

City of York Council Housing Allocations Policy

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Section 1. Introduction and Background

1.1 Our Vision for the Service

To provide general needs housing, within the City of York Council (CYC) Local Authority Area to those with an assessed housing need, who are able to live independently, and to help create sustainable, mixed communities where people wish to live.

We will achieve this by working with applicants to provide a comprehensive housing advice service covering a whole range of housing options across the City of York Council area.

1.2 Aims and Objectives

- To meet the legal requirements for the allocation of social housing as set out in the Housing Act 1996, Homelessness Act 2002, Localism Act 2011 and the Homeless Reduction Act 2017.
- To encourage and support balanced and sustainable communities.
- To make the housing process, fair, easy to use and transparent.
- To give applicants realistic information about the availability of social housing across the City of York Local Authority area and work with them to look at all their available housing options.
- To prevent homeless and reduce placement in temporary accommodation.
- To ensure accessibility for all those in housing need, particularly the more vulnerable.

1.3 Meeting our Obligations

This policy has been developed paying due regard to the Codes of Guidance issued to Housing Authorities in England in exercising the functions under 167(A) and 167(2) of the Housing Act 1996.

City of York Council will ensure that the policy is compatible with obligations imposed by other existing legislation, in addition to Part 6 of the Housing Act 1996, as detailed below:

- The Human Rights Act 1998
- The Freedom of Information Act 2000
- Children's Act 1989
- Crime and Disorder Act 1998
- Homelessness Act 2002
- The Equality Act 2010
- Localism Act 2011
- Anti-Social Behaviour, Crime and Policing 2014
- Homeless Reduction Act 2017
- Children and Social Work Act 2017
- Data Protection Act 2018

1.4 Information Sharing, Confidentiality and Data Protection

Information provided when a person makes an application to join the City of York housing register and any information received in administering and processing an application will be treated as confidential in accordance with DPA 2018.

Information provided as part of the application process will need to be shared with other Partner Landlords and may include other agencies such as the police, probation service, social services, General Practitioners, health authorities, NHS employees, registered social, private housing landlords, other local authority departments and statutory bodies to process your housing application and assess your housing need.

Information may be shared without the applicant's specific consent in the prevention and/or detection of crime, the prevention and/or detection of fraud, in matters relating to safeguarding of an individual or others and/or any rule of common law.

1.5 Equality and Fairness

City of York Council will ensure its policies and practices are non-discriminatory and will aim to promote equal opportunity by preventing and eliminating discrimination.

The scheme will be accessible, responsive and sensitive to the diverse needs of individuals. City of York Council will take measures to ensure that people with disabilities have equal access to housing opportunities.

Section 2. Joining the Housing Register

To join City of York Housing register applicants will be required to be eligible for social housing and meet the qualification criteria set out in this policy.

2.1 Eligibility

An applicant may be ineligible for an allocation of accommodation under s.160ZA(2) or (4)) Part 6 Housing Act 1996:

- Persons from abroad may not be allocated accommodation under Part 6 if he or she is a person from abroad who is ineligible for an allocation under s.160ZA of the 1996 Act
- A person subject to immigration control is not eligible for an allocation of accommodation unless he or she comes within a class prescribed in regulations made by the Secretary of State (s.160ZA(2))
- Regulations may provide for other descriptions of persons from abroad who, although not subject to immigration control, are to be treated as ineligible for an allocation of accommodation (s.160ZA(4))
- Applicants who do not have recourse to public funds or who cannot prove they have recourse to public funds or those not habitually resident.
- Resident British citizens not habitually Resident in the UK.

Eligibility for social housing is determined by the Secretary Of State and subject to change. Applicants will need to be eligible at the time of application and at the point of any offer of accommodation. Where an applicant is found to be no longer eligible their application will be closed.

2.2 Giving False Information or Deliberately Withholding Information

Sections 171 and s214 Housing Act 1996 makes it an offence for anyone applying for housing from a housing authority to:

- Knowingly or recklessly to make a statement which is false.
- Knowingly withholds information which is relevant to their housing application.

A person found guilty under s171 is liable on summary conviction of a fine up to £5000.

Applicants who are found to have made fraudulent claims or have deliberately withheld information will have their application closed and will be disqualified from the Housing register for a maximum period of 5 years.

The housing provider may seek a possession order for a tenancy granted as a result of false statement and/or withholding information.

Applicants who have had their application closed and been disqualified will have a right of review.

A fresh application for housing may be made after any disqualification period has expired.

2.3 Deliberate Worsening of Circumstances

Whilst the policy is intended to make sure that those with urgent housing needs are housed more quickly, it does not want to reward applicants who deliberately worsen their housing circumstances in order to get into a higher band or higher priority; each case will be assessed individually.

Any applicant who deliberately worsens their circumstances will have their application closed and will not qualify to apply to join the register for a minimum of 12 months.

Applicants who have had their application closed and been disqualified will have a right of review.

A fresh application for housing may be made after any disqualification period has expired.

2.4 Joint Applications

Joint applications can be accepted, however, all applicants must be eligible and qualify for the housing register. And intend to occupy the property together as their main home.

Under s160ZA91) (b) Housing Act 1996 applicants will not be granted a joint tenancy if anyone is ineligible.

For Houses in Multiple Occupation (shared houses) individual applicants will be offered a sole tenancy of their room.

2.5 Multiple Applications

Multiple applications are not allowed, a person cannot exist on two applications. They must decide which application they wish to be on and be removed from all others.

2.6 Existing Tenants and Their Households

Existing City of York Council tenants and Registered Social Landlord tenants and their household members over 18 (excluding those in temporary accommodation) can apply to move and will have their eligibility and qualification assessed in the same way as new applicants. The income and savings criteria will not apply to existing secure housing tenants.

Where it is evidenced that an existing tenant on the CYC housing register is no longer eligible or qualifying, their application will be closed and they will be advised in writing of why they no longer qualify.

Tenants who have been accepted onto the register may not be allowed to move if their current property is suitable and has been adapted to meet their needs, unless the person in the household who required the adaptations no longer requires the adaptations or the property they are moving to also include all the adaptations they require or they have significant housing need.

Applicants from temporary accommodation, hostels and supported housing may not be allowed to move if they have current arrears in excess of 8 weeks payable rent which is not a direct result of delayed benefit payments (universal credit housing elements or housing benefit) or are in breach of their temporary accommodation/licence/tenancy conditions where court action/eviction is imminent.

Some lettings of secure tenancies are exempt from the requirements of Part 6 of the Housing Act 1996 and this allocations policy will not apply to:

- Succession on death of a tenant into current property
- Assignment by way of exchange (a mutual exchange)
- Assignment to a person who would be qualified to succeed if the tenant had died immediately before the assignment into current property
- Transfers of tenancy under the provisions of matrimonial and related domestic legislation

Extension of fixed term tenancies into current property

2.7 New Applications Following Non-qualification or Ineligibility Decision

Applicants who have previously been deemed not to be eligible and/or not to qualify to register may make a fresh application if they consider that they should now be treated as eligible or qualifying or a period disqualification has elapsed.

2.8 How to Apply

To apply for social housing in City of York Local Authority area new applicants, and existing tenants wishing to apply for a move, should visit the housing portal on City of York Council website, and apply via the housing portal.

All applicants will be assessed under eligibility and qualification criteria. Only if these criteria are met would the applicant then be registered and verification and a housing needs assessment take place.

Applicants will be required to complete a housing application, this will allow staff to process their request and confirm eligibility and qualification, assess housing need and to identify any additional support that may be required during the allocations process or to maintain a future tenancy.

2.9 Verifying Information

At the point of application **all applicants and all household members over the age of 18 and individual applicants aged 16 and 17** will be required to provide proof of identity and supporting evidence to verify eligibility and qualification for access to the housing register.

