

## **BUCKS HOME CHOICE ALLOCATIONS POLICY CHANGES**

### **1 Purpose**

- 1.1 This report seeks the views of the Cabinet on proposed changes to the Bucks Home Choice Allocations Policy and asks that a decision be taken concerning a recommendation for adoption of the proposed amendments.

### **2 Recommendations/for decision**

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| <p>2.1 That the Cabinet consider the information obtained through formal consultation and the view of Environment and Living Scrutiny Committee.</p> <p>2.2 Recommends Council to adopt the changes indicated in the report for inclusion in a revised Bucks Home Choice Allocation Policy as part Council's Policy Framework.</p> |
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### **3 Executive summary (if longer than 2 pages)**

- 3.1 The Council is a member of the Bucks Home Choice Partnership which comprises four district council's; Aylesbury Vale District Council, Chiltern District Council, South Bucks District Council and Wycombe District Council, who manage the collective housing register and allocation of affordable rented accommodation within their respective district areas.
- 3.2 The Housing Act (HA) 1996, Part VI, applies to allocations of social housing and both to new applicants for social housing and to some existing social housing tenants seeking transfers. When making an 'allocation', local housing authorities must comply with both the provisions of HA 1996, Part VI, and with their own local allocation scheme.
- 3.3 The Partnership's common Allocations Policy is being reviewed in response to changes made by recent case law following the Localism Act 2011, the Homeless Reduction Act 2017 and also as a response to the demand for social housing and intelligent use of the available stock.
- 3.4 Proposed changes to the Allocations Policy have no effect on existing Local Lettings Policy. In particular, the local policy which ring fences up to 75% of new lets and 50% of any subsequent lets, for applicants with a connection to the respective sub groups in Aylesbury Vale, has proven to be working effectively.
- 3.5 Environment & Living Scrutiny Committee considered the approved changes on 29 October 2018. The Committee sought clarification on several matters including;
- That 16/17 year olds (especially those leaving care) would not be disadvantaged by proposed changes.
  - That those wishing to downsize would receive appropriate priority and support.
  - That existing Local Lettings Policies would be unaffected by proposed changes.
- 3.6 Overall, the Committee were satisfied with the proposed changes and endorsed a public consultation.
- 3.7 As a Local Authority, the Council has a statutory duty to consult applicants likely to be affected by proposed changes and Registered Providers, who

have housing stock in their area. The results of the consultation are available in Appendix 1.

- 3.8 These changes have a material effect on who does and who does not qualify for Bucks Home Choice. The proposed changes will also affect the relative priority band awarded to certain types of applicant and introduce a new priority band E in order to manage the changes effectively. In doing so the Council seeks to achieve the following policy objectives;
- To respond to recent case law and government guidance, so that the Allocations Policy is lawful.
  - To better utilise the Allocations Policy as a homeless prevention tool.
  - To continue to make the best use of housing stock by allocating the largest properties to the larger families, who need it most.

#### **4 Supporting information**

- 4.1 The Council has a common allocation policy with other members of the Bucks Home Choice Partnership who are Chiltern District Council, South Bucks District Council and Wycombe District Council. We are proposing a number of amendments to the policy to provide greater clarification as to how we currently allocate housing. We are also reacting to changes in legislation and recent case law and both national and local pressures.
- 4.2 The Localism Act made changes to the Housing Act 1996 offering a greater freedom to local authorities to make changes to manage their housing waiting lists, by considering the needs within their local area. In effect this allowed allocation schemes the flexibility to set classes of qualifying persons, such as local connection criteria. Statutory guidance(s) followed to accompany these changes suggesting that;
- Local authorities set a qualifying local connection period of at least two years.
  - Assistance to members of the Armed Forces to obtain social housing if they need it.
  - Ensure those social tenants who need to move for employment are not disqualified by any local connection rules.
  - To make the best use of housing stock by letting properties to those that need a particular size and type of property to avoid over/under occupying.
- 4.3 Following the Localism Act, there remained a conflict with the Housing Act 1996, which sets out that priority must be given to households falling into '*reasonable preference*' categories (such as those who live in overcrowded or insanitary conditions), and the Localism Act, which allowed authorities to set qualification criteria locally, that would prevent '*reasonable preference*' applicants from qualifying. Recent case law has resolved the position, setting out that those '*reasonable preference*' applicants must **not** be disqualified by an allocation scheme but can, however, be awarded a lower priority.
- 4.4 Since 2012, a range of welfare reforms have had a cumulative impact on the numbers of applicants seeking social housing and requiring homelessness assistance. This has placed increased pressure on the supply of and cost of temporary accommodation in Aylesbury Vale.

