



# Swale Housing Allocations Policy 2020

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## **PART 1: BACKGROUND**

In Swale the demand for social housing is considerably greater than the number of homes available. This Allocations Policy sets out how social housing within the borough is allocated.

SBC's Allocations Policy defines:

- who can apply to Swale's housing register
- the criteria used to determine priority for allocating social homes
- the service standards an applicant can expect
- the legal framework within which Housing Allocations sits

This Allocations Policy aims to:

- Provide a fair and transparent system to prioritise the allocation of social homes in Swale
- Help households in most housing need to access affordable homes
- Make efficient use of social homes available in the borough
- Promote choice and the development of sustainable mixed communities

Swale Borough Council does not own or manage any affordable or social homes but does work in close partnership with all housing associations (also known as registered social landlords or private registered providers) that are integral to the delivery of this policy.

The allocations policy cannot cover every eventuality and in cases where there are unique needs the Housing Options Manager has discretionary power to award priority, approve additional priority or agree to offers outside of choice based lettings.

## **PART 2: LEGAL CONTEXT**

### **2.1 Legal Framework**

Swale Borough Council's Allocations Policy is positioned within a legal framework.

The 1996 Housing Act (as amended) requires local authorities to make all allocations and nominations in accordance with a published Allocations Policy. A summary of the policy and general principles is available at Swale Borough Council offices, and is available on the Council's website [www.swale.gov.uk](http://www.swale.gov.uk).

The 1996 Act also requires local authorities to state what its policy is on offering applicants a choice of housing accommodation, or offering them the opportunity to express preference about the housing accommodation to be allocated to them. Further information on choice is given at Part 3.

In developing this policy the Council has fully considered all relevant legislation, statutory instruments and codes of guidance including:

- The Housing Act 1996 as amended
- Homelessness Act 2002
- Localism Act 2011
- Allocation of Accommodation Code of Guidance 2012

- Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012
- Providing Social Housing for Local People: Statutory Guidance on Social Housing Allocations 2013
- Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015
- Homelessness Reduction Act 2017
- Improving Access to Social Housing for Victims of Domestic Abuse in Refuges or Other Types of Temporary Accommodation 2018

The policy is also framed to ensure that it is compatible with the Council's equality duties including the 2010 Equality Act and has been subject to a full published equalities impact assessment.

## 2.2 Reasonable Preference

Swale Borough Council is required by law to determine the priority that a housing applicant should be awarded. This is particularly important when, as is the case in Swale, the demand for social housing is far greater than the availability of homes.

The law requires that Reasonable Preference for housing must be given to those in the following categories set out in the Housing Act 1996 s166A (as amended) the statutory Reasonable Preference categories cover:

- All homeless people as defined in Part VII of the Housing Act 1996, as amended.
- People who are owed a duty under the Housing Act 1996 Act as amended, or the Housing Act 1985.
- People occupying unsanitary, overcrowded or otherwise unsatisfactory housing;
- People who need to move on medical or welfare grounds (including grounds relating to a disability);
- People who need to move to a particular locality within the district to avoid hardship to themselves or others.

## 2.3 Housing Allocation

The allocation of housing by a local housing authority is defined in s.159 of the 1996 Housing Act as:

- Selecting a person to be a secure or introductory tenant of housing accommodation held by them (i.e. by that housing authority)
- Nominating a person to be a secure or introductory tenant of housing accommodation held by another person (i.e. another housing authority)
- Nominating a person to be an assured tenant of housing accommodation held by a registered social landlord / Housing Association

**The following are not “allocations” under this policy:**

- An offer of accommodation to an existing social housing tenant (transfer applicant) with no reasonable preference. Under the Localism Act 2011 such cases are no longer subject to the Allocation rules set by section 166 of the Housing act 1996 Part 6.
- Succession to a tenancy on a tenant's death pursuant to s89 Housing Act 1985, or

- Assignment of a tenancy by way of mutual exchange, or
- Assignment of a tenancy to a person qualified to succeed to the tenancy on the tenants death, or
- Transfer of the tenancy by a court order under family law provisions or under the Civil Partnership Act 2004, or
- An introductory tenancy becoming a secure tenancy
- Social Landlord initiated transfers (e.g. decant to alternative accommodation to allow for major works).
- Re-housing due to being displaced from previous accommodation by the Council or being re-housed by the Council pursuant to the Land Compensation Act 1973.
- Provision of non secure temporary accommodation in discharge of any homelessness duty or power.
- Lettings which Housing Associations make outside of nominations agreements.
- Allocations where there may be public protection risks.

### PART 3: CHOICE AND CONSTRAINTS

Applicants who are eligible to join the housing register can express a preference over the area and type of accommodation in which they would like to live.