Verification will take place at the point of application or at the point of any offer of accommodation or at any period of assessment or review.

Applicants will be required to provide up to date information within a very short timescale at any point of an offer of accommodation (48 hours). Should they not be able to provide the requested information/documentation in the requested timescales, they may be bypassed for an offer of a property.

2.10 Confirming Registration

Registration will be confirmed when all verification documentation and any supporting evidence has been received, once the application has been fully assessed and has been made active, the applicant/s will receive confirmation which will include:

- Registration Date (date the application and all documentation were received).
- Housing Need band that their application has been awarded.
- Priority Band date (if this is different to registration date due to a change in initial banding).
- Confirmation of bedroom need and types of properties they are eligible for.

2.11 Change of Circumstances

Applicants will be required to advise the City of York council Housing registrations team of any change in circumstances that could affect their application. Failure to keep City of York advised of any change may result in an offer of property being withdrawn or offered to another applicant. This may result in further verification and re assessment.

2.12 Keeping the Register up to Date

It is the responsibility of applicants to update their application and notify the Housing Registrations Team of any changes. Failure to do so could result in an offer of a property being withdrawn if the application is not up to date.

All applicants will be reminded every 12 months (from date of registration) to check their application and update information.

2.13 Right of Review and General Complaints

Applicants have the right to request a review against certain decision made during the housing process these include:

- Access to the register by either eligibility or qualification
- Those who are not a qualifying person under s160A(7) Housing Act 1996
- Banding
- Property allocation
- Cancelled application

Applicants will have 21 days from the date on the decision letter to request a review

This review will be undertaken by an officer senior to the officer who made the original decision who will have 56 days to respond.

The reviewing officer will have had no prior involvement with the application.

General complaints not covered by the review process such as dissatisfaction about service standards or actions or lack of actions taken should be raised using the City of York Complaints procedure, see: www.york.gov.uk/MakeAComplaint

Section 3. Assessing Housing Need

3.1 Housing Need

When an application has been fully assessed applicants will be contacted and advised the type of property they will be eligible for. This will include property style, number of bedrooms and any restrictions or conditions that may apply such as area.

Where children have a permanent/principal home elsewhere they will not be included on the application for a second home, this includes cases of shared care.

- Where adult children reside in residential care they will not be included on an application.
- Where a carer is to be considered part of an application the care profession must provide evidence of the need for overnight/24 hour on site care.
- Where applicants wish to have their housing needs assessed taking into account health and wellbeing issues proof will be required from medical professionals working with them of the impact their current housing is having on their condition, without this health and wellbeing will not be able to be assessed
- Affordability assessments will be completed prior to a property being offered.
- Any future CYC Tenancy Strategy that requires new tenants to be given a fixed term tenancy will be subject to review and may not be extended dependant on circumstances.

Emergency Band

Emergency Band is intended to meet the needs of applicants in extreme circumstances. Those who are awarded Emergency Band may have their banding reviewed every 28 days and may be subject to auto bid or a direct let if it was determined that the applicant had not been bidding on suitable properties.

Applicants eligible for **Emergency Band** may include:

- Applicants unable to return to their home from hospital because their current home is permanently unsuitable

(cannot be adapted to meet their needs or requires major adaptations to meet their needs which are not feasible).

- Applicants who are unable permanently to access key facilities in their home where major adaptations work cannot be undertaken.
- Offender initiative. Previous social housing tenants in the CYC area who meet specific criteria (Appendix 11).
- Care leavers at point of leaving care, foster home or supported housing with an agreed trustee and support package relevant to offer and are assessed as being ready for independent living. NB. If a care leaver is homeless or in supported housing they will be housed accordingly (Appendix 20).

Gold Band

Those who are awarded Gold Band could have their banding reviewed after 56 days and may be subject to auto bid or a direct let if it was determined they have not been bidding on suitable properties.

Applicants eligible for **Gold Band** may include:

- Applicants who need to move on from approved accommodation who are eligible for and have completed a programme of resettlement (Appendix 12) - A backdate of time is added to the date of continual engagement in the resettlement process. If someone disengages and then re-engages; the backdate would be to the date of re-engagement.
- Applicants who are presently under-occupying a home owned either by City of York Council or a Registered Social landlord and are assessed as requiring a property with at least 2 fewer bedrooms than their current accommodation.
- Applicants who are overcrowded and require two or more bedrooms to relieve the overcrowding. Bedroom size will be taken into consideration (Appendix 8).

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- Applicants occupying a City of York Council or a registered social landlord bedsit (defined as one living/kitchen/sleeping area) with a child over one year old or more than one child will be deemed overcrowded lacking 2 bedrooms (Appendix 8).
- Where current accommodation is assessed as having a serious impact on or seriously compromising an applicant's health and or wellbeing and a move of property would significantly improve the applicant's health. This is not directly related to a prognosis of illness but based on the impact current accommodation is having on an applicant's health. (Appendix 16).
- Applicants who have been assessed as having a need to move to prevent proven hardship. Hardship includes for provision or receipt of care and or support, Right to Move scheme and severe financial hardship (Appendix 19).
- Applicants whose home permanently lacks basic amenities, not due to the failure of the applicant and that cannot be resolved via reasonable building works or enforcement action and whose application is supported by Housing Standards and Adaptations Team.
- Where, under the partner landlord's policy, a valid succession right exists but the property does not meet the housing need. Legal action will be taken to recover possession if 2 suitable offers are refused (secure housing clause 15A on original property or Assured ground 9).
- Applicants where a fixed term tenancy is at an end and they require alternative accommodation. Legal action will be taken to recover possession if 2 suitable offers are refused.

Applicants where the Local Authority has a duty to relieve homelessness under Homeless Reduction Act 2017 who are eligible and qualify for the register and where there is reason to believe priority need and unintentionally homeless (as defined in Housing Act 1996) (Appendix 5).

Silver Band

- Applicants presently under-occupying a home owned by either City of York Council or a registered social landlord who are assessed as requiring a property with at least 1 less bedroom than their current accommodation.
- Applicants who are overcrowded and require one more bedroom to relieve the overcrowding. Bedroom size will be taken into consideration (Appendix 8).
- Applicants occupying CYC or registered landlord bedsits (defined as one living/kitchen/sleeping area) with a child under the age of one year old (Appendix 8).
- Where current accommodation is assessed as having a detrimental impact on or is compromising an applicant's health or wellbeing and a move to a different property would see some health improvements. This is not directly related to a prognosis of illness but is based on the impact current accommodation is having on the applicant's health.(Appendix 16).
- Single people/couples who share kitchen/bathroom facilities with separate households who will not be moving with them (for example, shared house) - separate households do not include family members.
- Applicants from hospital/prison who are ready for independent living.
- Applicants where the Local Authority has a duty to prevent homelessness under Homeless Reduction Act 2017 who are eligible and qualify for the register (Appendix 5).
- Applicants who were found to be intentionally homeless or found not to be in priority need if not disqualified.

Bronze Band

- Applicants who have an assessed support/care need for accommodation in an Independent Living Community who would otherwise be adequately housed and who are eligible and qualify for the register.
- Her Majesty's Forces with valid cessation notice but outside the remit of Homeless Reduction Act 2017.
- Single people/couples who share kitchen/bathroom facilities with family members who will not be moving with them); 'family' is defined as parents, siblings, grandparents, adult children and stepfamilies. Arrangements with other extended family members will be considered on their individual circumstances.

No Band (direct let)

See 4.5.

Section 4. Choosing a Property

4.1 Advertising

Choice based lettings gives applicants the opportunity to express an interest in vacant properties. The information provided on adverts allows applicants to make an informed choice about where they would like to live.