- 4.5 More recently, the Homeless Reduction Act 2017 substantially amended Homelessness legislation, increasing the time and extent of our statutory duties to prevent and relieve homelessness.
- 4.6 There is now a greater expectation that local authorities frame their allocation policies to house those living in unsuitable housing circumstances, in order to prevent them from becoming homeless. This is an approach increasingly taken by other local authorities and supported by the Department for Housing Communities and Local Government.
- 4.7 The Bucks Home Choice Partnership has considered new legislation, case law and guidance, alongside the likely impact of Government reforms, and the increased demand and reduced supply of social housing (particularly larger properties). As such the two year residence or employment qualification remain, but changes and exceptions are required, a summary of which are detailed below:

## **5 Proposed amendments to the scheme**

- 5.1 Paragraphs 5.2, 5.3 and 5.4 are those changes which are necessary to comply with legislative changes and recent case law

### **Applicants who will now qualify for Bucks Home Choice:**

- 5.2 Applicants in the statutory '*Reasonable Preference categories*' (even if they do not have a local connection or would normally be non qualifying as required by the Housing Act 1996). It is important to mention that applicants with a local connection are prioritised above those without (a local connection) when allocating properties.
- 5.3 Applicants owed prevention or relief duties within the Council's statutory homeless duties (Part VII of the Housing Act 1996) are to be included to reflect the changes made by The Homelessness Reduction Act 2017.
- 5.4 Applicants meeting the criteria set out in the Right To Move Regulations 2015.
- 5.5 Applicants who have left the local authority area for a period of up to 4 months, where they are staying with family to search for alternative accommodation in the area.
- 5.6 Applicants placed into supported accommodation out of the area will retain a local connection with the area they were living in prior to placement.
- 5.7 Prisoners who have been released from prison will retain a local connection with the area they were living in prior going to prison.

### **Those applicants who will no longer qualify Bucks Home Choice:**

- 5.8 Applicants aged 16 or 17 (unless there is an adult who can hold the tenancy as a trustee until they are 18).
- 5.9 Applicants who have formerly owned a property within the last five years and have disposed of capital without making reasonable housing arrangements. Evidence as to the circumstances will be required.
- 5.10 Applicants who have previously purchased a Right to Buy or Right to Acquire property (unless they are owed a main homelessness duty).
- 5.11 Applicants subjected to an Anti-Social Behaviour Order and or have broken the terms of their tenancy and or where a notice to quit has been issued.
- 5.12 Applicants aged over 55 who own suitable and affordable accommodation, or who have assets or savings sufficient to enable them to source

accommodation in the private sector. Decisions on these cases will be taken on a case by case basis, as opposed to income or savings thresholds being set. Guidance will be provided to caseworkers to ensure a degree of consistency in decision making and all decisions will carry a statutory right of review by a Senior Officer.

### **Other Policy Changes**

- 5.13 Where a change of circumstances results in the award of a higher priority band the priority date of the banding will be amended to the date of notification of the change. This ensures that applicants waiting longer in the same circumstances are given priority in shortlisting. On the reverse, where a change of circumstances results in the award of a lower band, the date will remain the same.
- 5.14 Initially the partnership proposed to include an amendment to increase the bedroom sharing age of same sex siblings from 16 to 21. Following consultation with members of the public and housing providers it has become clear that a significant number disagreed with the age of 21. We therefore propose that same sex siblings share a room to the age of 18, in accordance with the age when adolescents are generally no longer considered minors and granted full rights and responsibilities of an adult. Those adults over 18 will be encouraged to apply for housing in their own right, where possible.
- 5.15 To place applicants who owe rent arrears to a landlord to be placed in a new Band E until such times as they have cleared the arrears, this means that applicants owing rent arrears are not likely to be nominated for a tenancy where it is also highly likely that the nomination will be unsuccessful. There remains the scope to consider exceptional circumstances where, for example a property was unaffordable.
- 5.16 Inclusion of three further examples where an applicant could be deemed to have worsened their circumstances, including refusal of an offer of suitable and affordable private rented accommodation for a statutory homeless applicant or where an applicant colludes with a landlord or family member to obtain a notice to quit.
- 5.17 To amend verification procedures to ensure that where an applicant cannot be contacted within the next working day following a home visit the applicant may not be nominated for the property. This is to ensure we meet our legal time frames set out in nominations agreements.

### **Changes to Priority Banding:**

- 5.18 Reduced priority banding of applicants who have applied for homeless assistance to one of the four district Councils belonging to the Bucks Home Choice Partnership under Part VII, but have been assessed as intentionally homeless. This is to ensure that these applicants are not prioritised above those assessed as unintentionally homeless.
- 5.19 Reduced priority of Band D to Band E for those whom have applied for assistance to one of the four district Councils belonging to the Bucks Home Choice Partnership under Part VII but have been assessed as not in priority need (this means there is no long-term housing duty). This would mean that these applicants are not placed above those whom the Council have accepted a full homelessness duty towards.
- 5.20 Increased priority for those assessed as under occupying social rented accommodation from Band B to A. This gives the highest priority to those

applicants who occupy larger family homes to ensure the best use of housing stock and to meet a high priority objective.

- 5.21 Increased priority for applicants that are living in severely overcrowded rented, either social housing or private sector, accommodation and assessed as lacking two bedrooms or more, Band B to A. This change is with a view to reducing homelessness as re-housing times are reduced in recognition of unsuitable housing circumstances.
- 5.22 Increased priority of applicants living in accommodation assessed as insanitary and or evidenced as being in a state of significant disrepair, which cannot be repaired or rectified, from Band B/C to all being awarded Band B This change supports reducing homelessness as re-housing time is reduced in recognition of unsuitable housing circumstances
- 5.23 Reduced priority Band C to Band D for applicants who are eligible, homeless, in priority need and not intentionally homeless and have a local connection to the area (full duty). This is an important change to align the Homelessness Reduction Act's emphasis on preventing homelessness.
- 5.24 Addition of applicants owed the new *Prevention or Relief* duty to place into Band E, to ensure they are given reasonable preference in accordance with our statutory duties.
- 5.25 Reduced priority for Right to Move applicants (under the Right To Move Regulations 2015) who need to move to their place of work where they do not hold a local connection from Band D to Band E. Note: these applicants must be permitted to join the housing register to avoid hardship but Local Authorities must be satisfied that the tenant needs, rather than wishes, to move for work reasons.

