 2 or more bedrooms and 1846 who are under occupying by 1 bedroom.</p> <p>If all of those under occupying a KNH tenancy are of working age and in receipt of Housing Benefit the potential rent loss is :</p> <p>14% HB reduction on 1846 properties equates to £18,706 weekly HB loss – worst case scenario based on the current rent charges</p> <p>25% HB reduction on 390 properties equates to £7928 weekly HB loss - worst case scenario based on the current rent charges</p> <p><i>Total potential annual benefit loss (based on this year's rent) = £1,325,952</i></p> <p>Currently 73% of KNH tenants are in receipt of Housing Benefit.</p> <p>The alignment of the Councils' Housing Allocations Policy with Housing Benefit Regulations will ensure that working age households in receipt of HB will be eligible for HB that meets the size of their property and therefore reduce the potential for rent arrears.</p>

## Appendix D

	<p>New applications assessed using this criterion will bid for properties of an appropriate size.</p> <p>The Allocations Policy for social housing will match the size criteria for people renting in the private sector and reduce the perceived inequality between private and public sector accommodation.</p>
Recommendation	Amend the Property Size Eligibility Criteria in line with Housing Benefit Legislation.

## Kirklees Council Housing Allocations Policy Review Recommendation – Housing Debt, Review process, Banding.

Allocations – the following recommendations are made as a result of work that was carried out prior to the introduction of the Localism Act 2011, the Council had already started to consider revisions to the existing Allocations Policy.

- Set the level of housing debt that would result in reduced priority (Band E) at an amount that takes in to account the impact of Housing Benefit changes and Universal Credit payment schedules in order to assist those customers who need to move because they are unable to afford their current property.
- Review the level of housing debt that would result in reduced priority (Band E) annually.
- Amend the review procedure and introduce a two stage review procedure.
- Award Band B (Care & Support) for hostel/supported housing residents who meet specific criteria for move on.

### Current Policy

Housing Debt –It is the Council’s policy that offers of housing will not normally be made to any customer whose evidenced housing debt to the Council in terms of rent arrears, former tenancy arrears, leaseholder debts, re-chargeable repairs, district heating, service charges and court costs are more than £175. If upon sign up there are any outstanding debts below £175 the applicant must sign an additional clause to abide by an agreed repayment schedule until said debts are cleared.

Review procedure – The Allocations Policy includes a three stage review procedure; provision for a manager’s review; appeal to an Officer Review Panel and beyond that to Housing Appeals Panel.

## Appendix E

	<p>Customers must request reviews in writing within 21 days of receiving the Council’s decision, and the Council must review its decisions when required to do so.</p> <p>Hostel residents - The current Kirklees Council Housing Allocation Policy does not contain specific reference to people leaving hostel/supported accommodation. However, there is a draft protocol in place between Housing Options and named hostels that set out specific criteria for awarding additional preference. Children and Young Peoples Services for cases that involve the need to apply for suitable accommodation.</p>
<p><b>Issue</b></p>	<p>Housing Debt – The current figure of £175 does not reflect average rents and acts as a barrier to those tenants who wish to downsize. (see information regarding under occupation).</p> <p>Review procedure – The current Allocations Policy has a three stage review which is rarely used, causes confusion and is expensive to administer both in time and financial cost.</p> <p>Hostel residents – There is a shortage of supported/hostel places within Kirklees for people who would benefit from support in the medium term to enable develop skills that will enable them to live independently and maintain a successful tenancy.</p>
<p><b>Reason for change</b></p>	<p>Each of the recommendations have been raised as issues as part of the Allocations Policy review.</p> <p>Housing debt – The impact of changes to Housing Benefit in April 2013 and Universal Credit in October 2013.</p> <p>Review procedure – The third stage of the review is hardly ever used, is expensive and causes confusion.</p> <p>Hostel residents - The impact of a lack of priority for people who are ready to move out of supported/hostel accommodation in Kirklees creates a ‘bottle-neck’ situation that blocks bed spaces and prevents people who are prepared to move on from doing so.</p>

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<p>Evidence for change.</p>	<p>Housing debt - The level of housing debt that would result in a Band E assessment would be set at an amount that takes in to account the impact of Housing Benefit changes and Universal Credit payment schedules in order to assist those customers who need to move because they are unable to afford their current property as a direct result of welfare benefit changes.</p> <p>Review procedure - The procedure will comply with legal requirements under the Housing Act 1996, to provide customers with the means to challenge decisions, and with the need to ensure that decisions take full account of the Council's legal duties, its policies, and all relevant information.</p> <p>Hostel/supported housing - In an effort to ease congestion on emergency bed spaces we propose that hostel residents in Kirklees will be given band B (Care &amp; Support) on the Housing Register. The rating of band B (care and support) will be dependent on meeting the following requirements:</p> <ul style="list-style-type: none"> <li>◆ The resident must be ready and prepared to move on. (Should have been resident for a minimum of 6 months).</li> <li>◆ Support plans must identify that the resident has engaged with the plan, outcomes have been met, and they are now ready for independence.</li> <li>◆ A copy of the support plan must be attached to the referral form.</li> <li>◆ The resident is willing to engage with continuing floating support.</li> </ul> <p>It is expected that Hostel spaces created through this process will be filled via referrals from the Housing Options &amp; Support Service.</p>
<p>Recommendation</p>	<ul style="list-style-type: none"> <li>- Set the level of housing debt that would result in reduced priority (Band E) at an amount that takes in to account the impact of Housing Benefit changes and Universal Credit payment schedules in order to assist those customers who need to move because they are unable to afford their current property.</li> <li>- Review the level of housing debt that would result in reduced priority (Band E) annually.</li> </ul>

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	<ul style="list-style-type: none"><li>- Amend the review procedure and introduce a two stage review procedure.</li><li>- Award Band B (Care &amp; Support) for hostel/supported housing residents who meet specific criteria for move on.</li></ul>
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## Kirklees Council Housing Allocations Policy Review Recommendation - Prospective foster carers and adopters.