Choice based letting works by advertising available City of York council housing and nominated properties from Registered Social Landlords each week and inviting bids or expression of interest from applicants on the housing register.

To allow applicants to make an informed choice, adverts will provide information on the property location, the type of property including the number and size of bedrooms, type of heating, if the bathroom has a bath or shower, entrance type, whether there is a garden, driveway or a policy on pets. Information will also be provided about weekly rent, service charges, rent in advance and tenancy type.

Some properties may have restrictions and these will be made clear by the landlord in the advert.

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Some restrictions include (not an exhaustive list):

- Specially adapted or designed properties for those with a physical disability or mobility needs
- Legal conditions including s106 planning, where there is usually a legal requirement that a successful applicant must meet a specific connection. The connection may be defined in different ways and will be clearly stated.
- Where the property has a minimum age criteria or specific assessed need such as bungalows, older person or Independent Living Communities.
- A specific connection to a parish, rural settlement or area.
- A sensitive let where additional checks may be required on potential tenants to address or manage a specific local issue. The additional checks may include checks with the police and other CYC services.
- A local letting initiative which allows landlords to allocate particular accommodation to people of a particular description, used to address a wide range of issues such as creating balanced and mixed communities, improving community stability and preventing problems on newly developed or recently developed estates.
- Priority band restrictions in local authority areas of high demand.

Where an applicant bids on a property but does not meet the advertised criteria their bid may be overlooked or skipped in favour of an applicant that meets the requirements.

Properties may be advertised during the previous tenant's four week notice period and may be withdrawn from the scheme if the tenant decides not to move.

Not all properties will be advertised. Some will be subject to officer allocation (direct lets) where required to meet specific needs of an individual or to ensure balanced communities.

4.2 Adapted Properties for People with Disabilities

Adapted properties are homes which have been designed or significantly adapted to meet the needs of people with physical or sensory disabilities. Adapted homes may be subject to direct let where appropriate. When adapted properties are advertised, they will be advertised giving priority to those applicants with a need for the adaptations. This should ensure that those applicants who are assessed as needing this type of accommodation are given the widest possible choice whilst ensuring the best use of stock across the CYC area. If there are no suitable applicants requiring adapted properties the property will be re-advertised with no criteria.

If an applicant is offered an adapted property but did not require the adaptations, then neither the applicant nor the council will be allowed to remove any of the adaptations and if the property were required in the future for a household who needed the adaptations, the applicant would be required to move.

4.3 The Bidding Cycle

Available properties will be advertised Thursday through to Tuesday.

Applicants can bid for up to 3 properties per week.

The applicant's place on the bidding list can change throughout the cycle. Applicants placing bids must be available to arrange a viewing and potentially begin a tenancy within the following 1 to 2 weeks of the cycle closing.

4.4 Short-Listing and Selection

Applicants will only be considered for accommodation that has been assessed as meeting their housing needs. This includes number of bedrooms, property type, floor level, age restricted properties and bungalows.

Tie Breakers (short listing ranking):

1. Band.
2. Property (property size and bedroom size, person size, floor level, adapted properties, Independent Living Community etc).
3. Debt, such as former or current rent arrears or other housing related debt. Where 2 applicants are in the same band, with

same property need, the property will be offered to the applicant with no housing related debt (Appendix 10).

4. Time (i.e. the length of time an application has been in the band on the register) Where 2 applicants are in the same band, with same property need, the property will be offered to the applicant who has been in the band the longest.
5. At the end of an advertising cycle applicants will be placed in tie break order and the applicant with the highest assessed housing need, who meets the property size and type, has no housing related debt and who has been registered/in their priority band for the longest period of time will be top of the short list and made an offer of property. Applicants cannot generally be considered from a lower band unless all tie breaks have been considered and there is no-one that meets the criteria.

Exceptions to tie break order may occur if, for example, there are restrictions on who can be allocated a property due to conditions contained in a Section 106, a planning or legal condition, or a local lettings initiative or where the property has adaptations.

Any such restrictions will be clearly noted in the property advert.

4.5 Direct Offers/Officer Allocation

In general, applicants will bid for properties, however in some circumstances a property will not be advertised but will be offered directly to an applicant.

Any direct offer request should be submitted by a senior manager on the appropriate form.

Direct offers will always be made to:

- Applicants who are assessed as being statutory homeless under part 7 of the 1996 Housing Act and are owed the full duty (**one suitable offer only**) No area choice but consideration should be given to individual circumstances, including education, employment etc.
- Management transfers (Appendix 7).

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- Causes of flood or fire to the partner landlord's own properties, resulting in the tenant needing to be re-housed permanently.
- Applicants whose home is subject to demolition or refurbishment by one of the partner landlords.
- Applicants owed a duty by the local authority under the Rent (Agricultural) Act 1976.
- Applicants under the National Witness Protection Scheme
- Applications from foster carers, those approved to adopt, or those persons being assessed for approval to foster or adopt, who need to move to a larger home in order to accommodate a looked after child or a child who was previously looked after by a local authority.
- Housing First with agreed support package(Appendix 14)

Direct offers can be made as a result of inappropriate bidding or management decision in the following cases:

- Following review of emergency and gold band where the applicant has not made any bids or has made inappropriate bids.
- MAPPA cases where deemed necessary by a senior manager to manage risk to the public and/or enable a move on from prison/high support unit if not appropriate for resettlement.
- The offender initiative described in Appendix 11.
- Applicants who have fully completed a programme of resettlement with a City Of York Council approved resettlement service provider. Such applicants will be persons who would have been unlikely to sustain a tenancy unless they had been through a re-settlement process.
- Where, under the partner landlord's policy, a valid succession right exists but the property does not meet the housing need. Legal action will be taken to recover possession if 2 suitable offers are refused (secure housing

clause 15A on original property or Assured ground 9). Direct let can be activated after 28 days.

Any other management case where the issue is of a specialist nature including assisting Social Services and housing management and/or emergency.

4.6 Overlooking a Bid

In certain clearly defined circumstances, the top bidder for a property may not receive an offer and their bid will be overlooked.

There are clear monitoring and reporting requirements for this – see Appendix 10.

4.7 Viewing Properties and Receiving Offers

When an applicant has been short listed they will be contacted to arrange a viewing of the property. There may be occasions when more than the top person on the short list is invited to view and this will be made clear to applicants when the viewing is arranged.

Where an applicant is top of a short list for more than one property they will be asked to choose which property they would like to view. Applicants cannot view more than one property in any given bidding cycle.

At this point verification of current circumstances will be undertaken and applicants will be required to provide up to date documentation within 48 hours of it being requested. If applicants cannot provide the required documentation they will be skipped for the offer.

Applicants will be allowed 48 hours from the viewing in which to decide if they wish to accept the offer of a property or not.

Where an applicant refused a reasonable offer this will be logged. If an applicant has refused 2 reasonable offers, their application will be closed and they will not qualify for the register for a period of 12 months. Should they still be interested in social housing they will need to reapply after 12 months has elapsed and their application will be assessed on their current circumstances.

CYC and Registered social landlords offer a variety of tenancies including introductory, starter and fixed term.

CYC and Registered social landlords have differing requirements regarding rent in advance payments and pets policy.

Section 5. Feedback, Monitoring and Development of the Scheme

5.1 Monitoring

City of York Council will monitor the scheme on an ongoing basis to ensure that:

- The scheme is meeting its objectives.
- The Policy complies with the duty to give reasonable preference whilst also allowing other groups to access affordable housing.
- The scheme is providing equality of opportunity.
- Applicants are satisfied with the scheme.

5.2 Publishing Feedback on Lettings

Applicants can/will only be contacted if they are invited to view a property.