## **6 BHC Consultation process**

- 6.1 A simple consultation was developed by the BHC Partnership, using an online survey tool which was publicised on AVDC's website, Bucks Home Choice website, emailed to stakeholders and parishes and, posted onto social media and subject to a joint press release. This ensured approach ensured that existing applicants, local residents, registered housing providers and stakeholders were notified and invited to respond. A key summary of changes document to support the consultation was provided and a paper copies of the consultation was made available to view in our offices for those with no internet access.
- 6.2 308 responses were received. A full analysis of responses can be found in Appendix 1. The results broadly support the proposed changes previously presented to the Members of the Environment and Living Scrutiny Committee, with the exception of the sharing age of same sex siblings (Question 8). In this instance the responses have been considered and the Draft Policy proposal has been amended to reflect a revised age of 18.

## **7 Options to consider**

- 7.1 To do nothing. This option will prevent the Bucks Home Choice Partnership bringing forward Countywide changes and would render the current policy unlawful in some areas.
- 7.2 To proceed with some of the proposed changes, including the changes required to make the policy lawful. Whilst this would ensure the Policy is legally compliant it would result in reduced ability to manage housing stock

and prevent homelessness thus failing to reduce the cost on Councils' temporary accommodation. This could compromise the ongoing viability of the Bucks Home Choice Partnership as a whole.

### **Recommendation and reasons for recommendation**

- 7.3 Full Policy Changes support is the recommended option as it will ensure that we are operating lawfully and are aligned with the Homelessness Reduction Act in its objective to prevent homelessness and ensures that we make the very best use of social housing stock across the district. In doing so we are also preserving the existing County wide Allocations Policy and Partnership as we move toward a single Unitary Council in 2020.

## **8 Resource implications**

- 8.1 A number of existing enhancements are required to incorporate the changes to the existing software, the cost of which will be borne by all District Councils. The cost of these changes are to be confirmed with the supplier but are expected to be met from the existing modest software improvement and other budgets.
- 8.2 As existing applicants would be reassessed, rather than reapply, this will be automated with notifications in writing, along with the usual recourse to a formal review. There will likely be a temporary uplift in officer time for associated reviews and front end training and enquiries. This will be met across Districts and by using existing resources with implementation expected in May/June 2019.
- 8.3 There is highly likely to be a positive impact upon temporary accommodation budgets as we offer increased priority to increase the chance of rehousing some applicants prior to becoming homeless.

Contact Officer: Mrs J Oliver, Principal Housing Officer, 01296 585109.  
Background Homelessness, Law & practice, Jan Luba QC, Liz Davies and  
Documents: Connor Johnston 2016. Homelessness and Allocations, Andrew Arden QC, Justin Bates and Toby Vanhegan.

## Appendix 1. Bucks Home Choice Draft Allocations Policy Consultation Responses Summary

Following consultation by the Bucks Home Choice Partnership on the Bucks Home Choice Allocations Policy, which closed on 7 January 2019, this document gives detail as to the responses received, consideration and recommendations by the Partnership to the representations made.

Questions 1 and 2 concerned the profile of those responding to the consultation.

### Overall consultation responses received:

**308** responses were received, of which:

**47%** were current registered applicants

**40%** members of the public not currently registered

**6%** of responses from either Registered Providers of social housing

**6%** were Councillors, Parishes, Community Groups and Support Providers.



Of these responses the following number of respondents indicated that they lived and or worked in one of the following district areas:

**195** - Aylesbury Vale

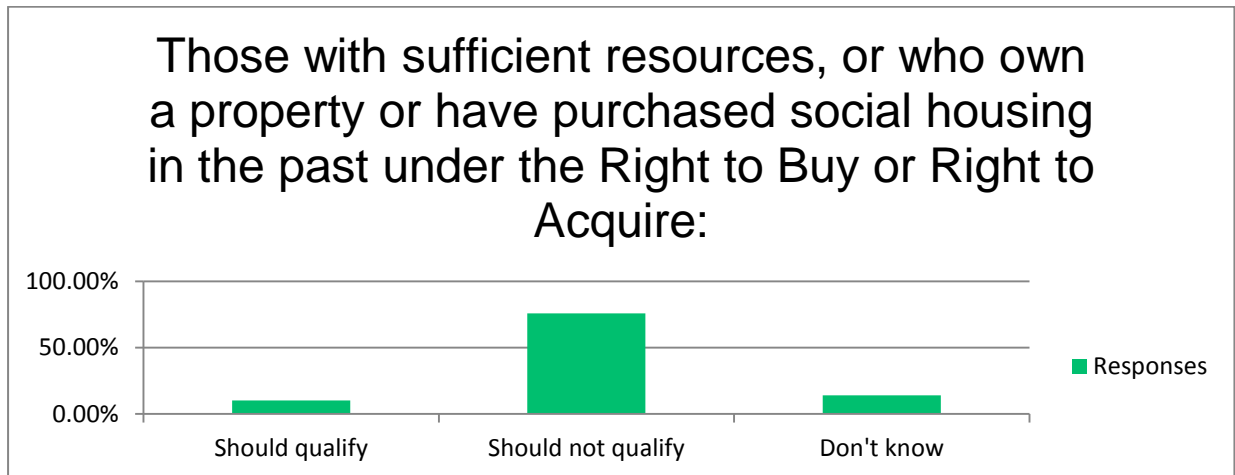
**26** - Chiltern District

**30** - South Bucks

**77** - High Wycombe

**18** - either not living or working within these areas or choosing not to say.

### Question 3:



75% of consultees agreed that these groups of applicants should **not** qualify to join the housing register. Some comments received from those that disagreed or did not know, included concerns about the financial position of the applicants and a requirement for flexibility, so that circumstances could be considered on a case by case basis. Other comments were about condition of the property in question and the financial ability to undertake repairs, or changes in circumstances (financial or health) which could affect and applicants ability to address their own housing circumstances.