Prospective foster carers and adopters – Bedroom entitlement and Band award	
<p>Applications from prospective foster carers or adoptive parents (supported by Children’s Services) are awarded Band C and are able to bid for properties that are large enough to accommodate the number of children they have been approved to foster/adopt.</p>	
Current Policy	<p>The current Kirklees Council Housing Allocation Policy does not contain specific reference to prospective foster carers and adopters.</p> <p>However, there are Guiding Principles in place between Housing Options and Children and Young Peoples Services for cases that involve the need to apply for suitable accommodation. This uses a case conference approach and where necessary individual cases are discussed and a decision on band award and bedroom entitlement is taken by a Housing Options manager.</p>
Issue	<p>Customers housing need and bedroom eligibility is assessed based on their current circumstances and any possible future need for an additional bedroom is not taken in to account.</p> <p>This acts as a barrier for prospective foster carers and adopters as Children’s Services have a duty under s.22G of the Children Act 1989 “to ensure sufficient accommodation to meet the needs of the looked after children in their area.”</p>
Reason for change	<p>One of the four Kirklees Council priorities is to:</p> <p><b>Enhance life chances for young people</b></p>

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- Working in partnership to improve health and educational attainment to enable them to reach their full potential.

One of the stated outcomes is : The accommodation strategy for Looked After Children continues to find more children appropriate placements locally and reduce the number of young people in external residential placements

In June 2012 the Department for Communities and Local Government issued guidance for local authorities in England - Allocation of accommodation: guidance for local housing authorities in England.

The section regarding prospective adopters and foster carers states:

4.30 When considering housing applications from prospective foster carers or adopters who would require an extra bedroom to accommodate a foster or adoptive child, authorities will wish to weigh up the risk that the application to foster or adopt may be unsuccessful (leading to the property being under-occupied), against the wider benefits which would be realised if the placement was successful.

4.31 Children's services have a duty under s.22G of the Children Act 1989 to ensure sufficient accommodation to meet the needs of the looked after children in their area. Authorities should work together with children's services to best meet the needs of prospective and approved foster carers and adopters, so that children's services can meet their s.22G duty. One way to strike an appropriate balance would be to set aside a quota of properties each year for people who need to move to larger accommodation in order to foster or adopt a child on the recommendation of children's services.

4.32 The advice in paragraph 4.22 is particularly relevant in relation to prospective foster carers, as foster children are not taken into account in determining the household size for the purposes of the under-occupation measure in the Welfare Reform Act. However, current and prospective foster carers affected by the measure may be eligible to apply for a Discretionary Housing Payment.

Paragraph 4.22 of the guidance refers to Households affected by the under-occupation measure

4.22 When framing the rules which determine the size of property to allocate to different households and in different circumstances, housing authorities are free to set their own criteria, provided they do not result in a

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	<p>household being statutorily overcrowded. However, in setting these criteria, authorities will want to take account of the provision in the Welfare Reform Act 2012 which will reduce Housing Benefit to under-occupiers.</p>
<p>Evidence for change.</p>	<p>The cost of placing a child with Kirklees foster carers is £295.47per week (£15,364 per annum) and for an external placement through an agency the cost is £771.74 per week (£40,130 per annum). For every child place with Kirklees foster carers the authority would save a potential £476.30 per week (£24,767 per annum).</p> <p>Children and Young People Services have a target to recruit fifty foster carers this year and the current policy creates a barrier for social housing tenants who do not have the required number of bedrooms.</p> <p>This recommendation is made because it will support the Council in its stated objective to increase the number of children who are fostered / adopted within Kirklees, and reduce more costly out of area placements.</p> <p>A survey of other local authorities shows that some have already changed their Allocation Policy to allow for additional bedrooms and award higher priority (Band C or equivalent) and others are in the process of reviewing their policy with a view to doing the same.</p>
<p>Recommendation</p>	<p>Applications from prospective foster carers or adoptive parents (supported by Children’s Services) are awarded Band C and are able to bid for properties that are large enough to accommodate the number of children they have been approved to foster/adopt.</p> <p>Band C and a bedroom entitlement that reflects the number of children they have been approved to foster or adopt would:</p> <ul style="list-style-type: none"> <li>➤ Assist Children and Young Peoples Services in the duty “to ensure sufficient accommodation to meet the needs of the looked after children in their area.”</li> <li>➤ Remove the barrier of insufficient bedrooms that prevents the approval prospective foster carers and adopters within Kirklees.</li> </ul>

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- Reduce the need to place children through external agencies.
- Reduce the cost of foster care placements.
- Remove the need for a case by case approach to prospective foster carers.

Foster children are not taken into account in determining the household size for the purposes of the under-occupation measure in the Welfare Reform Act 2012. However, the allowance paid to foster carers who have a child/ren placed with them contains an element for accommodation costs which would enable them to make up any shortfall in Housing Benefit. When a foster care does not have a child/ren placed with them they would be able to apply for Discretionary Housing Payment.

A foster carer may decide not to continue to foster and be accommodated in a property that is too large for their needs. Regular review of the application to foster would be built in to the policy and when the application fails or is withdrawn a review of the housing application will be carried out and the band award amended.

We need to work with Children and Young People Services to agree when in the assessment process prospective foster carer and adopters would be supported in their housing application.

