



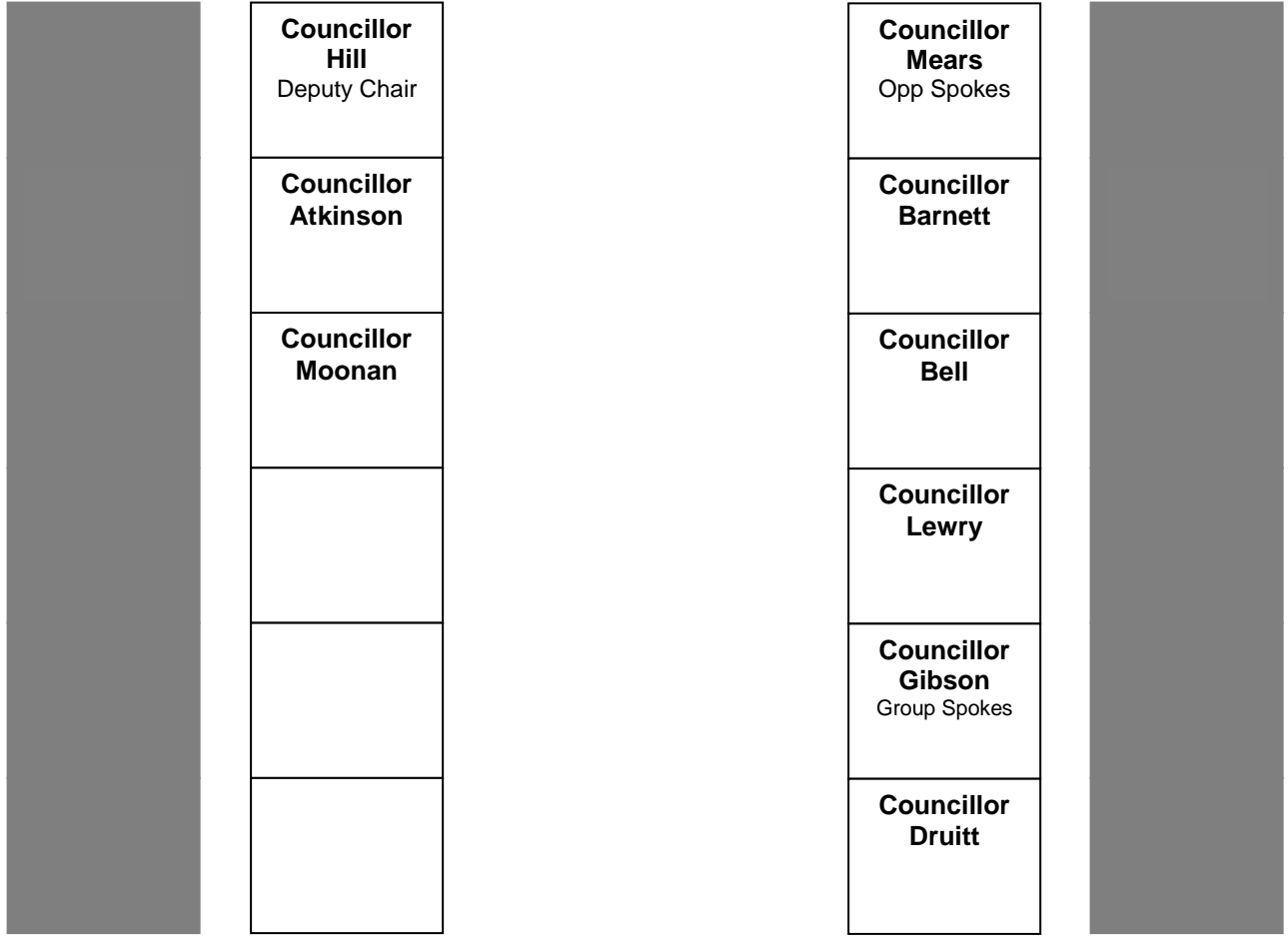
Brighton & Hove
City Council

Housing & New Homes Committee

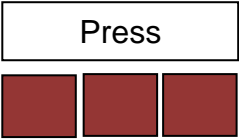
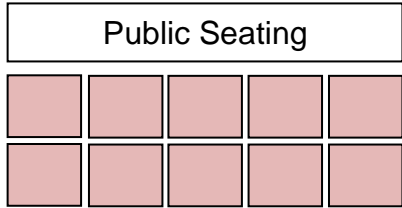
Title:	Housing & New Homes Committee
Date:	16 November 2016
Time:	4.00pm
Venue	Council Chamber, Hove Town Hall, Norton Road, Hove, BN3 3BQ
Councillors:	Meadows (Chair), Hill (Deputy Chair), Mears (Opposition Spokesperson), Gibson (Group Spokesperson), Atkinson, Barnett, Bell, DrUITT, Lewry and Moonan
Contact:	Caroline De Marco Democratic Services Officer 01273 291063 caroline.demarco@brighton-hove.gov.uk
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Housing & New Homes Committee

Head of Housing	Executive Director Economy Environment & Culture	Councillor Meadows Chair	Lawyer	Democratic Services Officer
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Public Speaker/
Officer Speaking



AGENDA

PART ONE

Page

31 PROCEDURAL BUSINESS

(a) Declaration of Substitutes: Where Councillors are unable to attend a meeting, a substitute Member from the same Political Group may attend, speak and vote in their place for that meeting.

(b) Declarations of Interest:

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) Exclusion of Press and Public - To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

***NOTE:** Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

32 MINUTES OF THE PREVIOUS MEETING

1 - 32

To consider the minutes of the meeting held on 21 September 2016 (copy attached).

33 CHAIRS COMMUNICATIONS

34 CALL OVER

HOUSING & NEW HOMES COMMITTEE

- (a) Items 37 to 44 and item 46 will be read out at the meeting and Members invited to reserve the items for consideration.
- (b) Those items not reserved will be taken as having been received and the reports' recommendations agreed.

35 PUBLIC INVOLVEMENT