Lettings results will be published on the website and in the property booklet and will include the following information:

- Property reference
- Number of bids
- Banding allocated to, or direct let

Appendix 1: Names and Addresses

City of York Council housing register is managed by:

City of York Council

West Offices

Station Rise

York

YO1 6GA

Telephone: 01904 551550

Email: housing.registrations@york.gov.uk

Partner agencies that advertise properties via City of York Council Choice Based Lettings system include:

- Accent Foundation
- Broadacres Housing Association
- Home Group
- Joseph Rowntree Housing Trust
- Thirteen Group
- Railway Housing Association
- York Housing Association
- Yorkshire Housing

Appendix 2: Advice and Information

Homelessness

If you are homeless, or at risk of homelessness, please contact the Housing Options Team, which provides advice about housing issues and homelessness. The Housing Act 1996 has been amended and now includes new duties under the Homeless Reduction Act 2017.

Attend one of our drop-in sessions from 8:30am to 5:00pm, Monday to Friday, in West Offices:

City of York Council
West Offices
Station Rise
York
YO1 6GA

Telephone: 01904 551550

Email: housing.options@york.gov.uk

Website: www.york.gov.uk/HousingOptions

Domestic violence or abuse

If you are experiencing active domestic violence, call the Police on telephone: 999.

If you're fleeing domestic violence or domestic abuse, contact:

- IDAS in York, telephone: 01904 646630
- Free 24-hour local helpline, telephone: 03000 110 110
- Free 24-hour national helpline, telephone: 0808 2000 247

Shared ownership or discount for sale

If you are interested in shared ownership or discount for sale please speak to the Housing Registration team:

City of York Council
West Offices
Station Rise
York
YO1 6GA

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Telephone: 01904 551550

Email: housing.registrations@york.gov.uk

Website: www.york.gov.uk/OwnAffordableHome

Appendix 3: Non Qualifying Criteria (serious unacceptable behaviour)

1. Introduction

- 1.1 The policy recognises the Government's commitment to encouraging inclusion and social stability and will use this policy to encourage access for all applicants in housing need, including those that are socially disadvantaged.
- This will be achieved by ensuring that each application is treated on its individual merits and by making available mutually agreed programmes of support to vulnerable applicants in conjunction with other statutory and/or voluntary organisations.

2. Statutory and regulatory guidance

- 2.1 The Code of Guidance (Allocation of Accommodation June 2012) and Localism Act 2011 explain that Local Authorities may wish to adopt criteria which would not qualify individuals who otherwise satisfy the reasonable preference criteria e.g. antisocial behaviour. CYC has retained the principles of the previous NYHC 'unacceptable behaviour test.'

In summary, an applicant or member of the household will not qualify for the register if the applicant or a member of his/her household has been guilty of unacceptable behaviour that is such that had they been a secure tenant of the Council they would have possession under absolute or discretionary grounds within Schedule 2 and 2A of the Housing Act 1985).

3. Assessing qualification

- 3.1 CYC recognises that whilst it wishes to promote balanced and sustainable neighbourhoods, denying access to social housing might result in broader social exclusion for the households involved.

CYC recognises there is excessive demand on social housing and as such has certain categories of applicants that will not qualify for the CYC Register.

Applicants will not automatically be non-qualifying if their circumstances 'fit' a defined category; each case will be judged on its own merits and efforts will be made to resolve any issues which prevent applicants from joining the Register.

For the purpose of this document, 'not qualifying' means that an applicant has been denied access to the Housing Register and is unable to participate in the choice based lettings scheme on the grounds of their (or a member of their household's) unacceptable behaviour or personal/housing circumstances.

- 3.2 CYC will consider an application to join the register where a history of unacceptable behaviour is proved if the applicant is attempting to modify that behaviour with the help of a recognised support agency and that agency will continue the support if/when the applicant is housed.
- 3.3 CYC will ensure that the process for assessing qualification is both fair and effective in the management of the housing stock. In reaching a decision on whether or not an applicant does not qualify on the grounds of unacceptable behaviour, all relevant information will be taken into account, including whether the behaviour could have been due to a physical or learning disability or mental health problems.
- 3.4 Where an applicant's behaviour is not serious enough for them not to qualify for the register, it will still be considered in deciding the level of priority received within the priority band. For example, where there are low or moderate rent arrears the applicant would be overlooked for offers of accommodation where there are other competing applicants with the same level of need who do not owe any money.
- 3.5 This policy applies to existing tenants applying to transfer and new applicants applying to join the register.

4. Examples of serious unacceptable behaviour

- 4.1 For the purpose of this document, examples of the type of unacceptable behaviour that will be considered in deciding whether or not to allow an applicant access to the register include domestic violence, racial harassment, drug offences, serious noise nuisance, intimidation and any other acts of

unacceptable behaviour. Unacceptable behaviour also includes serious breaches in tenancy conditions which would make the applicant unsuitable to be a tenant, for example serious rent arrears, acts of antisocial behaviour that have or are likely to cause serious nuisance to neighbours and/or the use of a property for illegal or immoral purposes.

This above list of serious unacceptable behaviour is no exhaustive

- 4.2 Applicants who have relevant unspent convictions for serious criminal offences which may threaten the stability of a community will have their housing needs assessed and all factors will be taken into account before a decision is made regarding their qualification to join the register. CYC will work collaboratively with the police, probation, prison service or any other relevant support agency in an effort to resolve an applicant's non-qualification and improve their chances of being integrated back into the community through a planned and managed approach.

Where there has been a criminal conviction, disqualification ends when the conviction is spent.

Where an applicant (or a member of the household) has a history of antisocial behaviour or has breached their tenancy conditions, all relevant facts will be considered before a decision is made (as per section 2) regarding their qualification to join the register.

Where antisocial behaviour has been committed by a person who was, but is no longer, a member of the applicant's household, the behaviour will be disregarded provided the applicant is not guilty themselves of unacceptable behaviour.

The partnership will collaborate with other agencies, such as social services and health services, to try to resolve an applicant's non-qualification.

Applicants who owe current rent whether to a social housing provider or a private landlord that is in excess of 8 weeks payable rent where this is not due to delayed benefit payments (universal credit housing elements or housing benefit)

5. Grounds for lifting non qualifying status

5.1 The basic principle for lifting the non-qualifying status will be evidenced material change in the applicant's circumstances.

For example:

- Where an applicant has been guilty of unacceptable behaviour, the applicant has demonstrated a material change in their behaviour.
- The applicant has in place a recognised support package that addresses previous misconduct and will continue once housing has been offered under the scheme.
- The relevant conviction has become spent.
- Addressing arrears and debts - an affordability assessment may be required.

6. The relevant disqualification period has expired

6.1 A fresh application will need to be made by the applicant where they have previously been disqualified and feel that their behaviour should no longer be held against them as a result of changed circumstances.

7. Notifying the applicant of the decision and the right to review

7.1 All applicants will be notified if they are not eligible or do not qualify, the reasons why, the period of exclusion and their right to request a review of the decision (Appendix 4).

Applicants will also be notified of what actions they can take to remedy their ineligibility or non-qualification and a signposting/referral service to other support or independent advice agencies will be offered, if applicable.

Appendix 4: Right of Review

City of York Council (CYC) operates a single stage review process.

All applicants have the right of review in respect of a decision made regarding their housing application, including:

- Access to the register by either eligibility or qualification
- Banding
- Property allocation
- Cancelled application
- Those who are not a qualifying person under s160A(7) Housing Act 1996

Review Process

The review will be carried out by a senior officer within CYC, who will have not had direct involvement in the original decision.

The request for a review should be submitted to the Housing Registrations Manager within 21 days of the date of the original decision letter.

The reviewing officer will advise the applicant, in writing, of the review decision within 56 days.

For clarification, the complaints procedure can be used where you think things have gone wrong in the way a service has been given, or the process followed for making a decision, where this has caused problems for you.