Social and affordable rented housing within the borough is let through Kent Home Choice (Choice Based Lettings) scheme <http://www.kenthomechoice.org.uk/choice/>. When properties are advertised on the Kent Home Choice website applicants are able to express an interest (bid) for the appropriate size of home but with type and location of their choosing. These expressions of interest are then shortlisted and the property offered to the household on the shortlist with the highest position in the highest band unless the property is extra care, subject to a Local Lettings Plan or identified by the housing association as requiring a sensitive let. The more type and area choices an applicant makes the greater the chance the applicant will be successfully housed.

If an applicant moves up a band the priority date changes to the date that we are notified of the new circumstances, not the date the applicant originally applied to the Housing Register.

Housing associations participating in Choice Based Lettings may have their own policies which prevent a property being offered to an applicant.

The table below shows how many homes become available to let in each part of the borough during 2018/19

	1 bed			2 bed			3 bed			4 bed			
	Sitt	Sheer	Fav	Sitt	Sheer	Fav	Sitt	Sheer	Fav	Sitt	Sheer	Fav	
Band A	31	14	7	12	12	4	11	6	3	1	0	0	101
Band B	25	11	8	36	12	12	18	15	4	2	0	1	144
Band C	28	15	10	11	5	1	7	1	4	2	0	1	85
Band D	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>Total</b>	<b>84</b>	<b>40</b>	<b>25</b>	<b>59</b>	<b>29</b>	<b>17</b>	<b>36</b>	<b>22</b>	<b>11</b>	<b>5</b>	<b>0</b>	<b>2</b>	
	<b>149</b>			<b>105</b>			<b>69</b>			<b>7</b>			<b>330</b>

As at the 1 April 2019 there were 1427 applicants in housing need on the housing register.

Band A	195
Band B	217
Band C	994
Band D	21

For 1 April 2018 to 31 March 2019 we received 1637 applications to the housing register. Of these 788 qualified and had a housing need so were included.

### Accommodation Types:

In order to make the best use of the available housing stock, it is essential to let vacancies to those who need that size and type of property. Examples include 3 bedroom homes with a dining room being let to a household requiring 4 bedrooms, older persons housing being let to those age 50+ and properties that have been built or adapted for a person with a physical or sensory disability. There are a variety of different types of accommodation as detailed in the table below:

Accommodation Type	Description
General Needs Housing	Flats, houses and other accommodation with no onsite support.
Older Persons Designated Housing (Sheltered Housing)	<p>These are homes designed especially for older people. They offer independent living with security and peace of mind.</p> <p>To be eligible for this type of housing applicants must normally meet the age criteria and any other eligibility criteria:</p> <ul style="list-style-type: none"> <li>➤ Suitable for the scheme and confirm they do not have support needs that cannot be met or would be detrimental to the Scheme or other tenants</li> </ul> <p>These properties will be labelled on choice based lettings so that only applicants who meet the required criteria may bid.</p>
Extra Care	<p>The purpose Extra Care Housing is to provide older people with their own home and tenancy within a support and care environment ensuring that appropriate personal and housing support are available as required. All applicants will be registered and assessed for re-housing in line with Swale Borough Council's Allocations Policy and be eligible to access social Housing.</p> <p>To be eligible for this type of housing applicants must be:</p> <ul style="list-style-type: none"> <li>➤ Over 55 years of age</li> <li>➤ Prepared to agree to the scheme requirements and consider use of the care provider to meet any care needs</li> <li>➤ Have an up to date social care assessment outlining housing and social care needs and a medical/social history</li> </ul> <p>Priority is not decided by the housing register banding alone. An assessment will be made for each vacancy and the property will be let after taking into account both housing and social care need.</p>

### Refusals:

Non-homeless applicants will be entitled to refuse three suitable offers of accommodation before being removed from the register. Applicants will be able to re-apply in 12 months.

Applicants with a full accepted homeless duty by Swale Borough Council will be entitled to one suitable offer of accommodation which will be treated as a final offer to end the Council's homelessness duty. The offer of accommodation could be a property the applicant has bid on through Kent Homechoice, or a property bid on by a Housing Options Officer on behalf of the applicant or a direct offer made to end the Council's homelessness duty. The final offer will be confirmed in writing stating that the Council's duty to the applicant under part VII of the 1996 Housing Act (as amended) will be ended.

Every homeless applicant has the right to request a review of suitability of the accommodation offered in discharge of the Council's Part VII duty.

In all cases offers will be seen as suitable if they reasonably meet the housing and medical needs of the household. Factors taken into account include property size, location and affordability. In considering suitability the Council will give regard to the overall supply and availability of accommodation and the demands placed on it by all priority groups.