To consider the following matters raised by members of the public:

- (a) **Petitions:** to receive any petitions presented to the full council or at the meeting itself;
- (b) **Written Questions:** to receive any questions submitted by the due date of 12 noon on the 9 November 2016;
- (c) **Deputations:** to receive any deputations submitted by the due date of 12 noon on the 9 November 2016.

36 ISSUES RAISED BY MEMBERS

To consider the following matters raised by councillors:

- (a) **Petitions:** to receive any petitions submitted to the full Council or at the meeting itself;
- (b) **Written Questions:** to consider any written questions;
- (c) **Letters:** to consider any letters;
- (d) **Notices of Motion:** to consider any Notices of Motion referred from Council or submitted directly to the Committee.

37 RETRO FITTING SPRINKLERS TO HIGH RISE BLOCKS 33 - 42

Report of Executive Director, Economy, Environment & Culture (copy attached).

Contact Officer: Theresa Youngman *Tel:* 01273 293190
Ward Affected: All Wards

38 HOMELESSNESS POLICY PETITION RECOMMENDATIONS 43 - 50

Report of Executive Director, Economy, Environment & Culture (copy attached).

Contact Officer: Sylvia Peckham *Tel:* 01273 293318
Ward Affected: All Wards

39 RENT SMART BRIGHTON AND HOVE 51 - 60

Report of Executive Director, Economy, Environment & Culture (copy attached).

HOUSING & NEW HOMES COMMITTEE

Contact Officer: *Andy Staniford* Tel: 01273 293159
Ward Affected: *All Wards*

40 HOUSING DELIVERY OPTIONS - LIVING WAGE JOINT VENTURE 61 - 106

Report of Executive Director, Economy, Environment & Culture (copy attached).

Contact Officer: *Sam Smith, Martin Reid* Tel: 01273 291383, Tel:
01273 293321

Ward Affected: *All Wards*

HALF HOUR BREAK

The Committee will take a half hour refreshment break at this point.