### Recommendation:

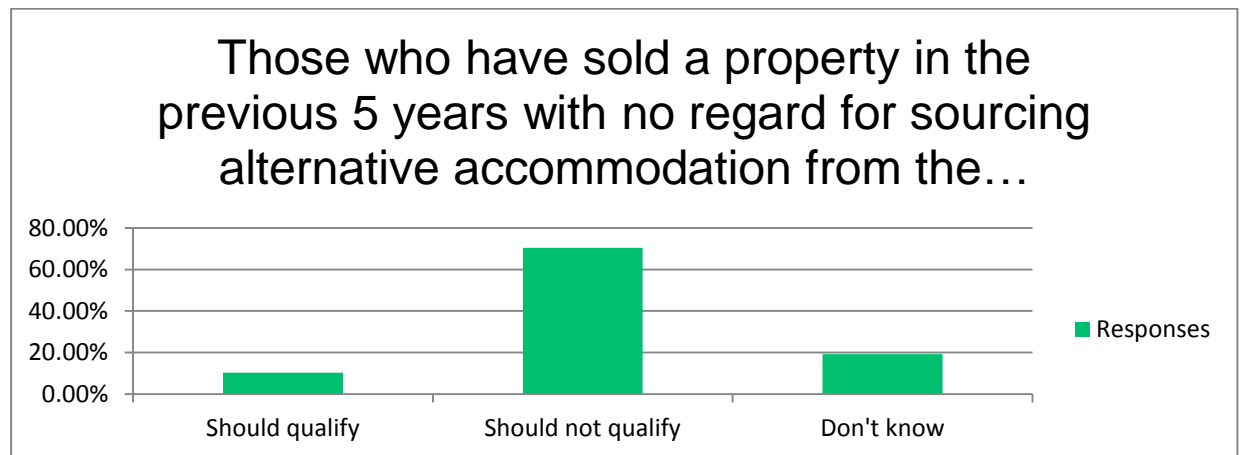
We have considered the comments that have been made and can confirm that the Bucks Home Choice Draft Allocations Policy makes provision for applications to be considered on a case by case basis and with regard to each personal set of circumstances. Bucks Home Choice Draft Allocation Policy 2.3 states that:

*“The Bucks Home Choice Partnership reserves the right in exceptional circumstances to register a household with the scheme even if the household falls into one of the non-qualifying classes set down above. Any decision to register a non-qualifying household will be subject to authorisation by the Senior Housing Officer of the partner Council receiving the application and will be based on the individual circumstances of the household concerned. In event of a decision being made to register a non-qualifying household, the partner concerned will record full details of the reason for the decision”.*

Because of the above exceptional circumstances provision; the recommendation is that this change to the Policy be agreed.



#### Question 4:

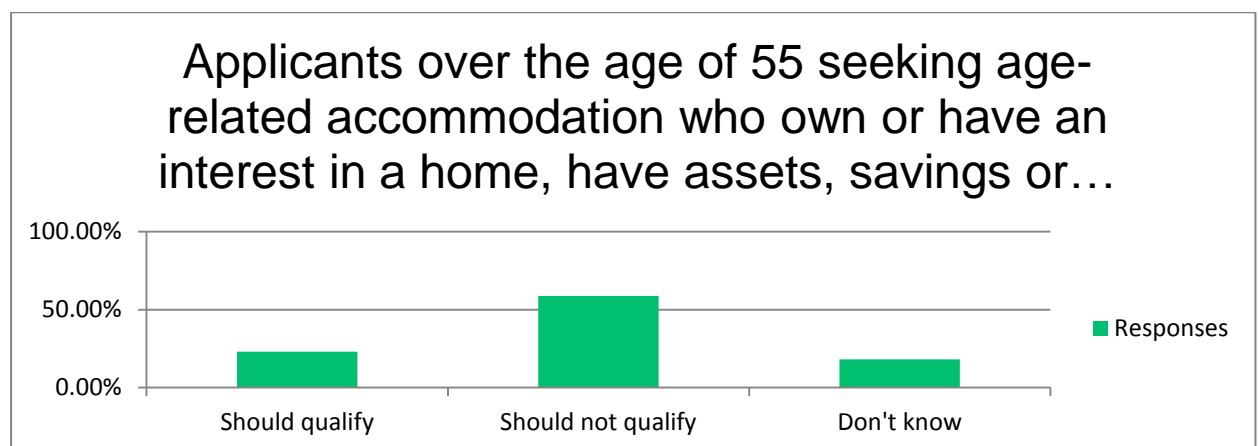


This proposal was broadly supported with 70% of responses agreeing that these applicants should not qualify. For those who disagreed, there were concerns related to the ability to consider individual circumstances, or where there had been a subsequent change in circumstances, which could result in applicants not being in a position to resolve their own housing circumstances. These could be due to limited equity, health and disrepair or similar.