**PART 4: ELIGIBILITY**

This section sets out who is eligible to apply for Social Housing within Swale. You can usually apply for a social home if you are living and settled in the UK and you are:

- a British citizen, or
- a citizen of another country with the right to stay in the UK with no restrictions.

The following persons are not eligible to apply:

- People who are “*subject to immigration control*” (unless they fall within a class prescribed by regulations as eligible).
- People who are not subject to immigration control, but are nevertheless prescribed by regulation as being “*persons from abroad*” (this may include British citizens).
- Any other person as prescribed by the Secretary of State in future regulations.

Housing Associations work in partnership with the local authority and have fully consulted policies on how they will let their homes.

**4.1 Qualification**

Section 160ZA Housing Act 1996 (as amended) gives power to Local Authorities to define classes of applicants that will be considered as qualifying persons. Qualification must be met at both point of application and point of offer.

Applicants will not normally qualify for inclusion on the Council's Housing Register if they fall into one of the following criteria:

<b>Criteria</b>	<b>Detail</b>
Residency	Households who have not lived within the Swale boundaries for a continuous period of 2 years immediately prior to the application being made. Residency in Swale must be by the applicant's own choice and maintained throughout the application.
Affordability	Applicants that have gross income or assets above a certain level will not qualify: <ul style="list-style-type: none"> <li>• The gross income level is:</li> </ul>

	<p>1 bedroom need £30,000,  2 bedroom need £40,000,  3 bedroom need £50,000,  4 bedroom need or more £60,000 per annum per household.</p> <ul style="list-style-type: none"> <li>• The asset level is set at more than £50,000.</li> </ul> <p>When looking at gross income everything will be taken into account including earnings, overtime payments, benefits, child maintenance and any other relevant income.</p> <p>The gross income level and the asset level will be based on average private rents or the level of deposit required to buy an average priced property in the area and will be reviewed.</p>
Fraud	<p>Applicants who have been cautioned or convicted of housing or welfare benefits related fraud where that conviction is unspent under the Rehabilitation of Offenders Act 1974. Any person may re-apply once this conviction is spent.</p>
Rent arrears	<p>Applicants who owe arrears of rent or other accommodation charges to the Council, or any social or private landlord, in respect of the current tenancy or former accommodation, unless an appropriate agreement has been reached and sustained for a reasonable period. In assessing the application for registration, the Council will take into account the size of the debt, the means to pay and the degree of need.</p>

Households who do not qualify for inclusion on the Housing Register will be given advice and information about other housing options that may be available to them.

Where circumstances are exceptional the discretion of the Housing Options Manager will be applied.

**The following applicants will be exempt from the residency criteria:**

**4.1.1 Armed Forces Personnel**

The following members of the armed forces will not be required to meet any requirement for residency (excluding those that have been dishonourably discharged):

- members of the Armed Forces and former Service personnel, where the application is made within five years of discharge
- bereaved spouses and civil partners of members of the Armed Forces leaving Services Family Accommodation following the death of their spouse or partner
- serving or former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service
- divorced or separated spouses or civil partners of Service personnel who are required to move out of accommodation by the Ministry of Defence

**4.1.2 Homeless Duty**

Applicants who are owed a main homeless duty by Swale Borough Council to enable the authority to discharge its duty to rehouse them.

#### **4.1.3 Right To Move**

Certain social housing tenants who need to move from another local authority district in England to Swale to avoid hardship who work in Swale or have a genuine offer of work in Swale. An assessment of work and hardship will be made in line with the statutory guidance.

#### **4.1.4 Refuge Accommodation**

Applicants who have fled from another local authority due to domestic abuse and are currently placed in refuge in Swale.

#### **4.1.5 Employment in Swale**

Applicants who are in permanent employment in Swale. Employment is defined as paid employment for 16 hours or more per week for a period of at least 6 months. The actual place of work must be within the Borough not just the head or regional office.

#### **4.1.6 Rural Housing (exception sites)**

A small number of properties in rural areas have a specified local connection criteria due to planning conditions. These properties will be advertised through Kent Homechoice and the advert will state what local connection is required. Applicants who meet the local connection will be considered for the rural site only.

### **4.2 Who can be included on the application?**

We will assess the size of property you require based on who is included on your application. You can include only members of your immediate family who normally live with you (or who would live with you if it were possible for them to do so) or other people who have an extenuating need to live with you. Immediate family means:

- You (the main applicant)
- Your spouse or partner. By 'partner' we mean someone you live with as your partner or who you would live with as a partner if they were able to do so. This includes mixed-gender and same-sex couples and whether or not you are married or in a civil partnership
- Your children or your partner's children, if they are aged under 21 and live with you all the time, or for four or more nights every week and you are in receipt of child benefit and if applicable child tax credits.
- Adult children or other relatives who are currently living with you if it is reasonable to be considered as one household and a permanent arrangement

The following household applicants cannot be included in an application:

- Friends, lodgers, sub-tenants and any other adults not listed above wishing to be included in order to share accommodation with the applicant
- Anyone who has moved into the current property without good reason and caused the household to be overcrowded
- Anyone who does not intend to move to any accommodation offered to the applicant(s) or does not intend to live with them permanently

#### **4.3 Family members who are not currently living with you**

We will not include family members currently living abroad on your application and therefore they cannot be re-housed with you until such a time that they return to the UK and the Council is satisfied that they are eligible.