## Kirklees Council Housing Allocations Policy Review Recommendation – Succession of a tenancy.

### Succession of a tenancy

The one statutory right of succession to a secure tenancy is extended when at the time of the tenant's death the dwelling-house is not occupied by a spouse or civil partner of the tenant as his or her only or principal home and an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy.

Where there is no surviving spouse or partner and another person has lived with the tenant as their sole or principal home they would succeed to the tenancy if:

- They have lived at the property as their sole or principle home for a minimum of 1 year prior to the tenants death *and*
- The property does not provide specialist services (such as being fully adapted for a wheelchair user) *and*
- The accommodation meets their housing needs, in accordance with the Allocations Policy.

If the conditions are not met and the successor has lived continuously in the property as their principle home for a minimum of 1 year before the death of the tenant

*and*

- They are a close relative of the tenant, or someone who had to live with the tenant in order to provide them with care, without which the tenant could not have maintained their tenancy

*and*

- They would qualify for a property to under the council's Allocations Policy

They will be awarded Band B and supported to bid for suitable properties. If they have not bid for suitable properties within 16 weeks bids will be placed on their behalf. If they refuse three offers of suitable accommodation the Council will seek possession of the property they occupy on the grounds that suitable alternative accommodation is available to them which it would be reasonable for them to occupy.

### Current Policy

The current Kirklees Council Housing Allocations Policy states that if a person who is a secure tenant dies their tenancy can currently be transferred to their spouse, partner or another member of the tenant's family providing they have lived with the tenant throughout the period of 12 months immediately before the tenant's death.

#### *4.12 Succession<sup>5</sup>*

*Where a joint tenancy is created and one party dies, the survivor automatically becomes the sole tenant.*

*A person is qualified to succeed the tenant under a secure tenancy if he/she occupies the property as his/her only or main home at the time of the tenant's death and either:*

- he/she is the tenant's spouse, (regardless of how long he/she has lived there)*

*or*

- he/she is another member of the tenant's family (including co-habitee) and has lived with the tenant throughout the period of 12 months ending with the tenant's death.*

*There can only be one successor, joint successions are not allowed.*

In addition to the statutory right of succession the policy also allows for non statutory succession when a first successor dies.

#### *4.13 Non Statutory Succession<sup>6</sup>*

*Where a first successor dies, that tenancy ceases to be a secure tenancy. The Council has made provision for a non statutory succession in appropriate cases. Where a person is another member of the deceased tenant's family (including partner) and has lived with the tenant throughout the period of 12 months ending*

<sup>5</sup> Housing Act 1985 (Section 87 to 89)

<sup>6</sup> Housing Services Committee 13<sup>th</sup> October 1992

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	<p><i>with the tenant's death. In this instance the survivor is entitled to a non statutory succession.</i></p>
<p>Issue</p>	<p>The Localism Act 2011 introduced new legislation in relation to the succession of a secure tenancy and the Housing Act 1985 was amended to reflect those changes.          From April 2012, there is one statutory right of succession to a spouse or partner. There is no statutory right of succession for other family members. This change does not affect secure tenants whose tenancy began before 1<sup>st</sup> April 2012.</p> <p>The Council can choose to offer the succession of the tenancy to another person such as a son or daughter if, when the tenant dies, they do not have a spouse or partner living with them and the rules for this type of succession are included in the tenancy agreement.</p>
<p>Reason for change</p>	<p>The current Allocations Policy does not reflect the changes introduced in legislation in April 2012.</p> <p>Advice was sought from Counsel on a Right To Buy Appeal issue and the response included the following statement on the current policy of allowing second succession:</p> <p><i>“Rather, what it is saying is that a local authority may, by its allocations policy, allow an allocation of housing to a non-family member who may have lived at the property immediately prior to the deceased tenant's death (as is in fact recommended in the Allocation Code of Guidance [ODPM, November 2002], Para.3.10). To be clear, this would never be a true succession, such that the deceased's tenancy vests immediately upon death in the non-family member. It would only ever be a <u>quasi-succession</u>, which would require the original tenancy to be ended and a new tenancy to be granted to the deserving applicant.</i></p> <p>1. <i>This leads me to the answer to a further question I am asked, namely whether the council's "current policy allowing second successions in certain circumstances is lawful". I would say for the above reasons that it is not. The Council may create "quasi-successions" de facto, but these should be:</i></p> <ul style="list-style-type: none"> <li><i>(a) new tenancies, not a succession to the original tenancy;</i></li> <li><i>(b) consistent with the council's allocations policy (in line with the above-cited Government Guidance).”</i></li> </ul>

<p>Evidence for change.</p>	<p>The current policy allowing second succession in certain circumstances is unlawful.</p> <p>The consultation on social housing changes within Kirklees began in April 2012 and continued until the end of July. There was clear support here for the option of one statutory succession should be limited to a spouse or partner as detailed in the Localism Act 2011.</p> <p>The following question was included in the consultation:  <b>5.3 Question 3 – Succession</b>          Thinking about when a tenant dies how far do you agree / disagree that;</p> <ul style="list-style-type: none"> <li>➤ the one statutory succession of tenancy should be limited to a spouse or partner only</li> <li>➤ the one statutory succession of tenancy should include another family member if the tenant does not have a spouse or partner living with them</li> <li>➤ more than one successive tenancy should then be allowed depending on the circumstances</li> </ul> <p>People responding to this question on line agreed (strongly or tended to ) that the one statutory succession should be limited to spouse or partner only, (66%) with a slightly higher number of people at the drop in events supporting the option to include another family member (69%) if there was no spouse or partner. This view was generally supported by the Scrutiny Panel, but added that decision should be based on individual arrangements, merits and needs.</p> <p>Extending the right of statutory succession to another person when at the time of the tenants death the dwelling house is not occupied by a spouse or civil partner would:</p> <ul style="list-style-type: none"> <li>➤ Ensure that the allocations policy on statutory succession is lawful.</li> <li>➤ Provide support for other resident adults to access appropriate alternative accommodation</li> <li>➤ Release a larger or adapted properties for households on the housing register</li> <li>➤ Avoid the need for the Council to seek possession of the property</li> <li>➤ Avoid the need for the remaining occupier to have to make a homeless application.</li> </ul> <p>For the purpose of the Housing Allocations Policy “close relative” means parent, child, sibling or grandchild of the tenant.</p>
<p>Recommendation</p>	<p>The one statutory right of succession to a secure tenancy is extended when at the time of the tenant’s death the dwelling-house is not occupied by a spouse or civil partner of the tenant</p>