#### Recommendation:

We have considered the comments that have been made and can confirm that the Bucks Home Choice Draft Allocations Policy makes provision for applications to be considered on a case by case basis and with regard to each personal set of circumstances as detailed above in Question 3. Because of the above exceptional circumstances provision; the recommendation is that this change to the Policy be agreed.

#### Question 5:



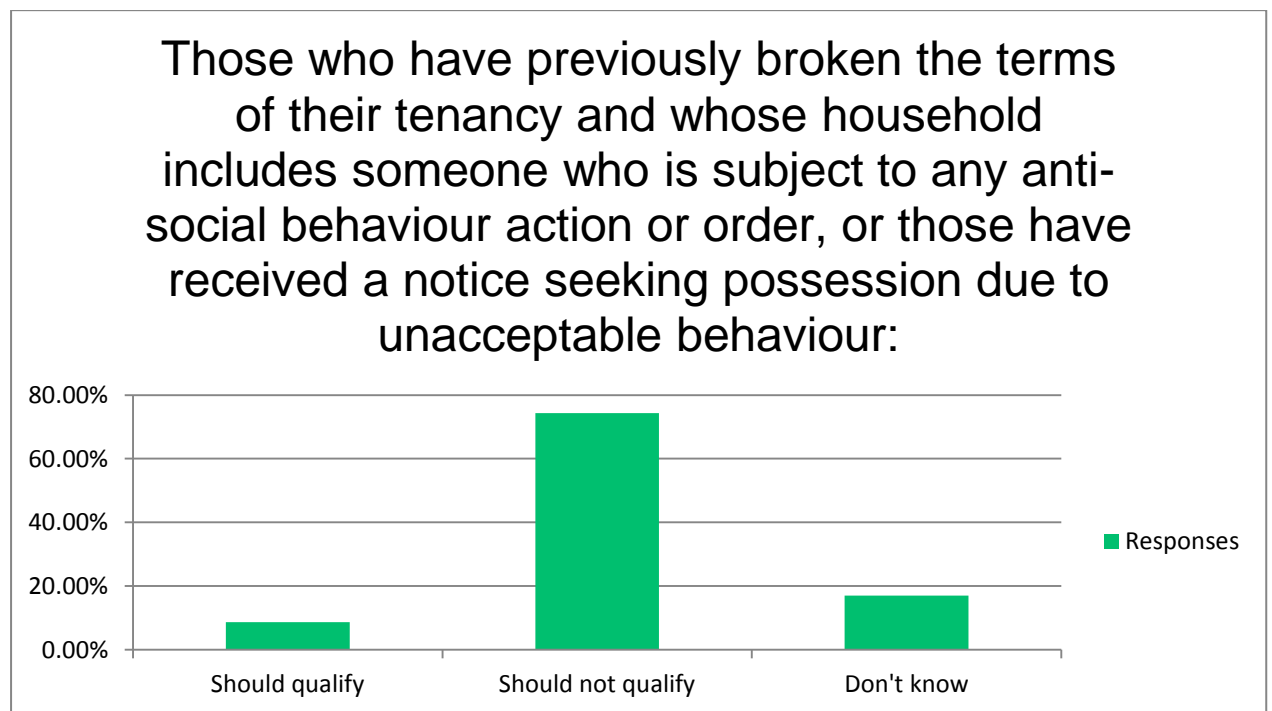
Whilst this proposal was broadly supported with 58% of responses agreeing that these applicants should **not** qualify, many consultees were concerned about provision to consider individual circumstances, linked to an applicant

not being in a position to resolve their own housing circumstances. These could be due to financial difficulties, limited equity, disrepair or health related issues.

**Recommendation:**

We have considered the comments that have been made and can confirm that the Bucks Home Choice Draft Allocations Policy makes provision for applications to be considered on a case by case basis and with regard to each personal set of circumstances as detailed above in Question 3. Because of the above exceptional circumstances provision; the recommendation is that this change to the Policy be agreed.

**Question 6:**



This proposal was supported by 74% of responses who agree that these applicants should not qualify. For those who did not support this proposal, there were again concerns related to the ability to consider individual circumstances. These included the impact of this change upon dependant children, the length of time that any anti social behaviour would continue to be a qualification issue, alongside any mental health issues and also the broader social consequences of excluding some recently released prisoners from qualifying.