Examples of this include:

- Poor communication including not responding to telephone calls or emails.
- Mistakes in how decisions about your housing have been made or how the process has been followed.

To make a complaint please provide:

- your name
- contact details
- reason for your complaint
- information about what you would like the council to do

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Provide details by:

Telephone: 01904 554145

Email: haveyoursay@york.gov.uk,

Online: www.york.gov.uk/form/HaveYourSay

Or write to:

Corporate Governance Team
City of York Council
West Offices
Station Rise
York
YO1 6GA

Appendix 5: At Risk of Homelessness

All applications are subject to eligibility and qualification criteria. Applicants who have negligently or deliberately placed themselves at risk of losing their home will be subject to the provisions in this policy for deliberate worsening of circumstances (2.21).

The following are examples of when an applicant is at risk of homelessness:

- They live in tied accommodation linked to their employment and that employment is coming to an end.
- They have received a valid, legal, written 'notice to quit' from their private landlord giving appropriate notice and the customer has engaged with their local Housing Options Service. The Officer must be satisfied that the landlord intends to implement the notice.
- They have been served with a valid section 21 notice.
- One party to a joint secure, introductory, assured or assured shorthold tenancy has given notice, ending that tenancy for the other parties and the landlord is not willing to transfer the tenancy to remaining parties or provide suitable alternative accommodation.
- The tenant of a property has died, remaining parties in the property have no right of succession, and there is no offer of suitable alternative accommodation or transfer of tenancy.
- The valid service of a Compulsory Purchase Order or Emergency Prohibition Order.
- The applicant's home is due to be demolished.
- The applicant has lost their home due to their landlord having the property re-possessed.
- Termination of an Agricultural Tenancy under the terms and administrative processes of the Agricultural Tenancies Act 1976.
- The applicant has been asked to leave by family or friends with whom they live.

- If the Housing Options Worker is satisfied or has reason to believe a person is homeless, there is a duty on Local Authorities to prevent homelessness or help relieve homelessness. Each applicant will have a housing assessment and personal housing plan and be expected to work towards remaining in or finding alternative accommodation.
- All prevention /relief and homeless cases should be managed to case work level in accordance with Homeless Reduction Act 2017 and Ministry of Housing, Communities and Local Government (MHCLG) criteria (HClic).

Homeless Prevention

During the **56 day** 'prevention duty' under Homeless Reduction Act 2017 the main focus is to prevent homelessness by assisting someone to remain in their current home or move to alternative accommodation in a planned way.

If an applicant who is at risk of homelessness is eligible, qualifies and has a local connection, the applicant will be banded according to current housing need or placed in **silver band** as a homeless prevention category.

The personal housing plan and bidding history will be frequently reviewed to ensure the applicant is bidding for all suitable properties. If the applicant has not been bidding or following the agreed personal housing plan then additional measures could be used including **the automated bidding system or to discharge duty due to non-co-operation**.

Relief of Homelessness

During the **56 day** 'relief duty' under Homeless Reduction Act 2017 when an applicant who is at risk of homelessness is eligible, qualifies and has a local connection, is believed to be in priority need and unintentionally homeless the applicant will be banded according to current housing need or placed in **gold band** as a homeless relief category.

The personal housing plan and bidding history will be frequently reviewed to ensure the applicant is bidding for all suitable properties.

If the applicant has not been bidding or following the agreed personal housing plan then additional measures could be used including **the automated bidding system or to discharge duty due to non-co-operation.**

For those who are actually homeless, eligible and believed to be in priority need there is a duty to accommodate in temporary accommodation.

Appendix 6: Homeless Applicants

The Homeless Reduction Act 2017 requires Local Authorities to help people remain in their own home or to find alternative accommodation (56 day prevention duty and 56 day relief duty). When this is not possible and the duty ends, there is a requirement to make a decision under the Housing Act 1996 Part 7.

If the decision under Housing Act 1996 is that an applicant is eligible, homeless, in priority need, unintentionally homeless and has a local connection they will be deemed to be statutorily homeless.

This means that they will be entitled to one reasonable offer of accommodation, which will be made in accordance with sections 193(7) and 202 of the Housing Act 1996, meaning that the offer will be made in writing and will be subject to the right of appeal.

Applicants who are statutorily homeless will be offered 1 direct let. Any direct let request should be submitted by a senior manager on the appropriate form.

Appendix 7: Management Transfer (emergency move)

A management transfer can be agreed for persons in imminent danger and is subject to the discretion of the designated or senior manager within CYC.

A management transfer will be considered for a tenant of the partner landlords if there is evidence to show that they are experiencing harassment of a serious, targeted and persistent nature (as defined in the table below), which the tenant could not reasonably have prevented or avoided through their own actions, and where there are no other appropriate ways of resolving the problem without resulting in a serious risk of harm.

Harassment	Definition
Serious	<ul style="list-style-type: none"> • violence used, or • threats of violence which is evidenced and likely to be enacted, or • extensive property damage, making the property uninhabitable, or • harassment based on race, sexuality or disability, or • significant, serious, intimidating harassment which cannot be resolved through landlord management.
and targeted	<ul style="list-style-type: none"> • specifically aimed at the individual or household, or • related exclusively to the property, or • not experienced by others in the immediate neighbourhood.
and persistent	<ul style="list-style-type: none"> • a series of repeated and recent incidents over a defined period of time and/or a likelihood of repetition assessed by police or other agency.

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The aim of a management transfer will be to move the household to a place of safety.

If the request is accepted, the applicant will be made one direct offer. Any direct let request should be submitted by a senior manager on the appropriate form.

The offer will usually be for a **'like for like'** property.

Any further housing needs (usually overcrowding) will be addressed through the allocation policy and prioritisation in accordance with 3.2.

If the tenant is already registered for a transfer on the basis of other housing needs they will retain their existing registration/priority band date.

Appendix 8: Defining Overcrowding and Housing at Height

The following assumptions are made on overcrowding (as directed by the Allocation of Accommodation: guidance for housing authorities in England):

The bedroom standard allocates a separate bedroom to each:

- Married or cohabiting couple.
- Adult aged 16 years or more.
- Pair of children 0 to 16 years of the same sex.
- Pair of children aged under 10 years regardless of sex.

A room intended as a bedroom but used for another purpose will still be classified as a bedroom.

Discretion can be exercised by staff to adjust the number of bedrooms required if:

- The bedrooms in the property are particularly large or small and account will be taken of room sizes using the statutory overcrowding guidance.
- A child requires their own bedroom due to disability.
- An applicant needs a bedroom for a carer or to facilitate specialist medical treatment.
- An applicant needs a bedroom for a fostered/adopted child.

In cases of joint custody of a child or children, recent case law states that only in exceptional circumstances, such as where children have special needs, will it be reasonable for children who already have an existing home with one parent to be provided with another home to live with the other parent.

In cases where any child has a home elsewhere but chooses to live with another adult (for example, sibling) this will be discounted when considering overcrowding.

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If an applicant with children wishes to apply for or is offered a property with the living accommodation at first floor or above, this is acceptable and is seen as a legitimate applicant choice or offer.

An unborn child is not considered part of the family until born in respect of bedroom need.

Further guidance on overcrowding can be found under the Housing Act 1985 (part 10) section 325 and 326.

Appendix 9: Property Need

The table shows the size of properties that applicants are eligible for based on their household composition. Offers of accommodation are dependent upon affordability.