as his or her only or principal home and an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy. Where there is no surviving spouse or partner and another person has lived with the tenant as their sole or principal home they would succeed to the tenancy if:

- They have lived at the property as their sole or principle home for a minimum of 1 year prior to the tenants death *and*
- The property does not provide specialist services (such as being fully adapted for a wheelchair user) *and*
- The accommodation meets their housing needs, in accordance with the Allocations Policy.

If the conditions are not met and the successor has lived continuously in the property as their principle home for a minimum of 1 year before the death of the tenant

*and*

- They are a close relative of the tenant, or someone who had to live with the tenant in order to provide them with care, without which the tenant could not have maintained their tenancy

*and*

- They would qualify for a property to under the council's Allocations Policy

They will be awarded Band B and supported to bid for suitable properties. If they have not bid for suitable properties within 16 weeks bids will be placed on their behalf. If they refuse three offers of suitable accommodation the Council will seek possession of the property they occupy on the grounds that suitable alternative accommodation is available to them which it would be reasonable for them to occupy.

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	<p>This recommendation is made because the Council needs to ensure that the allocations policy on statutory succession is lawful. It also provides support for other resident individuals to seek appropriate accommodation and allows for the long term needs of, for example, carers to be considered.</p>

## Kirklees Council Housing Allocations Policy Review Recommendation – Discharge of Homeless Duty in to the private rented sector.

### Accommodation for Homeless households

- House some homeless households in privately rented accommodation when a suitable property is available *and* in accordance with Statutory Instrument SI2012/2061, all safeguards are met.

#### Current Policy

Our aim is to prevent homelessness, by offering advice and assistance to households experiencing housing problems. Advice is tailored to individual needs to assist them in making informed choices and to meet the Council's legal duty to ensure that advice on homelessness and its prevention is freely available.

Where this is not possible we have a duty to secure that accommodation is available for homeless households who are in priority need and who are not intentionally homeless. If temporary accommodation is offered it will be what is available and suitable at the time it is needed. Consideration will be given so that, where possible, the accommodation meets the household's personal as well as physical needs.

Local Authorities have a duty to provide permanent accommodation to certain classes of homeless households. That is; to those households found to be eligible to apply; belonging to one of the priority need groups; and unintentionally homeless.

Households who are unintentionally homeless who are in priority need are awarded Band B and are able to bid for properties through choose 'n' move. We occasionally use private rented property for homeless households, but only where the customer agrees

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<b>Issue</b>	<p>Homeless households are usually offered a social housing tenancy, for either a council or Registered Provider property. This places additional pressures of the number of properties we have available and increases the number of people waiting for suitable homes.</p> <p>Applications to the Housing Register have increased monthly since the launch of Choose 'n' Move in 2009 when there were 8039 applications to the current figure of 18,125 ( 8th August 2012). Applications to the Housing Register are reviewed regularly and those people who no longer want housing in Kirklees or who do not respond to the review are removed from it so this figure is a fairly accurate indicator of current demand in Kirklees.</p> <p>The lack of available social housing in some areas of Kirklees restricts the choice of homeless households and can result in the need for children to change schools, removal/distance from existing support networks, need to find alternative GP and dental services, in some cases affect customers' ability to maintain employment. All of which can impact on the health and wellbeing of individuals.</p>
<b>Reason for change</b>	<p>The Localism Act 2011 gives local authorities powers to discharge their homeless duty in to the private rented sector. This means we can house homeless households in private rented properties without the customer's agreement.</p> <p>There are safeguards for homeless applicants contained within the Act including:</p> <ul style="list-style-type: none"><li>▪ The tenancy must be for a minimum of 12 months.</li><li>▪ The property must meet minimum standards, and be suitable for the households needs.</li><li>▪ If the household becomes homeless through no fault of their own within a two year period of the date of homeless acceptance the Council will have a 'reapplication duty' to the household whether they are in priority need or not at that stage. The reapplication duty will only apply once.</li><li>▪ The duty to provide interim accommodation remains unchanged.</li></ul>

Evidence for change.

The consultation on social housing changes within Kirklees began in April 2012 and continued until the end of July. There was clear support here for the option of using private rented property for homeless households. It is important to note however that people felt the importance of suitability was crucial – the joint workshop session with members of Kirklees Homeless Forum and Kirklees Supported Housing Group said they would want details and assurances as to what constituted “suitability” in order to fully support this option.

However, people identified that in certain circumstances, good quality private rented accommodation was a suitable option to meeting need; *“private rented accommodation would widen the choice for homeless households”*

The average cost of three bedroom temporary accommodation is £205 per week which makes it unaffordable for some working homeless households. If temporary accommodation is included within Universal Credit it will be unaffordable for some families who claim benefit. Local Housing Allowance rates within Kirklees for a three bedroom property are £114.23 per week. Private rented properties are available within this price range in some areas of Kirklees where there is high demand/ lack of social housing e.g. Lindley.

On average homeless families spend 7- 8 weeks in temporary accommodation causing disruption to school, family life and delaying the move in to settled stable accommodation.