**Recommendation:**

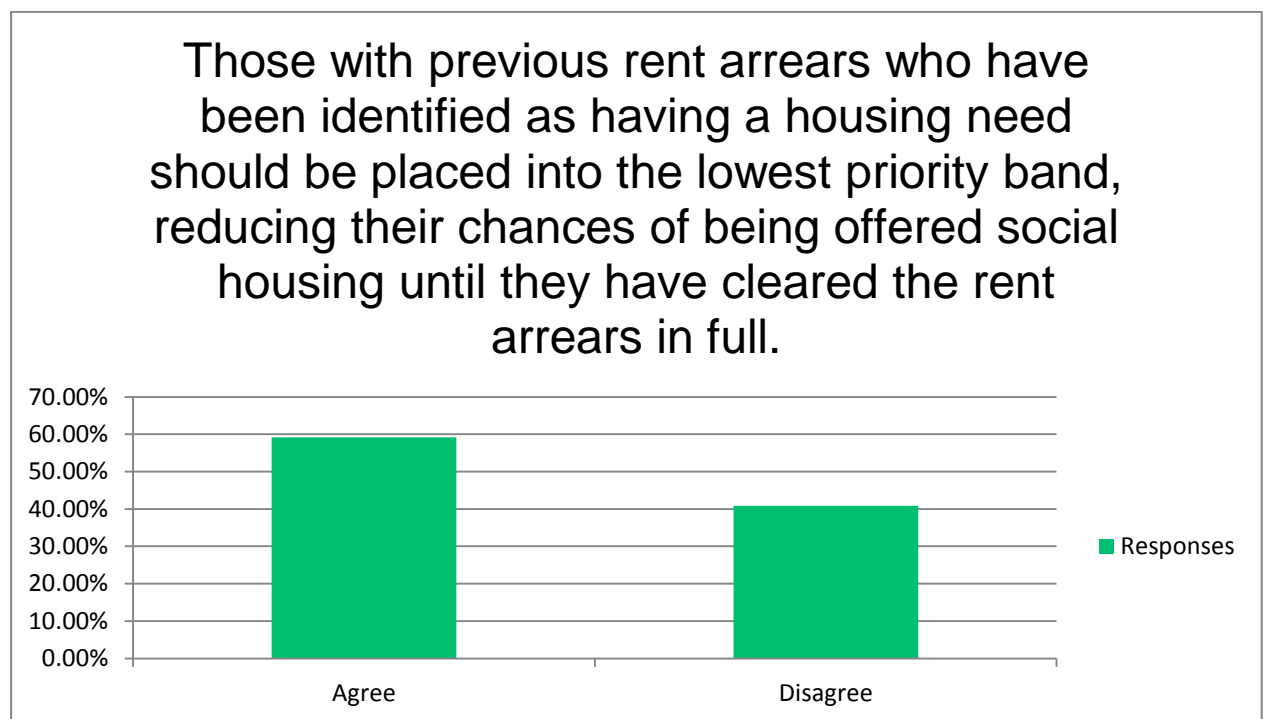
We have considered the comments that have been made and can confirm that the Bucks Home Choice Draft Allocations Policy does makes provision for applications to be considered on a case by case basis and with regard to

each personal set of circumstances. Bucks Home Choice Draft Allocation Policy 2.3.2 states that:

*“Any decision made in respect of the applicant’s behaviour making an applicant unsuitable to be considered a tenant, will consider the timing, pattern and seriousness of the behaviour and an applicant’s engagement with appropriate services”.*

The Policy specifically considers poor behaviour within the previous 5 years but also has flexibility to consider any positive changes in behaviour that applicants makes, including sustained engagement with appropriate services. Individual circumstances such as, for example domestic violence, would be considered in any decision about qualification. Therefore the recommendation is that this change to the Policy be agreed.

**Question 7:**



This proposal was supported by 59% of those responding, who agree that these applicants should be placed in a lower priority band. Those who disagreed, had concerns relating to the consideration of individual circumstances and especially those affected by welfare reforms, changes in financial circumstances which caused affordability issues and arrears.

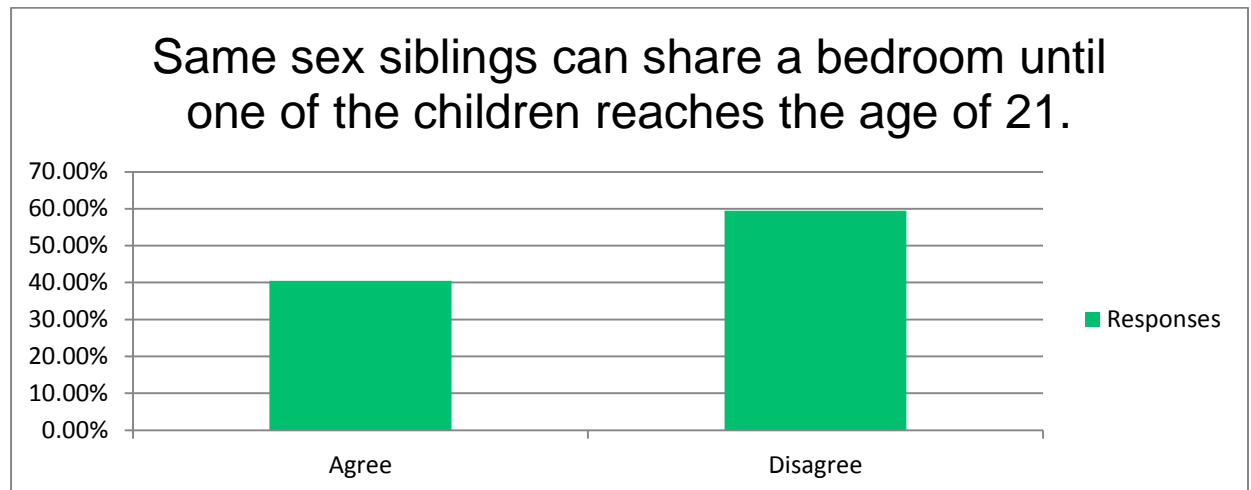
**Recommendation:**

Bucks Home Choice Policy, 2.3.5 states:

*“Where the rent arrears have arisen due to exceptional circumstances beyond the applicant’s control the Council may depart from this policy and the decision will be referred to a Senior Officer”.*

As provision has been made to consider individual circumstances, (which includes cases where the individuals has been affected by welfare reform) the recommendation is that this change to the Policy be agreed.

