

# **Swale Borough Council**

## **Housing Allocations Policy 2013**

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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 homes but does work in close partnership with all housing associations that are integral to the delivery of this policy. All available housing association homes in Swale are advertised through Kent Home Choice.

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 by the 2002 Homelessness Act) 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.

The policy has regard to the Allocation of Accommodation: Code of Guidance for Housing Authorities 2012 which replaced all previous statutory guidance on social housing allocations <https://www.gov.uk/government/publications/allocation-of-accommodation-guidance-for-local-housing-authorities-in-england>.

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 s167 (2) (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 167 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.

All social and affordable 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. The more type and area choices an applicant makes the greater the chance the applicant will be successfully housed. The table below shows how many homes become available to let in each part of the borough during 2012/2013.

	2012/2013												TOTAL
	1 BED			2 BED			3 BED			4 BED +			
	SITT	SHEER	FAV	SITT	SHEER	FAV	SITT	SHEER	FAV	SITT	SHEER	FAV	
Band 1	32	35	20	27	24	11	19	13	9	6	1	0	197
Band 2	53	13	12	26	25	5	19	27	8	3	0	0	191
Band 3	4	4	1	2	1	0	20	16	1	0	0	0	49
Band 4	1	0	1	0	0	0	1	0	0	0	0	0	3
Band 5	0	0	0	0	0	0	0	0	0	0	0	0	0
Band 6	0	0	0	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>90</b>	<b>52</b>	<b>34</b>	<b>55</b>	<b>50</b>	<b>16</b>	<b>59</b>	<b>56</b>	<b>18</b>	<b>9</b>	<b>1</b>	<b>0</b>	<b>440</b>
<b>SWALE TOTAL</b>	<b>176</b>			<b>121</b>			<b>133</b>			<b>10</b>			

### 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 be:</p> <ul style="list-style-type: none"> <li>➤ Aged 55 or over</li> <li>➤ In receipt of high level Disability Living Allowance</li> <li>➤ Eligible for housing as per the published policy and appear in the appropriate Band</li> </ul>

	<ul style="list-style-type: none"> <li>➤ Assessed for support that is available by the Scheme Manager</li> <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>A medical assessment will be requested as per Swale Borough Council's policy and procedures for housing applicants where an applicant says they have a medical need.</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>➤ Eligible for housing as per the published policy and appear in the appropriate Band</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>
Supported Housing	<p>Accommodation that is designated as supported housing will be available only for applicants who are eligible for that particular accommodation. For example, some supported housing is provided exclusively for people with learning difficulties, with mental health issues or for young people leaving care.</p> <p>These properties will be labelled on choice based lettings so that only applicants who meet the required criteria may bid.</p>
Low Demand Properties	<p>On rare occasions no bids will be made on a property or all applicants have refused the property. On these occasions a direct offer will be made to households.</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.

Homeless applicants will be entitled to refuse 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. 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.

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

## 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 on how long you can stay.

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.

If the main applicant is eligible, non-eligible dependent children (under the age of 18 and in full time education) and other non-eligible household members residing with them will be considered for inclusion at the discretion of the Housing Options Manager particularly taking account of affordability.

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 may be revisited at the 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:

Criteria	Detail
Residency	Households who have not lived within the Swale boundaries for 4 out of the last 5 years prior to the application being made. Residency in Swale must be by the applicant’s own choice.
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 likely to be set at more than £35,000 per annum per household.</li> <li>• The asset level is set at more than £50,000.</li> </ul> When looking at gross income everything will be taken into account including earnings, overtime payments, benefits, child maintenance and any other relevant income. The gross income level and the asset level will be based on the level of deposit required to buy an average priced property in the area and will be reviewed

	as part of the annual policy review.
Fraud	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.
Rent arrears	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.

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.

Please Note: Homeless legislation has a different residency qualifying criteria as set out on Part 7 of the Housing Act 1996 (as amended).

#### 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

#### 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.

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 People who have an extenuating need to live with you in order to give or to receive care or support**

You can include someone on your application if they need to live with you in order to give or receive care or support and no one in your immediate household is able to care for you. You will need to evidence on your application the reason why an additional person or a carer needs to live with you and demonstrate:

- they or you need to be supported or cared for and are dependant upon this (this may be for an elderly relative who requires your care or an adult child who is still dependant on you as they are in full time education)
- that other satisfactory arrangements cannot be made
- that the arrangement is 'permanent'

We will also require you to provide evidence such as that the person requires your support or care; for example proof that you/they are providing care, are in receipt of care allowances and are able meet any costs associated with the additional bedroom either through benefits, income or savings.