In cases where two parents or guardians have joint access to children, bedroom eligibility will be awarded to the main care provider. You will need to demonstrate

- you are the main care provider (children live with you for more than half the week - four nights or more) and you are in receipt of child benefit and if applicable child tax credits
- that the arrangement is 'permanent'

We will take into consideration both parents' housing arrangements to ensure that one property has adequate accommodation for the children. A Court Order allowing access or confirming residence does not mean that the council must consider that the child is part of the applicant's household. This does not prohibit the other parent from maintaining their usual and agreed access to the children, but we will not be able to offer an additional bed space in both homes for the child.

#### **4.4 Deliberately worsening housing circumstances**

If the Council considers that an applicant has acted unreasonably to make their housing circumstances deliberately worse than their previous accommodation without good reason or with the aim of qualifying for a higher banding, no additional priority will be awarded. This applies where an applicant or member of their household has committed anti-social behaviour that would render them unsuitable for re-housing. Cases will be reviewed once the applicant can demonstrate that this behaviour has been addressed. Where applicable applicants will retain the banding and priority they held before worsening their circumstances.

### **PART 5: THE PRIORITY BANDING SYSTEM**

Applications will be assessed and placed in one of five bands if eligible, qualify and have a housing need:

- A: Urgent Housing Need
- B: Serious Housing Need
- C: Reasonable Preference
- D: General Housing Need
- E: Rural Housing

The full banding table is included as Appendix A.

### **PART 6: REASONABLE PREFERENCE AND PRIORITY**

The law requires that Swale Borough Council give Reasonable Preference for housing to those set out in the Housing Act 1996 (as amended) as follows:

#### **Reasonable Preference category s166A(3)(a)**

***Applicants who are homeless within the meaning of Part VII Housing Act 1996.***

This group comprises those cases that have been determined to be homeless and not in priority need. It also includes cases that have been found by Swale or another local authority to be intentionally homeless.

**Reasonable Preference category s166A(3)(b)**

***Applicants who are owed a duty by any housing authority under section 190(2), 193(2) or 195(2)***

**People who fall into this category are homeless households as follows:**

- People who the Council has accepted that it owes the applicant a prevention duty under section 195 as being threatened with homelessness in the next 56 days, or having been served a valid Section 21 notice, and the Council is taking steps to try and prevent that homelessness from occurring.
- People who the Council has accepted that it owes the applicant a relief duty under section 189B and the Council is taking steps to relieve that homelessness.
- People who have been accepted as being owed the full homeless duty under section 193(2) i.e. those who are deemed homeless, in priority need and unintentionally homeless.
- People owed a section 190(2) duty that have been assessed as being in priority need but are intentionally homeless and have been provided with accommodation for a period of time to enable them to secure their own accommodation.

Every homeless applicant has the right to request a review of suitability of the accommodation offered in discharge of the Council’s Part VII duty.

**Reasonable Preference category s166A(3)(c)**

***People occupying unsanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions.***

**Overcrowding**

Those overcrowded by one bedroom or more will be granted reasonable preference. However in accordance with section 4.4 the Council has the right to consider that any applicant who has deliberately worsened their housing circumstances with the aim of qualifying for a higher band will not be awarded additional priority, may be given a reduced priority or withdrawn from the register.

For the purposes of Swale’s allocations policy, to minimise overcrowding and to ensure affordability, bedrooms will be allocated according to who lives with you and the relationship between household members.

Dependent upon different factors within the household such as age, sex and disability each member of your household will be assessed as needing the following number of bedrooms:

Household Members	Number of bedrooms needed			
	1	2	3	4
A single person aged 16 yrs and over	✓			

A couple wishing to live together	✓			
A couple or single parent/carer with one child		✓		
A couple or single parent/carer with 2 children under 10 regardless of sex		✓		
A couple or single parent/carer with 2 children of the same sex aged between 10 and 16 yrs		✓		
A couple or single parent/carer with 2 children of the different sex aged between 10 and 16 yrs			✓	
A couple or single parent/carer with two children of opposite sex one of whom is over ten			✓	
A couple or single parent/carer with three children			✓	
A couple or single parent/carer with four children (all of the same sex or two of each sex)			✓	
A couple or single parent/carer with two children one under the age of 16 and the other over the age of 16			✓	
A couple or single parent/carer with four children (three of one sex and one of the opposite sex over 10 yrs)				✓
A couple or single parent/carer with more than four children				✓
A couple or single parent/carer with three children and one dependent adult				✓
In the event that a 5 bedroom property is advertised applicants who need that size property will be assessed in accordance with this table and the bedroom standard will also be considered if necessary.				