We could house people into suitable homes quicker and reduce the pressures on the housing register and families.

Homeless households would spend less time in temporary accommodation and in some cases would not require temporary accommodation at all which would reduce costs.

More privately rented homes would be occupied, improving local communities and helping to develop mixed, sustainable, cohesive and resilient neighbourhoods.

Using private sector properties would widen the choice of areas for homeless households.

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	<p>In areas of high demand for social housing the use of private sector accommodation would enable children to remain in school, allow families to remain within the community and reduce the impact on health and wellbeing.</p> <p>Work with private landlords is ongoing and links to the Letshelpyou website are encouraging more private landlords to work with the Council.</p>
<p>Recommendation</p>	<ul style="list-style-type: none"> <li>• House <u>some</u> homeless households in privately rented accommodation when a suitable property is available <i>and</i> in accordance with Statutory Instrument SI2012/2061, all safeguards are met.</li> </ul>
	<p>The use of private rented accommodation would be considered as an option from the first customer contact and included in the advice and information that is provided to customers.</p> <p>Customers would be referred for private rented accommodation at the earliest opportunity and supported and encouraged to consider appropriate, affordable accommodation.</p> <p>Consideration of the needs of the household and the suitability of private rented accommodation would always be considered before any decision on the use of private rented accommodation is made.</p> <p>They would remain on the Housing Register and be able to bid for properties through Choose 'n' Move until they either accepted a social housing or private rented sector tenancy.</p> <p>Homeless households would continue to receive support for the length of the tenancy and be referred to other support providers where appropriate.</p> <p>Existing homelessness legislation and statutory guidance puts in place a range of protections to ensure the "suitability" of accommodation used to end the main homelessness duty for homeless households. In considering 'suitability' authorities must, by law, consider whether a specific property is suitable for the</p>

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applicant and their household's particular individual needs. This includes considering whether the accommodation is affordable for the applicant, its size, its condition, its accessibility and also its location.

Private rented properties used to house homeless households will be for a minimum of 12 months and work would continue to negotiate longer terms.

This recommendation is made because in certain circumstances, it is recognised that good quality private rented accommodation is a suitable option to meeting peoples' housing need, and would widen the choice for homeless households.

## Kirklees Council Housing Allocations Policy Review Recommendation – Successful Communities Policy (Age Designation).

### Successful Communities Policy (Age Designation).

An open age policy is adopted on all flats and bungalows and a time limited “Successful Communities Policy” is used in new developments where there is a need for additional management of lettings to ensure the development of cohesive, mixed, sustainable and resilient communities and neighbourhoods

or

Where there have been lifestyle/ anti social behaviour issues that have significantly affected local residents and there is a need to be sensitive about the lifestyle balance between existing and new tenants.

#### Current Policy

A report to Cabinet on 1st September 2010 changed the single age designation for Council flats and bungalows from either being designated for customers aged 60 or over or for general letting to any age of customer to the current policy which is:

That flats and bungalows be designated for either customers aged under 45 years of age or for customers aged 45 and above.

Flats and bungalows are advertised through Choose’n’Move as follows:

- Flats and bungalows designated for customers aged 45 and over – bids are accepted from customers aged 45 and over but the advertisements state that preference will be given to people with an assessed medical need and people aged 60 and over. If there are no applicants 60 and over, or in medical need, then lettings will be made (based on greatest need) to applicants aged 45 to 59.
- Flats and bungalows designated for customers under 45 – bids are accepted from any age of customer but the advertisements state that those customers under 45 will be given preference. If

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	<p>there are no bids from applicants under 45, over 45s (based on greatest need) could be offered the property.</p> <p>Properties in the Council’s sheltered housing schemes are currently outside the scope of the age designation policy.</p>
<p><b>Issue</b></p>	<p>Where a property is advertised for customers aged 45 and above, preference is given to those customers aged 60 and above before those aged between 45 and 59. Properties advertised for customers aged under 45 years of age are not available to customers aged between 45 and 59. This leads to this age group being disadvantaged as they prevented from bidding on some properties and will always be below customers aged 60 and over on other property shortlists.</p> <p>The age designation issue is also being considered within the wider Equality Impact Assessment because of the way the current policy appears to disadvantage those customers aged 45 to 59.</p> <p>In some areas existing tenants fear lifestyle clashes and have requested that the previous policy of some properties having an age designation of 60+ is reinstated.</p> <p>There have been a number of incidents involving lifestyle clashes and anti social behaviour since the change in policy and these have been dealt with at a local level by Kirklees Neighbourhood Housing (KNH).</p>
<p><b>Reason for change</b></p>	<p>In June 2012 the Housing Register had 17,779 applications and 68.3% of those were from customers aged under 45, 17.4% aged between 45 and 59 and 14.3% from customers aged over 60.</p> <p>The Council has legal duties to respond to housing need in its area, to frame its allocations policies to give reasonable preference to those with greater housing need and to meet its homelessness duties. The effect of the current age designations does not demonstrate that the Council is responding to these duties, given the overall mismatch between the demand from customers aged 45 – 59 and availability.</p> <p>The consultation has shown that there is a clear acknowledgement of “clash of lifestyle” issues, which can result in tensions between different groups of people. There is support for the need to better address these issues.</p>