#### **4.4 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. 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.

#### **4.5 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 been found guilty of 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**

All eligible applications will be assessed and placed in one of four bands:

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

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 s167 (2) (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 s167 (2) (b)**

***Applicants who are owed a duty by any housing authority under section 190(2), 193(2), 195(2) or applicants occupying accommodation secured by any such authority under section 192(3)***

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

- People who are in priority need and the Council has accepted that it owes the applicant a full duty under section 195(2) as being threatened with homelessness in the next 28 days, and the Council is taking steps to try and prevent that homelessness from occurring.
- 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.
- People owed a 192(3) duty that have been assessed as being not in priority need but are unintentionally homeless and have been provided with advice and assistance to secure accommodation. The Localism Act 2011 gives the council the power to end any homeless duty into private rented sector accommodation with a 12 month suitable fixed term tenancy. Once a suitable property has been offered the homeless duty will end as will the applicant's statutory homeless reasonable preference status. Most accepted homeless households will have their duty ended with a 12 month Private Rented Sector Offer (PRSO) in the future. Any offer made in this manner to a homeless applicant will be the only (final) offer made and if refused the homelessness duty will end. 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.

### Reasonable Preference category s167 (2) (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 4.5 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 <sup>1</sup> .				

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
- Disabled child who cannot share a bedroom with their sibling due to their disability
- An adult child who is serving away with the armed forces
- A room for a foster child or children

Please Note: Due to the scarcity of larger homes, families requiring five bedrooms or more may be allowed to consider four bedroom properties. This will be at the discretion of the Housing Association who own and manage the property.

## Reasonable preference category s167 (2) (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.

***The following are examples*** of the statutory reasonable preference categories; i.e. medical, welfare or disability needs:

<sup>1</sup> The Bedroom Standard is used for measuring overcrowding and takes account of any habitable room but does not include non-habitable rooms such as the bathroom or a non-dining kitchen or hallway. This means that the Council can consider additional downstairs rooms in houses for use as bedrooms.

- The applicant's accommodation is directly contributing to the deterioration of the applicant's health such as severe chest condition requiring intermittent hospitalisation as a result of chronic dampness in the accommodation.
- Children with severe conditions such as autism, or cerebral palsy where their long term needs cannot be met without settled accommodation.
- A member of the household seeking accommodation is disabled and re-housing will enable that person to overcome physical barriers created by current accommodation and it has been established that the home cannot be adapted to meet needs e.g. steps and stairs.
- A person with a severe disability requiring substantial adaptations to a property which is not and cannot be provided for in their current accommodation.
- A person with a terminal illness or long term debilitating condition whose current accommodation is not having a significant impact on their condition but where their quality of life would be significantly improved by moving to alternative settled accommodation which may or may not be closer to support.
- A person suffering with mental illness or disorder where the medical condition would be significantly improved by a move to alternative accommodation.

### Young People leaving care

Applicants must be a former "Relevant Child" as defined by the Children Leaving Care Act 2002. This priority only applies to applicants that are vulnerable and whose urgent housing needs would be best met by the provision of long term settled housing and who:

- Are ready to move to 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 with support from the Housing Options service to move on to private rented accommodation.

### Reasonable preference category s167 (2)(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.***

***The following are examples of when hardship grounds might be awarded:***

- Those who need to move to give or receive care that is substantial and on-going.
- Those who need to access social services facilities, and are unable to travel across the Borough.
- Need to move due to infirmity caused by old age. These are cases where the current housing is inadequate and an assessment will be made by the council.

## 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.

The following are **examples** of cases that would qualify:

- The condition is life threatening and the applicant's existing accommodation is a major contributory factor.
- The applicant's health is so severely affected by the accommodation that it is likely to become life threatening.
- The applicant is unable to get around adequately in their current accommodation and requires rehousing into accommodation suitable for their use and their current accommodation cannot be adapted to meet their exceptional need.
- The applicant's accommodation is directly contributing to the deterioration of the applicant's health such as severe chest condition requiring intermittent hospitalisation as a result of chronic dampness in the accommodation and the condition of the property cannot be resolved within a reasonable period of time – usually 6 months.

## 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: REVIEWS AND APPEALS

## Review of Applications

It is the intention of the Council to review all cases on the Allocation Policy annually. Failure to respond to correspondence, for example, not providing up-to-date evidence such as a

medical report, in relation to the review will result in the application being deleted. Applicants who are deleted will be notified in writing. 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 correspondence 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.

### **Appeals**

Appeals in respect of any aspect of the housing application may be made within 21 days of the notification of the decision. Reviews or appeals 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.

### **Information about decisions and reviews**

Applicants have the following further and specific rights to information about decisions and rights of review of decisions:

- the right, on request, to be informed of any decision about the facts of their case which has been, or is likely to be, taken into account in considering whether to make an allocation to them
- the right, on request, to review a decision mentioned above, or a decision to treat them as Ineligible or not qualifying to be a member of the Allocation Policy.
- the right to be informed of the decision on the review and grounds for it.