Households will also be assessed as needing one bedroom for each of the following if they are assessed as being included as part of the household:

- A tenant requiring a non-resident overnight carer – It must be demonstrated that it is essential that applicants require both day and night care. This will be assessed by the council based on a care needs assessment provided by adult social services.
- Disabled child who cannot share a bedroom with their sibling due to their disability – to award this we will require confirmation of the need for an additional bedroom from a medical professional and proof of Disability Living Allowance with care awarded at middle or high rate.
- An adult child who is serving away with the armed forces
- A room for a foster child or children – only one room will be awarded
- Pregnancy will be included in the room calculation from 22 weeks gestation although will not be included in any overcrowding calculation until born.

Please Note: Due to the scarcity of larger homes, families requiring four bedrooms or more may be allowed to consider three bedroom properties which have additional living space downstairs which could be used as a bedroom. This will be at the discretion of the Housing Association who own and manage the property.

## **Reasonable preference category s166A(3)(d)**

### ***People who need to move on Medical, Disability and Welfare grounds.***

These cases are assessed by the Council and can take account of information provided in a Kent Agency Assessment form submitted by any statutory agency such as a Health or Social Services Professional.

#### **Medical or Disability Reasonable Preference cases**

An applicant's circumstances will normally only be referred for a medical assessment if an applicant has indicated that there is a serious medical or disability problem that is made substantially worse by their current housing. This priority will be awarded where an applicant's housing is unsuitable and the conditions directly impact and worsen the ill-health or disability, but they are not housebound or their life is not at risk due to their current housing.

#### **Welfare Reasonable Preference cases**

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

#### **Move on from care or supported accommodation**

Applicants leaving care must be a former "Relevant Child" as defined by the Children Leaving Care Act 2000. Priority for move on only applies to applicants that are vulnerable and whose established and additional needs would be best met by the provision of long term settled housing and who:

- Are ready to move on from social services or supported accommodation and into independent settled housing and is genuinely prepared for a move to independent living.
- Have the life skills to manage a tenancy including managing a rent account.
- Are in need of either a long term or medium term tenancy support.
- Has a support package in place.

All other cases will be expected to be assisted by Social Services or the supported housing provider to move on to private rented accommodation.

If awarded the move on preference can be removed if the applicant is no longer conducting the tenancy in a manner required to approve move on.

## **Reasonable preference category s166A(3)(e)**

People who need to move to a particular locality within the local authority's district, where failure to meet that need would cause hardship to themselves or to others will be granted priority depending on the severity of the impact of their housing on their condition.

## **PART 7: ADDITIONAL PRIORITY**

### **7.1 How is additional priority applied**

Greater priority can be awarded by giving “additional preference” to applicants who meet one of the ‘reasonable preference’ categories and who also have exceptional or urgent housing needs.

### **Very urgent medical reasons**

An applicant who has an urgent need to move due to medical reasons or a disability that is made worse by their current housing situation.

### **Armed forces Personnel**

The Allocation Policy will award additional preference to those who are in urgent housing need and who meet the following criteria (excluding those that have been dishonourably discharged):

- Is a person serving in the regular forces who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person’s service,
- A person who formerly served in the regular forces,
- A spouse or civil partner who is no longer entitled to or will soon have to leave accommodation provided by the MOD after the death of their spouse/civil partner whose served in the Armed Forces and whose death was due to service,
- Is a person serving or formerly serving in the reserve forces who is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person’s service.

### **Management Moves**

A household with an immediate need to move, for example, because of fear of violence where a move within the borough is supported. Due to the exceptional circumstances of these cases the following applies:

- Only one suitable offer will be made
- The offer will be on a ‘like-for-like’ basis taking account of the number of bedrooms required and the property type
- Area restrictions apply and factors regarding personal safety relevant to the transfer will be taken into account

## **PART 8: RENEWING AND REVIEWS**

### **Renewing of Applications**

It is the intention of the Council to renew all applications annually, or earlier as and when required. Failure to respond to a request to renew your application will result in the application being removed. If good reason can be shown why there was a failure to respond to the review then the application may be reinstated.