	Shared house	Bedsit or Studio	1 bed flat, maisonette or house	1 bed bungalow	2 bed flat, maisonette or house	2 bed bungalow	3 bed flat, maisonette or house	4 bed house	5+ bed house
1 adult or couple	Yes	Yes	Yes	Yes					
2 adults*					Yes				
2 adults over 60**			Yes	Yes	Yes	Yes			
3 adults***					Yes	Yes			
1 or 2 adults with one child					Yes	Yes			
1 or 2 adults with 2 children under 10, regardless of sex					Yes	Yes			
1 or 2 adults with 2 children or adolescents of the same sex, both under 16					Yes	Yes			
1 or 2 adults with 2 children or adolescents of the same sex, 1 is over 16							Yes		
1 or 2 adults with 2 children of different sexes, 1 is 10 or over							Yes		
1 or 2 adults with 3 children							Yes		
1 or 2 adults with 4 children							Yes	Yes	
1 or 2 adults with 5+ children								Yes	Yes

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Some flats and bungalows are classed as Independent Living Communities. This type of accommodation is generally intended for people who are aged 60 or over and/or need support to help them maintain their independence.

Exceptions are made to allocate bungalows and Independent Living Communities to people under 60 where there are evidenced mobility issues/health needs.

Applicants will be assessed as to whether they need this type of accommodation.

Where partners have different housing stock profiles, they may individually determine size criteria which will be shown on the advert.

Generally, this means that applicants will match the size criteria but in certain areas or for certain properties they will be allowed to bid for a larger property. A financial assessment may also be required to confirm affordability.

Some 3 bedroom houses will only have 1 double and 2 single bedrooms and would need to be advertised accordingly.

* Joint tenancies between two adults, not recognised as a couple, for example a brother and sister, would be eligible for a 2 bedroom property.

** Where a couple are 60+ who require separate bedrooms for health reasons (medical evidence required). Where a couple 60+ are only entitled to a 1 bedroom property but would like a 2 bedroom property it will be considered if they meet affordability assessment and there are no applicants who meet the property size criteria.

*** Joint tenancy between 3 individuals not in a relationship would be eligible for a 3 bedroom property.

Consideration needs to be given to the issue of bedroom size when advertising a property (for example, a 3 bedroom property with 1 double room and 2 single rooms must be advertised as 3 bedroom, 4 people) and allocated appropriately.

Appendix 10: Overlooking a Successful Bid

There will be circumstances where allocations staff will need to, or will have discretion to, overlook a successful bidder.

Allocations staff will be provided with procedural guidance on this.

1 Mandatory grounds

The **mandatory grounds** for overlooking a bid are:

1.1 Debt

Housing related debt, includes debts to other social landlords, temporary accommodation, hostel, or supported housing (excluding council tax) usually for arrears of rent or rechargeable repairs. It is debt in respect of former, not current tenancies.

A successful bid **must be overlooked** if the applicant has housing related debt. An exception to this can only be made if:

- the applicant has a re-payment agreement in place and that agreement has been maintained successfully for thirteen weeks prior to the successful bid being made
- and
- the re-payment agreement is current

Where debt is owed to a private landlord the applicant must evidence a willingness to repay.

In all cases a financial assessment may be required to confirm affordability.

1.2 MAPPA

Such applicants can be overlooked if the property is not suitable on the advice of North Yorkshire Police Public Protection Unit or National Probation Services or Community Rehabilitation Company (CRC) and should then be dealt with by a direct offer as per 4.5.

Should such an applicant have made a successful bid and the IT system has not filtered out such bids, then staff can overlook the offer.

1.3 Health and safety or illegality

A successful bid that creates a risk to life, poses a serious health and safety risk, or creates a situation that is illegal, such as statutory overcrowding, will be overlooked.

1.4 Charitable Status

Some housing associations have charitable status which place restrictions on who can be housed. A successful bid will be overlooked if the applicant does not meet the charitable criteria of the housing association.

1.5 Support

Where there is no relevant support package in place if required.

1.6 Restrictions

Where there are restrictions in place as outlined in the policy. For example, where a band has been awarded to prevent hardship for employment and the property is not close to the place of employment.

1.7 Application

Where the applicant is found to be no longer eligible or qualifying or circumstances have changed within the household that changes a band/property need or where the applicant did not provide the information as requested to confirm verification.

2 Discretionary grounds

The **discretionary grounds** for overlooking a bid will include:

2.1 Existing tenants of social landlords and supported housing

Existing tenants will normally be overlooked if they are in breach of their tenancy conditions (would generally include owing payable rent of up to 8 weeks or any other debts to their landlord) or their property has been specifically adapted. If the tenant has arrears over 8 weeks, they would not qualify for the register, unless due to a benefit arrear.

For example, an exception could be made to rent arrears if the tenant is under-occupying the property and is affected by a reduction in Housing Benefit because of their under-occupation

and the landlord considers a move to a smaller property to be the best option.

Also those in temporary accommodation, hostels and supported housing will not normally be allowed to move if they have current arrears and/or service charges. Contact with the relevant manager should be made where arrears are low level.

2.2 Disability

Where a household with disabilities are potentially being let a property which cannot reasonably be adapted for them, a bid may be overlooked. It may not be reasonable to adapt properties where a major structural alteration is required such as:

- an extension
- a through floor lift
- door widening

The need for minor adaptations such as stair lifts, adjustments to baths or showers, grab rails etc should generally not exclude the successful applicant from receiving the offer; however staff will exercise their discretion if funding is not available for these adaptations.

2.3 Adapted properties

Where the successful bidder has secured an adapted property without having any need for that adaptation. Staff can re-advertise for one further cycle in this instance.

2.4 Terms of the advert

Where the successful bid does not comply with the terms of the advert, including pet policy

Instances when a successful bidder has been overlooked must be recorded. If there is no bidder that meets the terms of the advert, the property can be re-advertised.

2.5 Affordability

Where, following an assessment, it is determined that the applicant will not be able to afford to sustain the tenancy.

2.6 Adopters/foster carers

If not a suitable location for social services.

In exceptional circumstances a senior manager can override both mandatory and discretionary grounds to allocate a property/re-house an applicant.

Appendix 11: The Offender Initiative

A tenant of one of the partner landlords who is sent to prison for longer than 13 consecutive weeks can apply and bid on properties 4 weeks before release from prison, or can receive a direct offer' on release from prison, provided they meet the criteria below:

- That the tenancy was given up promptly on their imprisonment.
- There were no rent arrears or damage to the property.
- There was no anti-social behaviour related to the conduct of their tenancy.
- That the individual satisfies the acceptable behaviour test on their release.

Any direct let request should be submitted by a senior manager on the appropriate form.

Appendix 12: Resettlement

Definition

Only customers who are assessed as needing resettlement services will be referred for 'permanent beds in supported housing projects'. The ongoing assessment and support process will identify the long term housing options, including private rented sector or social housing via resettlement category. All other applicants will be offered advice and support in accordance with Homeless Reduction Act 2017 and helped to access alternative accommodation.

The resettlement criteria are defined as: Where the applicants have completed an intensive/ approved resettlement programme (as determined by the nominated officer). This will usually be for 12 months, but will in any case be for a minimum of 6 months.

Resettlement Projects in York are identified in the staff guidance notes and may on occasions change due to decommissioning/change of contracts.

Resettlement activity is seen by this scheme as a distinct area of activity from accommodation based supported housing.

Applicants who can evidence a **completed** programme of accommodation based supported housing attract a Gold Band status under this scheme as noted above providing they meet the eligibility and qualification criteria set out in this policy.

This gold band status will be backdated to the date the resettlement applicant proactively engaged with their resettlement process. The minimum standard required before a programme of resettlement can be considered complete will include evidence of support around the following areas:

- Health and related issues
- Money management
- Engagement, training and social inclusion
- Practical skills
- Personal skills
- Tenancies work
- Making Safe

Ongoing Support

There is an expectation that the applicant will require ongoing support. In particular, when they first move into independent accommodation they should be referred to the appropriate organisation and this should be noted in the request for resettlement criteria.