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	<p>The need to develop time limited “Successful Communities Policies” in areas/properties that need additional management in order to develop mixed, sustainable, cohesive and resilient neighbourhoods and prevent the development of pockets of “problem properties”.</p>
<p>Evidence for change.</p>	<p>A survey of other local authorities shows that a number who have age designated properties are being challenged under Equalities legislation.</p> <p>Of those that replied to the question about age designation only one local authority has an age designation policy and they have ‘Exceptions’ criteria for age designated properties – this is for any applicant that feels a particular property type would be beneficial to them based on their individual circumstances.</p> <p>It is recognised that the current (age designation) policy discriminates against people who are in the 45 to 59 age bracket.</p> <p>There is also a mismatch between the availability of flats and bungalows, and all age groups of applicants; People under 45 are the largest group of housing applicants but are competing for a disproportionately smaller number of properties</p> <p>An open age policy on all properties (sheltered housing schemes would remain outside this policy) would:</p> <ul style="list-style-type: none"><li>➤ Open up the housing opportunities to all age ranges on the Housing Register. This would over time help the development of mixed, sustainable, cohesive and resilient neighbourhoods.</li><li>➤ Reduce the risk of challenge under Equalities Legislation.</li><li>➤ Enable local management of issues.</li><li>➤ Increase customer choice in relation to property type.</li><li>➤ Reduce concerns from existing tenants and residents regarding age/lifestyle differences by applying the principles of the Successful Communities Policy to address these issues.</li><li>➤ Reduce the need to readvertise and reduce void costs.</li><li>➤ Link the Housing Allocations Policy to the Sustainable Communities Policy</li></ul>

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Recommendation	<p>An open age policy is adopted on all flats and bungalows and a time limited “Successful Communities Policy” is used in <u>new</u> developments where there is a need for additional management of lettings to ensure the development of cohesive, mixed, sustainable and resilient communities and neighbourhoods</p> <p><u>or</u></p> <p>Where there have been lifestyle/ anti social behaviour issues that have significantly affected local residents and there is a need to be sensitive about the lifestyle balance between existing and new tenants.</p>
	<p>The Successful Communities Policy will be amended to suit specific issues, implemented and reviewed after an agreed period of time..</p> <p>The Successful Communities Policy will support the Council’s overarching aims for a safe, healthy and supportive place to live, as set out in the Sustainable Communities Policy.</p> <p>There would be no change for customers with assessed medical needs.</p>

## Kirklees Council Housing Allocations Policy Review Recommendation – Tenancy Changes

<b>Flexible Tenancies</b>	
Not to introduce flexible tenancies	
<b>Current Policy</b>	<p>Following the introduction of the Introductory Tenancy Scheme in 2008, all new tenancies are introductory tenancies except those granted to secure tenants. Introductory Tenancies last for a period of 12 months and are then automatically converted into a secure tenancy provided that the tenancy agreement has not been breached.</p> <p>Introductory tenants have similar but not the same statutory rights as secure tenants. A combined introductory/secure tenancy agreement is issued to all new tenants. This clearly sets out the conditions that apply to both introductory and secure tenants and the date on which the introductory tenant will become secure, subject to any extension to the introductory period being sought.</p>
<b>Issue</b>	<p>Demand for Social Housing is increasing whilst supply is diminishing, but not at the same rate as in some of the southern authorities where flexible tenancies are being introduced more widely.</p> <p>We need to consider whether in Kirklees, we want to retain current tenancy arrangements, or whether we want to make use of the new “flexible” tenancies. A flexible tenancy is for a fixed term, usually around five years and not less than two years. It is a form of secure tenancy and generally, tenants with a flexible tenancy will have the same rights as other secure tenants (as set out in Housing Act 1985), including the Right to Buy after a qualifying period, and the Right to Repair.</p> <p>The same grounds for possession will all be available and could be used during the fixed term, for example if there are rent arrears or a breach of tenancy.</p> <p>However, the tenancy agreement will determine whether tenants with a flexible tenancy have a right to improve their property; the statutory right to improve will not apply. Flexible tenants will not have a statutory right to be compensated for improvements.</p> <p>Decisions around the type of tenancies that the Council offers will inform the tenancy strategy which is to be published in 2013 and which registered providers must take account of when deciding on their own policies.</p>

Appendix J

<p>Reason for change</p>	<p>The Localism Act 2011 has given us the opportunity of introducing ‘flexible tenancies’ for new tenants. This is not mandatory and Council can choose not to introduce this new type of tenancy. Whatever decision the Council makes, existing tenancies are not affected by the changes.</p>
<p>Evidence</p>	<p>Introducing a change to the existing tenancy arrangements would mean a considerable investment by the Council in terms of IT changes, updating communications, publicity and other costs. There would also be a significant impact on staffing resources in implementing the review process. There are between 2,500 and 3,000 new tenancies per year and eventually, all tenancies would become flexible and so need a review at the end of the term.</p> <p>If a 2 year flexible tenancy is introduced, there would be a minimum cost of £112,603 in the first year of reviews. This is based on the assumption that 1,500 properties are let and a further 1,000 transfers occur. In year 4, and then each subsequent year, the cost would double as the original properties let and reviewed would need to be reviewed again. This would potentially continue until all housing stock eventually became flexible tenancies.</p> <p>If a 5 year flexible tenancy is introduced. There would be a longer delay in administering the first reviews and then costs would be the same each year until year 10 when they would start to double the amount each year.</p> <p>In addition to these costs, there would also be a cost of £15,000 to change the contracts and publicise these changes, and make the required IT changes.</p> <p>There would also be an increase in Court requests for eviction and therefore increased costs, reputational damage to the Council and the statutory requirement to re – house some of the people evicted.</p> <p>Consultation feedback shows that opinions are split almost equally. The main reasons people felt that flexible tenancies <i>shouldn't</i> be introduced were because of concerns that communities would become unsettled, transient and de stabilised, leading to a loss of community cohesion. People thought that tenants are more likely to look after and invest in their homes and neighbourhoods, if it is “for life” rather than for a fixed term.</p>