### **Change of Circumstances**

All applicants are required to notify the council immediately of any change to their circumstances which may affect their priority for housing. Applicants who have had a change of circumstances and have not informed the Council, but it comes to the Council’s attention, may have their application status changed to ‘application is pending’ whilst an investigation

takes place in order to determine eligibility. Applicants should notify the Council of any change in their circumstances in writing by post or e mail. This will include for example:

- A change of address, for themselves or any other person on their application.
- Any additions to the family or any other person they would wish to join the application (Please note it is for the council to decide whether they will allow a person/s to join the application).
- Any member of the family or any other person on the application who has left the accommodation.
- Any change in income, assets or savings.

## Reviews

Reviews in respect of any aspect of the housing application may be made within 21 days of the notification of the decision. Reviews can be submitted for the following reasons;

- If an applicant is not a qualifying person
- If an applicant is not eligible
- The band that an applicant has been placed into
- The decision to remove an applicant from the housing register
- Any other decision made about your application

Supporting information and documentation submitted after the period of 21 days will not be considered as part of the application unless it contains information that warrants a reassessment.

The review will be carried out by a different officer to the original decision maker. The reviewing officer will carry out the review within 56 days of receipt. The decision may be to uphold the original decision or alternatively to make a new decision instead. If the applicant is not satisfied with the outcome of the review decision then they may seek a Judicial Review.

## **PART 9: HOW TO MAKE A COMPLAINT**

An applicant who is not satisfied with the service that they receive may register a complaint with the Council's Complaint procedure. All complaints will be acknowledged and investigated. A complaint is regarding the way a decision is reached, it will not change the outcome of the decision.

A complaint can be made in person, by telephone, by post or by online form. The complaint will be answered within 10 working days, or an explanation given if it will take longer.

The applicant can ask someone else such as Citizen's Advice Bureau to make a complaint on their behalf. For those whose first language is not English, assistance can be obtained from the Council. Contact:

**Housing Services  
Swale House  
East Street  
Sittingbourne  
Kent  
ME10 3HT**

[housingregister@swale.gov.uk](mailto:housingregister@swale.gov.uk)

If the applicant remains dissatisfied following the outcome of their complaint they may also make a complaint to the Local Government Ombudsman.

**The Local Government & Social Care Ombudsman** investigates complaints of injustice and unfairness resulting from maladministration by local authorities. They can be asked to investigate complaints about most council matters, including housing.

The Ombudsman normally asks that in the first instance the Council is given an opportunity to deal with a complaint. However the applicant making the complaint remains dissatisfied with the action that the Council has taken, they can contact the Ombudsman:

Local Government & Social Care Ombudsman

**Tel:** 0300 061 0614

**Web:** <http://www.lgo.org.uk/>

**The Housing Ombudsman Service** is available to anyone wishing to make a complaint against a registered social landlord/housing association (rather than the Council):

Housing Ombudsman Service

**Tel:** 0300 111 3000

**Web:** <http://www.housing-ombudsman.org.uk/>

## **PART 10: OTHER LEGAL DUTIES AND CONFIDENTIALITY**

### **Equality and Diversity**

Our aim is to implement and maintain services which ensure that no potential or current applicant is treated less favourably due to a protected characteristic, nor is disadvantaged by the application of a rule, condition, or requirement, which has a discriminatory effect which cannot be justified by law. Allocations will only be made to those persons who are eligible.

The policy fully complies with the Equality Act 2010 and is subject to periodic equality impact assessments.

The allocations policy and any changes to it will be reviewed annually to ensure it does not operate in ways that discriminate against or disadvantage any particular group.

### **Confidentiality**

The fact that a person is an applicant on the Allocation Policy will not be disclosed (without their consent) to any other member of the public.

### **Data protection and information sharing**

All information held is subject to the Data Protection Act 2018. The Council will seek the informed consent of applicants joining the Housing Register to share personal information about the applicant, and any member of their household.

### **Information sharing without consent**

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

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

### **False statements or withheld information**

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

Where there is suspicion or an allegation that a person has either provided false information or has withheld information, the application will be given the status 'application is pending' during the investigation and will be excluded from being considered for offers until an outcome is reached.

If the outcome of any investigation is that they did not provide false information or there was no withholding of information or such was not found to be withheld knowingly, then the application will be reinstated from the date of registration meaning the relevant applicant should not suffer prejudice. However, where the investigation shows that false information was provided on the application form, or was deliberately withheld, this may render the applicant ineligible.

Ground 5 in Schedule 2 to the Housing Act 1985 (as amended by the 1996 Act, s.146) enables the landlord to seek possession of a property where it has been granted as a result of a false statement by either the tenant or a person acting at the tenants instigation. Where this is the case the Council will pursue recovery of possession vigorously.

If the Council determines that an applicant directly, or through a person acting on his or her behalf, has given false information or withheld any required information it may result in an applicant being removed and rendered Ineligible.