Joint Applications

In the case of joint applications, both applicants will need to meet the resettlement criteria.

A list of participating projects is available from Housing Options. These may change over time due to contractual/procurement changes.

Appendix 13: Young People's Support and Trustees

Minimum Required Standard for Support Packages and Trusteeships (Young People 16 and 17 years old).

The housing support package must be assessed by a housing professional or Pathway team. In general this will be based on information gathered from supported housing/foster placement/Staying Put scheme.

A housing support package is required as a condition of access to the register, with the applicant attending regular support sessions prior to commencement of the tenancy. The support package must be provided until the applicant's 18th birthday or for a minimum 6 months, whichever is longer. Support can be continued after this if necessary. Support must be available in the Local Authority area in which they live or where they are moving to.

Relevant Trustees

Minors, including 16 and 17-year-olds, cannot legally be bound by contracts or hold a legal estate in land. The exception to this rule is that minors can be bound by a 'contract for necessities' and so can be legally bound to pay rent. Therefore, a minor can hold an equitable tenancy providing a trustee is appointed to hold the legal estate.

The Trustee is merely holding a legal estate on trust until the minor reaches 18 and is legally permitted to hold an estate in land.

All new applicants under 18 can only be offered an Equitable Tenancy provisional on a suitable Trustee and support package.

Trustees do not have a financial responsibility.

Each locality is free to exercise discretion on the organisations or individuals able to exercise this function, provided the Trustee is:

- A responsible adult **or**
- An organisation, where that organisation has as part of its remit the provision of support to young people, providing the organisation is not also the landlord of the property concerned **or**

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- A named individual within an organisation, where that organisation has as part of its remit the provision of support to young people, providing the organisation is not also the landlord of the property concerned

Wherever possible a Trustee who is a responsible adult should:

- Be a friend or relative.
- Have a stable 5 year housing history.
- Have no debts to LA (Council Tax or rent)/Housing Association.
- Be able to attend the tenancy sign up.

An individual accepted as a Trustee must attend the sign-up stage of a tenancy, along with the landlord, support worker and the Tenant.

Where an organization is accepted as a Trustee, a representative of that organization should attend the sign-up stage of the tenancy wherever possible, along with the landlord, support worker and the Tenant.

If the Trustee is unable to sign, they should complete the necessary paper work immediately following the sign up.

There is no obligation on the Trustee to attend any future events relating to the tenancy.

The Trustee and Tenant would be jointly served with any court proceedings and paperwork and invited to attend court, but the Trustee is not required to appear at court.

The trust would automatically end on a young person's 18th birthday, when the young person would sign for an appropriate tenancy, in accordance with the landlord's policy.

In case of joint Equitable Tenants where both are under 18, an individual Trustee is required for each equitable tenant until each tenant becomes 18.

Appendix 14: Housing First

Housing First is for applicants with complex needs who are eligible and qualify to register but who are unable to be rehoused via the traditional resettlement route. The charity Shelter defines Housing First as a programme which only demands that service users pay rent, abide by the tenancy conditions, and agree to a visit by a support worker (usually) once a week. Comprehensive support services are offered and brought to the service user.

See: [Housing First - a Good Practice Briefing](#)

Typically, the support services will involve multi-disciplinary specialism's including: physical and mental health workers, drug and alcohol treatment workers, employment support workers and peer workers.

These are either employed within the housing first agency, or brokered from community-based services. Access to the support can also go beyond that normally associated with traditional floating support schemes, and may be available 24 hours a day, seven days a week.

Housing First in York is only available to customers engaging with intensive, multi-disciplinary support (for example, Making Every Adult Matter – MEAM customer group, or Mental Health Housing First programme) or the Rough Sleeper Housing Navigators.

Housing First customers will be offered a direct let.

Any direct let request should be submitted by a senior manager on the appropriate form.

Appendix 15: Armed Forces

Armed Forces is defined as:

- a) Serving in the regular armed forces or who has served in the regular armed forces including those existing members of the regular armed forces who are suffering from a serious injury, illness or disability as a result of their service who may need to move out of their existing accommodation to suitably adapted social housing before they complete their service or who were serving in the regular forces at any time in the five years preceding their application for an allocation of social housing
- b) Serving or has served in the reserve forces and suffering from a serious injury, illness or disability which is wholly or partly attributable to their service
- c) Bereaved spouses or civil partners of those serving in the regular forces where:
 - the bereaved spouse or civil partner has recently ceased, or will cease to be entitled, to reside in Ministry of Defence accommodation following the death of their service spouse or civil partner, and
 - the death was wholly or partly attributable to their service.

For this purpose 'the regular forces' and 'the reserve forces' have the meanings given by section 374 of the Armed Forces Act 2006:

- 'the regular forces' - means the Royal Navy, the Royal Marines, the regular Army or the Royal Air Force.
- 'the reserve forces' - means the Royal Fleet Reserve, the Royal Naval Reserve, the Royal Marines Reserve, the Army Reserve, the Territorial Army, the Royal Air Force Reserve or the Royal Auxiliary Air Force.

The definitions 'a' and 'b' above extend to applications from former service personnel, where the application is made within 5 years following discharge. It is recognised that bereaved spouses and civil partners (definition 'c') of service personnel who are required to leave service families accommodation following the death of their spouse or partners, are likely to experience similar issues to service families on discharge from the forces.

The Regulations are intended therefore to protect bereaved spouses and civil partners from the time they are required to leave service families accommodation until they are able to obtain alternative settled accommodation.

Statutory Instrument 2012 No. 2989

The Housing Act 1996 (Additional Preference for Armed Forces) (England) Regulations 2012

Made November 29th 2012

Coming into force in accordance with regulation 1

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 166A(7) of the Housing Act 1996 (1). In accordance with section 172(2) (2) of the Housing Act 1996 a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. These Regulations may be cited as the Housing Act 1996 (Additional Preference for Armed Forces) (England) Regulations 2012 and come into force on the day after the day on which they are made.

Amendment of section 166A(3) of the Housing Act 1996

2. Section 166A(3)(3) of the Housing Act 1996 (Allocation in accordance with allocation scheme: England) is amended as follows—

(a) in the sentence following the end of paragraph (e) (beginning with “The scheme may also be framed”) for “people within this subsection” substitute “people within one or more of paragraphs (a) to (e)”;

(b) at the end of that sentence, insert:

“The scheme must be framed so as to give additional preference to a person with urgent housing needs who falls within one or more of paragraphs (a) to (e) and who:

(i) is serving in the regular forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person’s service,

(ii) formerly served in the regular forces,

(iii) has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person’s spouse or civil partner who has served in the regular forces and whose death was attributable (wholly or partly) to that service, or

(iv) is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person’s service.

For this purpose “the regular forces” and “the reserve forces” have the meanings given by section 374 of the Armed Forces Act 2006(4).”

Appendix 16: Health and Wellbeing

Health and Wellbeing awards are to assist those with health issues to move to a property that more appropriately caters for their needs. Any Health and Wellbeing award **must** secure a health gain.

The following simple rules apply when a CBL officer assesses if an application should be given a Health and Wellbeing award:

- No priority can be awarded if moving home will not secure a health gain. If a customer has a terminal illness and their accommodation suits their health needs they will receive no health award.
- The Emergency Band is for a narrow range of extremely severe health needs where the applicant's housing is an issue for them.
- There will be no award of Gold Band unless the applicant's condition is severe and enduring (permanent) and the condition must be compromised by the home or its environment. A move must improve their health and wellbeing.
- Applicants who are already housed in an adapted property will not normally be banded on Health and Wellbeing grounds unless it is impractical to further adapt the property to meet their needs.
- Applicants who are given a health award based on needing an adapted property can bid on un-adapted properties without loss of priority provided that.
 - The property can be reasonably adapted for them
 - The funds are available for those adaptations (any assessment of this needs to be mindful of cross boundary movement)
 - There is little or no prospect of the applicant's current home being adapted for them
- **and** moving home would constitute a health gain.
- Applicants with disabilities are only restricted in the properties they can be considered for where the property in question cannot be reasonably adapted for them. A successful bid on a property that cannot be reasonably adapted or will not attain a health gain can be skipped in favour of the next applicant on the short list.