Appendix J

	<p>When asked if tenancies should be offered as they are now, 44% strongly agreed or agreed, 15% neither agreed nor disagreed and 41% disagreed or disagreed strongly.</p> <p>When asked if we should introduce flexible tenancies for all new tenants in Kirklees or just some groups for example if the property has had major adaptations; 55% agreed or strongly agreed for all new tenants, 13% neither agreed nor disagreed and 31% disagreed or strongly agreed. Some people felt flexible tenancies, should be across the board, while others thought that for older people (over 60), or disabled people, tenancies should continue to be for life.</p> <p>People also commented that there isn't a "one size fits all" – the approach can change according to need, for example where an older person is living alone in a family sized property.</p> <p>Flexible tenancies could leave the Council open to legal challenge.</p> <p>For the majority of tenants in Kirklees, their circumstances are unlikely to change to the extent that at review, the tenancy is brought to an end. For those people who are affected for example by the welfare reforms, help and support is available. Other recommendations within this report address issues of community cohesion and practical assistance and support, for people to move out of properties that are no longer suitable for their needs.</p>
<p>Recommendation</p>	<p>Not to introduce flexible tenancies.</p>
<p>This recommendation is made because there are concerns that flexible tenancies could leave the Council open to legal challenge if we did not renew the tenancy.</p> <p>There is a significant cost implication to introducing flexible tenancies. These include the cost of reviews, increased costs due to a higher turnover of properties and costs of making the required changes to the Council's computer systems.</p>	

## **KIRKLEES DRAFT STRATEGIC TENANCY POLICY**

### **Section One: Background and overview**

#### ***Introduction***

Under the Localism Act 2011, all local authorities have a duty to produce a tenancy strategy, setting out the objectives to be taken into consideration by individual registered housing providers as they make decisions about their own tenancy policies. These strategies must explain the local authority's responses to the changes to affordable housing tenures introduced in the Act.

This strategy is Kirklees Council's response to that duty. It sets out how the Council would like registered providers with affordable housing stock in the district to respond to the relevant changes introduced by the Localism Act. The changes that this strategy covers are:

- The use of fixed term tenancies
- The potential to make changes to the Housing Register and allocations criteria for affordable housing
- Changes to the way we use the private rented sector to house homeless people.

All of these changes are explained in more detail below.

It is important to note that registered providers need only 'have regard to' the Council's tenancy strategy in developing their own tenancy policies. In addition, they have already signed their contracts with the Homes and Communities Agency over the development of the new affordable rent product for the delivery of affordable housing until 2015, which means they will already have plans in place. However, the Council ask that registered providers in Kirklees to review their own tenancy policies after the publication of this strategy to ensure that, wherever possible, their policies work to complement and do not contradict our strategy.

This strategy sits below the Kirklees Housing Commissioning Strategy and works to ensure that the changes in the Localism Act do not hinder the Council's progress in meeting the priorities set out within it. It works in conjunction with the Council's Homelessness Strategy to prevent homelessness in the district. It also has links to the Council's Housing Allocations Policy, which defines the process for allocating affordable housing in the district.

This strategy fulfils the Council's duty to publish a strategy that set outs the matters that registered providers of affordable housing in the district must have regard to when they develop policies relating to:

- The kinds of tenancies they should grant
- The circumstances in which they will grant a tenancy of a particular kind

## Appendix K

- Where they grant tenancies for set terms, the length that those terms will be
- The circumstances in which they will grant a further tenancy on the ending of the existing tenancy

This strategy goes further and outlines the Council's position on:

- The application of the affordable rent tenure
- Discharging the homelessness duty into the private rented sector
- The opportunity to make changes to the criteria for acceptance onto our housing register

The Council set up an advisory group, consisting of representatives from a variety of council departments and external partners, to develop its response to the Localism Act and this strategy. This has ensured a range of views from different perspectives to ensure that a strategy is developed that best meets the needs of Kirklees residents.

### *Consultation*

The principles of this strategy have been developed in consultation with the public, Kirklees Federation of Tenants and Residents Association (KFTRA), Elected Members, the advisory group, Registered Provider Partners, Kirklees Neighbourhood Housing and other Council colleagues.

### *Evidence*

The evidence base containing data that informed this policy is attached at Appendix 1.

## Section Two: The Policy

The Council has considered the results of the consultation and the data within this document to consider the new powers and determine if they are appropriate for Kirklees Council and its residents.

### *Flexible Tenancies*

It is recommended that flexible tenancies **are not** introduced and the Council retains its current lifetime tenancies, following a successful introductory tenancy.

The reasons for this approach are:

- Flexible tenancies will have significant financial and resource implications, which would be difficult to meet in the current climate.
- Concerns have been expressed over possible legal challenge,
- risks to community cohesion and stability
- the Council already has mechanisms in place to deal with the best use of adapted properties, and enabling people to move from under occupied properties.

## Appendix K

### *Homelessness Duty*

It is recommended that where suitable private rented sector property is identified for the applicant, and where all safeguards are met, this offer is made and the Council's homelessness duty discharged. This change is intended to respond to the shortage in social housing while also reducing the substantial costs that can arise from accommodating households in temporary accommodation.

### *Succession of a tenancy*

It is recommended that one statutory right of succession to a secure tenancy is extended when, at the time of the tenant's death, the property is not occupied by a spouse or civil partner of the tenant as his or her only or principal home **and** an express term of the tenancy makes provision for a person other than such a spouse or civil partner of the tenant to succeed to the tenancy.

Where there is no surviving spouse or partner and another person has lived with the tenant as their sole or principal home they would succeed to the tenancy if certain qualifying conditions are met.