### **Lettings to Staff**

This policy is designed to ensure Swale Borough Council is transparent and equitable when letting homes to Housing Association Board Members, Swale Borough Council staff, council members and their relatives.

Staff, Housing Association Board Members, Council Members and their relatives are treated as any other applicant and must be seen to not be gaining any advantage or disadvantage or any preferential treatment in the course of their application.

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

- The applicant who is applying for housing or their relative must have no direct input into any decisions regarding their re-housing. This includes not inputting the

original application onto the Register system or adding any priority at any time onto the application.

- Staff members must also not have any involvement in the inputting of the application or awarding of priority for any relative.
- Applications should be clearly marked on the housing management system that the application is that of a staff member, Board Member, Council Members, or relative.
- When such an applicant has bid for a property and is showing at the top of the list, or a direct offer is to be made, a 'record of interest' note must be completed and signed off before any offer of a property is made. The details of the offer must be scrutinised and detailed on the form and signed off by the appropriate Swale Borough Council Head of Housing the same is the case of Council Members or their relatives being offered accommodation
- Attached to the form must be copies of the computer screens of all the appropriate information from the housing management system including the Choice Based Lettings advert and dates it was advertised, the shortlist from which the applicant is being offered from, together with the policy evidence for any applicants above them being not made the offer.

### **Amendments to the Policy**

The policy will be monitored. For minor changes to the policy decisions will be delegated to the member responsible for the housing portfolio. For minor changes to procedure decisions will be delegated to the Head of Service responsible for Housing.

## **Appendix A**

## Banding Table

<b>Band A: Urgent Housing Need plus additional priority</b>	<b>Summary of Criteria includes</b>
Urgent medical need or disability where the current housing is having a significant adverse effect on the applicant's condition. Medical includes both physical and mental health.	<ul style="list-style-type: none"> <li>• Where an applicant's condition is expected to be terminal within a period of twelve months and rehousing is required to provide a basis for the provision of suitable care.</li> <li>• The condition is life threatening and the applicant's existing accommodation is a major contributory factor.</li> <li>• The applicant's health is so severely affected by the accommodation that it is likely to become life threatening.</li> <li>• The current housing is having a significant adverse effect on the applicant's condition such as someone who needs a dialysis unit which cannot be provided in the current home, and the home cannot be adapted to accommodate this.</li> <li>• Applicants who need to move to suitable wheelchair adapted accommodation because of a serious injury, medical condition or disability to themselves or a household member.</li> </ul>
Exceptional welfare circumstances with a need for an urgent move.	<ul style="list-style-type: none"> <li>• Applicants who cannot be released from hospital until alternative accommodation is secured because their current accommodation cannot be adapted to meet their needs.</li> <li>• Applicants who need to move due to domestic abuse, extreme violence or extreme harassment. Extreme violence or harassment will be verified by the Police and/or other agencies as necessary. This may include where a move is necessary to protect a witness to criminal acts. It will also include assessment of certain MAPPAs, MARAC and Victim Support cases.</li> <li>• Housing Association tenants who have to vacate their property in order for major works to be carried out. In these circumstances and where possible transfers will be to properties of the same size or smaller if they are under-occupying, but locations or areas are likely to change.</li> </ul>
Under-occupation	Social housing tenants living in Swale who are under-occupying by 1 bedroom or more and who are willing to downsize to a property that meets their need
In urgent housing need and meeting one or more of the armed forces criteria.	<ul style="list-style-type: none"> <li>• Applicants who need to move to suitable wheelchair adapted accommodation because of a serious injury, medical condition or disability which he or she, or a member of their household, has sustained as a result of service in the Armed Forces.</li> <li>• Bereaved spouses and civil partners of members of the Armed Forces leaving Services Family Accommodation following the death of their spouse or partner who was serving in the regular forces and whose death was attributable (wholly or partly) to that service</li> </ul>
<b>Band B: Serious need to move with a Reasonable Preference</b>	<b>Summary of Criteria</b>
Major Overcrowding.	A household who are statutory overcrowded and need at least two more bedrooms as assessed under the bedroom standard
Ready to move on from accredited supported housing schemes within Swale which have been agreed by Swale Borough Council	Applicants who have completed a planned support and resettlement package verified by the support worker and Swale Borough Council; is ready to move into independent settled housing and in addition has been assessed as being in need of a long term or medium term tenancy with support.