A minor adaptation will usually be seen as a preferable alternative to rehousing. A health and wellbeing award will not normally be given if the issues of the applicant can be successfully addressed in their current accommodation by minor adaptation. A minor adaptation could be successful installation of a stair lift, grab rails to external doors and bathing areas etc.

There are three categorisations of Health or Wellbeing need (plus support needs)

Priority Band: Emergency

Circumstances or Definition	Comments
<p>1. Applicant unable to return to their home from hospital because their current home is permanently unsuitable. This must be a long term issue.</p> <p>2. Applicant unable to access key facilities in their home without major adaptation works.</p>	<p>We expect this to be confirmed in writing by a Social Services Authority Senior officer. If s/he provides this, the customer is fast tracked to the emergency band.</p> <p>A joint assessment by the local authority and Registered Social Landlord. The trigger question in the Health section of the application form is “Is it possible for all members of the household to access a bedroom and a toilet. We expect that the possibility of informal aids and adaptation will be considered in terms of ‘creating’ a bedroom and a bathroom where required.</p> <p>Questions that will be considered are:</p> <ul style="list-style-type: none"> • Is the nature of the condition short term only? • Is there a downstairs WC and downstairs bedroom or space adaptable as a bedroom? • Can reasonable external access to the property be made? • Is it likely that the applicant’s home can be made suitable with a minor adaptation? If so, how to signpost applicant to help? • What can be achieved in terms of adaptation or provision of additional services to the home and what these might cost?

Priority Band: Gold

Circumstances or Definition	Comments
<p>1. Applicants with a severe and enduring/permanent illness whose health and/or wellbeing is significantly compromised by their home or environment.</p> <p>2. Applicants who need to move to a specific locality so that proven hardship can be prevented.</p>	<p>A move must give a considerable health gain. If there is no health gain then no gold band will be awarded.</p> <p>The illness must be of a serious nature and must be enduring/permanent/lifelong with no prospect of the condition improving.</p> <p>The condition must be likely to stay the same or deteriorate further.</p> <p>Questions that will be considered are:</p> <ul style="list-style-type: none"> • Is the illness serious and enduring? • Does the physical structure of the house or its environment significantly compromise the serious and enduring condition? • Is there any easier solution than re-housing the applicant, such as a minor adaptation? • Could any medical treatment that the applicant needs be brought to the applicant's home? • Can the customer reasonably access any on-going medical treatment (such as dialysis) having considered availability of patient transport? • Will re-housing the applicant secure any improvement to their health or wellbeing? • Will moving closer to a carer (or the carer moving closer to them) achieve a health gain in respect of the serious and enduring illness?

Priority Band: Silver

Circumstances or Definition	Comments
<p>1. Applicants who have a health or wellbeing issue, which will be removed or improved by a move as assessed by the relevant trained CBL Officer.</p>	<p>As above, “does re-housing achieve a health gain?” is the key consideration.</p> <p>Questions that will be considered are:</p> <ul style="list-style-type: none"> • Can the applicant secure an improvement to their health or wellbeing through re-housing? • If so, what form of housing (and where) will secure such an improvement? • Could the health issue be eased or relieved by minor adaptation?

Accommodation Panels

Some partners have specific partnership/working arrangements with cross agency bodies who typically consider the needs of groups with special needs such as:

- People with mental health needs
- People with learning disabilities
- People with physical disabilities
- People eligible for Independent Living Schemes

These arrangements may involve the agency nominating an applicant to the register. It may be that applicants such as these have a high health or well-being need. The nominating body will have to provide substantial evidence outlining the level of need within the terms of the lettings policy.

The receiving partner will have, on a case by case basis, the opportunity to initiate dialogue with the panel and be privy to all documentation surrounding the case if they feel the need appears to be over- or under-estimated.

Appendix 17: Sensitive Lets

It is necessary on occasions for housing managers to allocate a property outside of the CYC policy to facilitate the management and community cohesion of a specific property/area.

Sensitive lets relate to a property where for example:

- The previous tenant has caused significant neighbour nuisance for a variety of reasons and where it has taken considerable time to resolve the problems
- Where there has been significant drug related nuisance
- Where there has been significant noise nuisance within a block of flats or the immediate neighbourhood

Targeted allocation of a property could reduce such issues by ensuring the next tenant will be unlikely to cause a similar nuisance.

Where a senior officer feels that an individual property should be let outside the normal allocations policy, the property will be advertised as a Sensitive Let and the advertisement will clearly state that applicants will be subject to further checks.

Appendix 18: Senior Management Decisions

Any decisions using management discretion should be recorded on a standard pro-forma and retained in the customer file.

Senior management decisions include direct offers, sensitive lets, mandatory and discretionary reasons for overlooking a bid. If a direct let is requested it should be submitted by a senior manager on the appropriate form.

Appendix 19: Hardship Grounds

People who need to Move on Hardship Grounds

If an applicant indicates they need to move to a particular location within York to take up an offer of employment, education or training, or to be near family or friends to give or receive support, the CBL officer will ask the applicant to provide written confirmation of their housing need.

Applicants in this category will only be given a priority if it is unreasonable to expect them to commute from their existing home e.g. there is no reliable bus route or train service and they are experiencing unreasonable financial hardship travelling to work. Right to Move is deemed a hardship ground.

Evidence of employment, education or training opportunity is required along with financial information demonstrating hardship.

Applicants who need to move to another location to give or receive support must provide written confirmation of the address of family members they need to live close to and their needs via another professional organisation e.g. health professional, social services.

A health and wellbeing assessment may be required to determine the type of property that would best suit the applicant's needs. If the assessment concludes that priority should be awarded, then appropriate banding will be awarded under the Allocations Policy.

Examples of circumstances that may result in the award of Gold Band are:

- The applicant has an identified need for ILC accommodation and there is no such provision in the area in which they live. The applicant would require residential care or a higher level of care package unless they are re-housed.
- The applicant needs to receive essential daily care from a relative and without re-housing they would require residential care or a higher level of care package.
- The household includes a person who needs to access specialist medical treatment on a permanent or indefinite basis and they are unable to do so, or it is unreasonable to expect them to do so, from the area in which they currently live.

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- The household includes a person who is unemployed and they have been offered permanent employment in an area to where they are unable to reasonably travel.
- The household provides essential daily care to someone in another part of the region and they cannot deliver that care effectively from their current location and without this, residential care or a higher level of care package would be required.
- The household includes a member with a disability or learning difficulty who needs to access specialist education or training facilities and cannot do so from their present home.
- Right to Move.

Applicants would be restricted to applying for accommodation within the York Local Authority Area where the employment/training/family member is located.

Appendix 20 Care leavers

For those leaving care in a planned way emergency banding may be awarded. This provides the care leaver with the best chance of securing a property following bidding.

Applicants in Emergency band will have their application reviewed after 28 days and where no bids have been placed and there is no supporting reason for this then city of York reserve the discretion to re-band the application.

Housing applications from care leavers will be administered and assessed in the same way as all other housing applications and will need to meet the eligibility and qualification criteria.

Care leavers who are being assessed through the statutory homeless route or through the resettlement process will be banded in Gold and their application will be administered according to where a young person has had a long term stable accommodation and/or lived independently and/or been in employment then their housing application will be assessed as to housing need.

This would not include accommodation while at University or similar educational or vocational establishment.