### *Monitoring of the strategy*

The strategy will be a live document that will develop over time, informed by the partnership working with RP's and others. The housing market, housing need and demand for properties are likely to change further as a result of welfare reforms and changes to the economy.

It is expected that further changes to the strategy will be needed in the coming months and years. The Strategy will be monitored annually through Kirklees Housing Executive Commissioning Group to reflect changes in local housing priority, legislation and strategic goals. Monitoring will need to consider two main areas:

- The effectiveness and extent to which the new measures are implemented. This will include measuring the number of fixed term tenancies issued, the number of affordable rent properties, changes to allocations processes and homelessness placements in the private sector.
- It will also need to consider changing market conditions and their likely impact on the demand for service provision. It will therefore also monitor:
  - Housing need
  - Homelessness approaches, preventions and acceptances
  - Number of new homes built and in which tenure(s)
  - Rent levels across all tenures
  - Changing trends in welfare benefits, particularly housing benefit
  - Affordability.

## Appendix K

Monitoring these activities will inform future changes to the strategy and enable the Council's service response to remain appropriate and relevant to changing circumstances.

### ***Registered Providers***

Section two of this document sets out the Council's proposed approach to flexible tenancies, i.e., for future Council tenancies. This section focuses on Registered Providers (normally housing associations). They are required to have "due regard" to the Council's proposed approach and consider how they intend to take it into account in the operation of their own tenancy regime.

The Council needs to work closely with Registered Providers to:

- Help the Council develop its overall approach
- Take account of the final policies set out in the adopted document, and,
- Assist the Council in delivering the new approach.

In regard to a flexible approach to tenancies, Registered Providers have had the freedoms and flexibilities for many years that the Council has not had access to. For example, Registered Providers have been able to issue Assured Shorthold Tenancies (ASTs) since the 1988 Housing Act which have been particularly useful for their intermediate housing sub-market rented products.

Registered Providers own and manage approximately 5,000 homes in the borough. They are therefore an important partner with the Council in meeting its affordable housing objectives. They have a strong record of delivering a wide range of products ranging from delivering supported housing for vulnerable groups; social housing at target rents; affordable low cost home ownership and sub-market intermediate rents. In the near future, the Council expects Registered Providers to be delivering a new kind of affordable housing – Affordable rent - which will be let at rents at up to 80% of market levels. This will include up to 50% of Registered Provider' re-let homes, e.g., existing homes that become empty and available to let for new households. In effect, the rents charged would convert from 'target' social rents to "affordable rents".

The Council expects Registered Providers to change their tenancy policies to reflect the objectives set out in the final Tenancy Strategy, as set out in Section XX of this document. Many Registered Providers operate in a number of boroughs and may be under some pressure to adopt different approaches, to reflect differing issues. The Council believes that Registered Providers can adopt a flexible approach which accommodates the local priorities set out in this Tenancy Strategy.

### ***Registered Providers and Flexible Tenancies***

If a Registered provider wishes to use or offer flexible tenancies within Kirklees the Council is willing to discuss with that provider the reason for the use of flexible tenancies as it can see the benefit of the use of such tenancies in certain circumstances.

If a registered provider wishes to use flexible tenancies the preference will be for a minimum term of 5 years, with discretion for Registered Providers to let for shorter or longer periods where this is appropriate to the circumstances of the household or property.

## Appendix K

### *The circumstances in which a Registered Provider will grant a further tenancy on the coming to an end of the existing tenancy*

It is expected that the tenant's needs will be sensitively dealt with, and that the criteria for renewals may include:

Fixed term tenancies expiring will not usually be renewed where:

- The household is under-occupying the property (an alternative tenancy may be offered) subject to alternative accommodation being available.
- The household's circumstances enable them to access market housing AND there is no reason to seek to retain the household in the locality for purposes of community balance
- A member of the household, or their invited guests, is engaged in anti-social activities within the locality of the home and/or that has a detrimental effect upon the community in which the household is placed. Anti-social behaviour is conduct causing or likely to cause nuisance or annoyance, harassment, alarm or distress, to any other person and can include criminal acts.
- Property was adapted during the tenancy period for someone with a disability only for that person to no longer be resident there
- Where a person has been granted a property in order to receive support but then refuses to accept that support
- Where there is evidence of a breach of tenancy agreement has occurred for example property neglect or rent arrears.
- Where it is identified the property is inappropriate for an individual's needs, i.e. they are not coping in the property or they need more support than is currently being provided.

Fixed term tenancies expiring **will** usually be renewed where:

- The household includes children of school age. However, we may need to recognise that children stay with their parents well beyond school age for valid reasons, and these will be considered on an individual basis.
- The household includes a disabled person with adaptations to the home. (This allows the property to be released for someone who will benefit from the adaptations).
- The household receives some form of housing related support
- Where the household still requires the size of property
- The household continues to require access market housing
- Where the household is playing an active role in the community
- The household has children attending a local school
- Households where the applicant or household member is terminally ill

## Appendix K

Kirklees Council is committed to ensuring that the decision to terminate a fixed-term tenancy does not lead to increases in levels of homelessness in Kirklees. Therefore, in situations where a decision has been taken by a housing provider not to renew a tenancy at the end of a fixed-term, the provider should seek to engage with the tenant at the earliest possible convenience to make them aware of the provider's intentions.

Housing providers should provide households affected by the termination of a tenancy with any relevant advice and assistance that will assist them in successfully relocating to alternative accommodation. This advice and assistance could include:

- Advice on low-cost home ownership options and other alternative affordable housing tenures
- Specialist housing and/or welfare related advice and/or signposting to appropriate advice services
- Advice on renting in the private sector and assistance in identifying and securing a suitable property (this may involve assistance with a deposit where necessary)

***A summary of where registered providers' policies can be found will be attached as an appendix to this document.***