Ready to move on from Care.	Young people over eighteen years old leaving care who have been looked after by Kent County Council, who have a care package in place and are ready for an independent tenancy as verified by the Resettlement Service and in addition has been assessed as being in need of a long term or medium term tenancy with support.
Private sector properties unsanitary or unfit.  Those living in unsanitary conditions where the conditions pose an ongoing and serious threat to health.	Private sector tenants and residents of dwellings that the Council's Private Sector Housing Team has determined that the property poses a category 1 hazard under the Health and Safety fitness rating and the Council are satisfied that the problem cannot be resolved by the landlord within 6 months and as a result continuing to occupy the accommodation will pose a considerable risk to the applicant's health. This includes a property that has severe damp, major structural defects including subsidence, flooding, collapse of roof, or have living conditions which are a statutory nuisance, <u>and</u> there is no prospect of the problems being remedied within a 6 month time period. Please note that this preference will not be awarded if the applicant is not cooperating with the Private Sector Team to allow the works to go ahead.  A private sector property either owned or rented where a statutory notice has been issued by the environmental health department that an unfit property is to be demolished under the Housing Act 2004.
Applicants living in unsatisfactory housing lacking basic facilities.	Applicants living in accommodation without access at all or any one of the following facilities: <ul style="list-style-type: none"> <li>• a bathroom or kitchen</li> <li>• an inside WC</li> <li>• hot or cold water supplies, electricity, gas or adequate heating</li> </ul> An applicant who occupies a private property which is in disrepair or is unfit for occupation and is subject to a Prohibition Order and recovery of the premises is required in order to comply with the Order as defined by Section 33 of the Housing Act 2004.
Homeless Households owed a full homeless duty by Swale Borough Council under section 193(2)	Applicants who are owed a full homeless duty by Swale Borough Council.
Applicants requiring any adapted property	Applicants who have been assessed by Occupational Therapist and require substantial adaptations through a Disabled Facilities Grant which cannot be carried at their current property.
Disabled children who have been awarded an additional bedroom	Applicants where a child has a medical condition that means an additional bedroom has been awarded but the bedroom is not available in the current property.
<b>Band C: Reasonable Preference</b>	<b>Summary of Criteria</b>
Applicants living in unsatisfactory or insanitary housing conditions.	Applicants who only have access to shared facilities in shared accommodation such as a shared living room, bathroom(s) and/or kitchen(s). This preference does not apply to those sharing with family members. Applicants living in accommodation with very poor internal or external arrangements which have been verified by a member of the Private Sector Housing Team.
Minor Overcrowding.	A household who are overcrowded and need at least one more bedroom as assessed under the bedroom standard.
People who need to move to a	Applicants who need to move due to special reasons and

particular locality in the district of the authority where failure to meet that need would cause hardship.	because a failure to move to a certain area would cause hardship to themselves or others.
People who need to move due to medical, welfare, mental health or disability factors	<p>Where an applicant's housing is unsuitable for medical reasons or due to their disability, but who are not housebound or whose life is not at risk due to their current housing, but whose health problem or disability is affected by their current accommodation.</p> <ul style="list-style-type: none"> <li>• Severe mental health problems affected by current accommodation.</li> <li>• Applicants with moderate to severe medical conditions which significantly affects mobility (e.g. spine, legs) living upstairs.</li> <li>• Conditions requiring on going medical treatment, being very severely exacerbated by living conditions</li> <li>• Conditions causing a reduction in mobility (e.g. breathlessness, dizziness) when combined with stairs or poor location.</li> </ul>
<b>Band D: General Housing Need</b>	<b>Summary of Criteria</b>
Intentionally homeless households owed a duty under section 190(2) of the Housing Act 1996 (as amended).	Applicants who are intentionally homeless, where that decision has been made by Swale Borough Council or another local authority under Part VII of the Housing Act 1996 (as amended).
Households who have deliberately worsened their housing circumstances.	Where it has been assessed that an applicant has deliberately worsened their housing circumstances.
Households who are homeless within the meaning of Part 7 of the Housing Act 1996 (as amended) and who are owed a homelessness duty by another local authority.	Applicants who are owed a homelessness duty by another local authority. As these applicants are owed the reasonable preference under section 193(2) by the other local authority they will not be awarded any other preference under our allocations scheme.
Homeless Households owed a homeless duty by Swale Borough Council but are not in priority need.	Applicants who do not have a priority need for accommodation and do not meet another banding preference.
Applicants who fulfil the Armed Forces Regulations 2012 but are not in urgent need of housing.	Applicants who need to move but where bands A, B or C do not apply
Applicants owed a duty under the Homelessness Reduction Act 2017	Applicants who have an accepted Prevention or Relief duty.
<b>Band E: Rural Housing</b>	<b>Summary of Criteria</b>
Rural exception sites	Applicants who meet the requirements of the criteria and definition of a local parish connection for rural exception site properties or a Community Land Trust but who do not meet either the qualification criteria and/or do not have a housing need defined in Bands A to D.