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

Applicants have the right to request such general information as will enable them to assess:

- how their application will be treated and whether they will be given any preference
- whether housing accommodation appropriate to their needs is likely to become available and how long they may have to wait for an allocation of such accommodation

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

The best way to make a complaint is to do it directly. Making a complaint locally to the department will give the quickest results and get a response from those who are fully aware of the issues surrounding the complaint.

A complaint can be made in person, by telephone, by post or by online form. The complaint will be answered within fifteen 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**

[housingoptions@swale.gov.uk](mailto:housingoptions@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 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 send a written complaint to the Ombudsman:

Local Government Ombudsman  
PO Box 4771  
Coventry  
CV4 0EH  
**Tel:** 0845 602 1983  
**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  
81 Aldwych



London, WC2B 4HN

**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 on the grounds of gender, marital status, race, nationality, ethnic or national origin, disability, age or sexual orientation, 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 1998. The Council will seek the express consent of applicants joining the Allocation Policy to share personal information about the applicant, and any member of their household.

### **Information sharing without consent**

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

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

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

It is a criminal offence for applicants and/or anyone providing information to 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.

# Appendix A

## Banding Table

<b>Band A: Urgent Housing Need plus additional priority</b>	<b>Summary of Criteria</b>
Urgent medical need or disability where the current housing is having a significant adverse effect on the applicant's condition.	<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 applicant is unable to mobilise adequately in their accommodation and requires rehousing into accommodation suitable for their use.</li> <li>• The applicant's accommodation is directly contributing to the severe deterioration of the applicant's health such as severe chest condition requiring intermittent hospitalisation as a result of chronic dampness in the accommodation and the condition of the property cannot be resolved within a reasonable period of time – usually 6 months.</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 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 MAPPA, MARAC and Victim Support cases.</li> <li>• The applicant is experiencing significant problems associated with the occupation of a dwelling in the social or private rented sector and there is a high risk to them or their family's safety if they remain in the dwelling/area. For social housing tenants 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> <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	<ul style="list-style-type: none"> <li>• Applicants who need to move to suitable adapted</li> </ul>

meeting one or more of the armed forces criteria.  The Housing Act 1996 (Additional Preference for Armed Forces) (England) Regulations 2012.	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.  <ul style="list-style-type: none"> <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.  Reasonable Preference category s167(2)(c)	A household who are statutory overcrowded and need at least two more bedrooms as assessed under the bedroom standard and in line with the Housing Benefit size criteria
Ready to move on from accredited supported housing schemes within Swale.  Reasonable Preference category s167(2)(c)	Applicants who have completed a planned support and resettlement package verified by the support worker and the Housing Options Manager; is ready to move into independent settled housing and would benefit from a long term secure tenancy.
Ready to move on from Care.  Reasonable Preference category s167(2)(c)	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.  Reasonable Preference category s167(2)(c)	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.  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.  Reasonable Preference category s167(2)(c)	Applicants 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.
<b>Band C: Reasonable Preference</b>	<b>Summary of Criteria</b>
Homeless Households owed a full homeless duty by Swale Borough Council under section 193(2) or 195(2).  Reasonable Preference	Applicants who are owed a full homeless duty by Swale Borough Council including: <ul style="list-style-type: none"> <li>Accepted homeless households</li> <li>Accepted homeless households living in temporary accommodation</li> <li>The household will be homeless soon.</li> </ul>

categories s167(2)(a)(b)	
Applicants living in unsatisfactory or insanitary housing conditions.  Reasonable Preference category s167(2)(c)	Applicants who only have access to shared facilities in shared accommodation such as a shared living room, bathroom(s) and/or kitchen(s).  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.  Reasonable Preference category s167(2)(c)	A household who are overcrowded and need at least one more bedroom as assessed under the bedroom standard and in line with the Housing Benefit size criteria.
People who need to move to a particular locality in the district of the authority where failure to meet that need would cause hardship. Reasonable Preference category s167(2)(e)	Applicants who need to move due to special reasons and 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  Reasonable Preference category s167(2)(d)	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. <ul style="list-style-type: none"> <li>• Severe mental health problems affected by current accommodation.</li> <li>• Elderly persons with moderate to severe arthritis which significantly affects mobility (e.g. spine, legs) living upstairs or on a steep hill.</li> <li>• Conditions requiring on going medical treatment, being very severely exacerbated by living conditions (e.g. extreme cases of asthma).</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).  Households who have 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 under section 190(2), 193(2), 195(2) or who are occupying accommodation secured by any other local authority under section 192(3).  Homeless Households owed a homeless duty by Swale Borough Council under section	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).  Where an applicant has deliberately worsened their housing circumstances and would have been found to be intentionally homeless if an application under Part VII had been made.  Applicants who are owed a homelessness duty by another local authority.  Applicants who do not have a priority need for accommodation or are sleeping rough.

192(3) and are not in priority need.	
Reasonable Preference categories s167(2)(a)(b)	
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