**Question 8:**



Of the consultation responses received, 59.5 % of consultees disagree with this change, feeling that older children require privacy prior to the age of 21. The current Bucks Home Choice Policy allows for an additional bedroom where children of the same gender are sharing a bedroom when one of the children reaches 16. The revised draft Allocations Policy proposed a sharing age of 21 to enable the best use of stock and to assist some of the larger families who are difficult to place due to the sheer number of older children in the family unit. This change was being considered so as to consider overall bed spaces within the property in a more effective way and designed to achieve maximum occupancy.

We have also considered the fact that none of the District Councils own their own housing stock and that we are reliant on Registered Providers accepting the nominations that we make to them. We understand that there are a number of providers that have their own respective allocation policies that would be contrary to this amendment to the Bucks Home Choice Allocations Policy.

As a result, and with consideration being given to the draft Policy making provision for how properties should be advertised, it is considered reasonable by the partnership to revise the age to 18 for same sex siblings. This coupled with intelligent advertising would still result in a more flexible and intelligent use of stock so that larger families are not prioritised below smaller families with, perhaps older children, for example.

The draft Bucks Home Choice Allocations Policy 5.2 states that

*“Each property advert will have information on the location, size and type of Property and any criteria that applicants must satisfy in order to be eligible for*

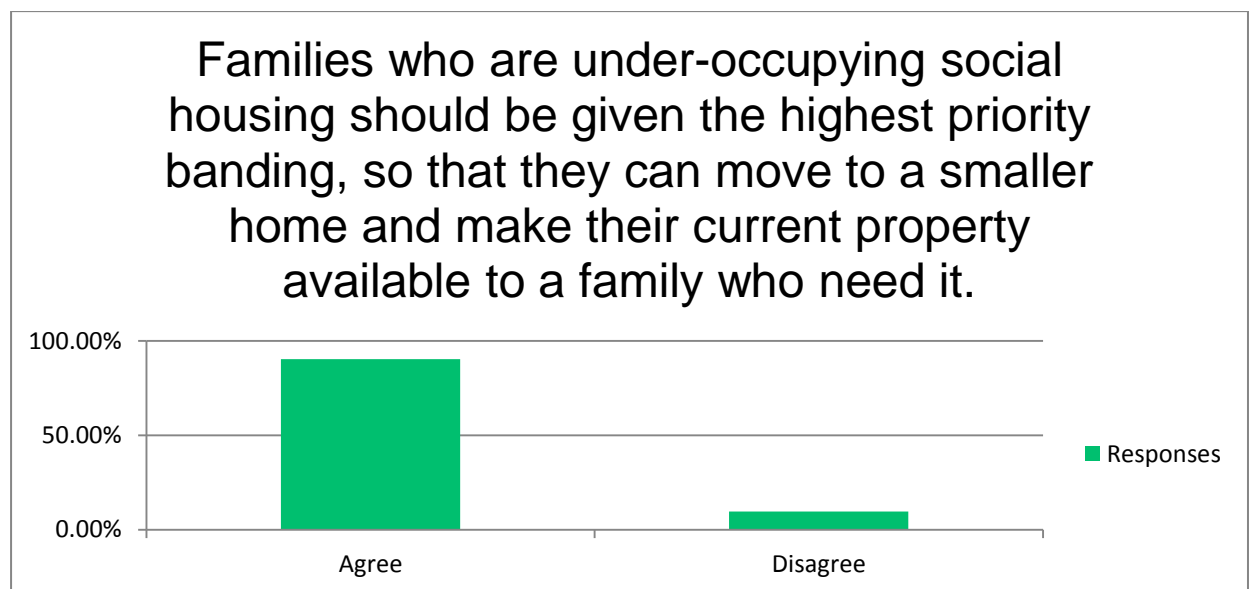
*shortlisting. Some properties may have letting restrictions for example no pets or age restrictions. Priority for family sized accommodation of two bedrooms or more with access to a garden may be given to households with children under the age of 16, unless medical evidence of the need for a property with a garden exists.*

*Properties that have two reception rooms may be considered as having an additional bedroom to assist, where necessary, with housing larger families where larger accommodation is not available. Any restrictions will be explained in the advert and applicants who do not meet the criteria will not be nominated for the property”.*

**Recommendation:**

As a result of the responses received, information considered including the measures within the Draft Policy with regards to advertising and letting of properties, the Partnership propose that we therefore increase the age of sharing siblings to 18 rather than 21.

**Question 9:**

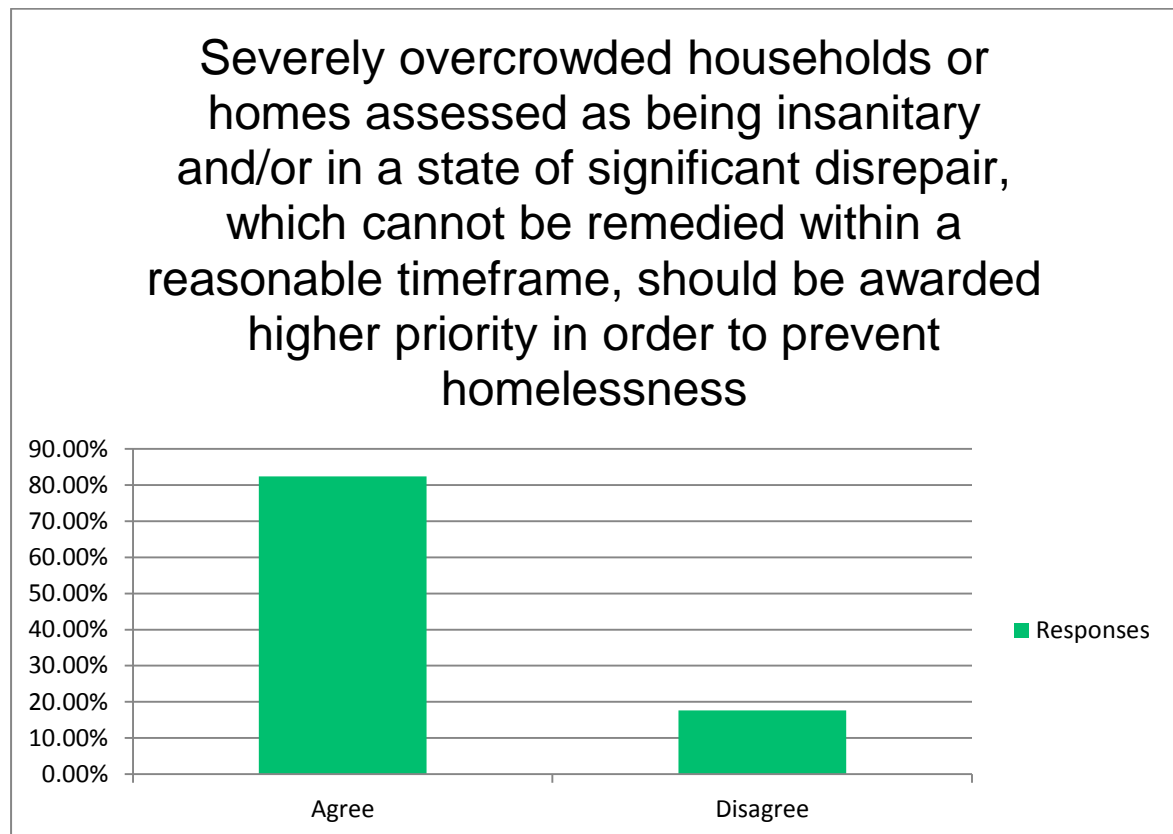


This element of the Policy is supported by 90% of responses who agree that these applicants should be prioritised in a higher priority band, including several large registered providers. Those that disagreed were concerned that people would be forced to move or that this proposal should be coupled with other downsizing incentives.

**Recommendation:**

The recommendation is that this change to the Policy be agreed.

**Question 10:**



This element of the Policy was supported by 82% of those who responded, who agreed that these applicants should be prioritised in a higher priority band, including several large registered providers. Those who disagreed were concerned that applicants who do not look after their property and or deliberately overcrowd their accommodation are not awarded additional preference for this.

**Recommendation:**

The Partnership makes a full assessment of applications, both at application and allocation stage (which including investigating the circumstances of each application, for example, including consideration as to whether an applicant may have deliberately worsened their circumstances). As such the recommendation is that this change to the Policy be agreed.

**Question 11: Other comments about the Summary of Changes document included**

**Comment:** Buckingham Town Council we would like to be assured that the current sub-allocation policy for Bucks Home Choice will continue into the new unitary authority, as there is huge social value in keeping families and communities together.

**Response:** Whilst noting this response, the partnership would not (at this stage) be in a position to confirm existing Local Lettings Policies would be

retained by the new Council after April 2020. However we can confirm that this Draft Policy makes no changes to existing Local Lettings Policies (including those allocation sub groups within Aylesbury Vale).

**Comment:** Ensuring that homeless families do not bed block temporary accommodation and are fully considered in the new Draft Policy.

**Response:** The changes should realise a positive impact in that larger families would be affected by the change to sharing of same sex siblings, especially where a families 'overall bedroom need' would reduce and allow for an allocation of a smaller properties, which are in greater supply. Secondly when considering full homelessness duties we are confident that the Councils' temporary accommodation is managed, and that each authority retain the right to make a suitable and affordable direct offer of accommodation where appropriate to do so.

**Comment:** A number of responses were received in relation to supported housing and move on provision into general needs accommodation.

**Response:** The District Councils support move on from various supported housing providers and care leavers, in the form of 'move on protocols' and will continue to work with providers of supported housing where a review is considered necessary.

**Comment:** A comment was received with regards to the advertising of the consultation itself and that it was not widely advertised.

**Response:** The consultation was advertised via joint press release across the County, to stakeholders and parishes and also via each Council's own website, as well as the Bucks Home Choice website itself.

**Comment:** A comment was received indicating that if Parish and Town Councils could be involved in the allocation of housing within their respective areas then support for building more social homes may be forthcoming.

**Response:** The statutory duty for administering allocations rests with the local housing authority. A local authority allocation scheme must be able to ensure overall that those in reasonable preference enjoy a majority of allocations. To achieve a balance between this duty and a desire to ensure that there is a degree of connection between applicants and the community they are based in, AVDC implemented Local Lettings Policy with Allocation sub groups in 2014. This Local Lettings policy is retained and continues to provide up to 75% of new lets and 25% of re lets to those with a sub group connection.

**Comment:** Reference has been made to the Unitary Authority and review of boundaries and local area connection.

**Response:** This is not able to be considered at this time and will emerge and changes develop.