41 HOUSING DELIVERY OPTIONS - WHOLLY OWNED HOUSING COMPANY 107 - 122

Report of Executive Director, Economy, Environment & Culture (copy attached).

Contact Officer: *Sam Smith, Martin Reid* Tel: 01273 291383, Tel:
01273 293321

Ward Affected: *All Wards*

42 DRAFT HOUSING ALLOCATIONS POLICY 123 - 250

Report of Executive Director, Economy, Environment & Culture (copy attached).

Contact Officer: *James Crane* Tel: 01273 293316
Ward Affected: *All Wards*

43 PRIVATE RENTED SECTOR DISCRETIONARY LICENSING SCHEME: THE EVIDENCE AND NEXT STEPS 251 - 314

Report of Executive Director, Economy, Environment & Culture (copy attached).

Contact Officer: *Andy Staniford* Tel: 01273 293159
Ward Affected: *All Wards*

44 YOUNG PEOPLE'S HOUSING ADVICE AND SUPPORTED ACCOMMODATION TENDER 315 - 328

Report of Executive Director, Health & Adult Social Care (copy attached).

Contact Officer: *Juliette Beach, Sandra Herring* Tel: 01273 292526

Ward Affected: *All Wards*

45 ITEMS REFERRED FOR FULL COUNCIL

To consider items to be submitted to the 15 December 2016 Council

HOUSING & NEW HOMES COMMITTEE

meeting for information.

In accordance with Procedure Rule 24.3a, the Committee may determine that any item is to be included in its report to Council. In addition, any Group may specify one further item to be included by notifying the Chief Executive no later than 10am on the eighth working day before the Council meeting at which the report is to be made, or if the Committee meeting take place after this deadline, immediately at the conclusion of the Committee meeting

PART TWO

46 LIVING WAGE JOINT VENTURE - EXEMPT CATEGORY 3

329 - 334

Part Two appendix to the Housing Delivery Options – Joint Venture report (Item 40 on Part One of the agenda). (Circulated to Members Only).

Contact Officer: Sam Smith, Martin Reid Tel: 01273 291383, Tel:
01273 293321

Ward Affected: All Wards

47 PART TWO PROCEEDINGS

To consider whether the item listed in Part Two of the agenda and decisions thereon should remain exempt from disclosure to the press and public.

The City Council actively welcomes members of the public and the press to attend its meetings and holds as many of its meetings as possible in public. Provision is also made on the agendas for public questions to committees and details of how questions can be raised can be found on the website and/or on agendas for the meetings.

The closing date for receipt of public questions and deputations for the next meeting is 12 noon on the fifth working day before the meeting.

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Caroline De Marco, (01273 291063, email caroline.demarco@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

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For further details and general enquiries about this meeting contact Caroline De Marco, (01273 291063, email caroline.demarco@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Tuesday, 8 November 2016

BRIGHTON & HOVE CITY COUNCIL

HOUSING & NEW HOMES COMMITTEE

4.00pm 21 SEPTEMBER 2016

COUNCIL CHAMBER, HOVE TOWN HALL, NORTON ROAD, HOVE, BN3 4AH

MINUTES

Present: Councillor Meadows (Chair) Councillor Hill (Deputy Chair), Mears (Opposition Spokesperson), Gibson (Group Spokesperson), Atkinson, Bell, Druitt, Lewry, Miller and Moonan

PART ONE

14 PROCEDURAL BUSINESS

14a) Declarations of Substitutes

14.1 Councillor Miller declared that he was attending as a substitute for Councillor Barnett

14b) Declarations of Interests

14.2 Councillor Mears declared an interest in item 29 – Part Two Appendix to Housing Delivery Options, as she is a member of the Board of Seaside Homes.

14c) Exclusion of the Press and Public

14.3 In accordance with section 100A(4) of the Local Government Act 1972, it was considered whether the press and public should be excluded from the meeting during the consideration of any items contained in the agenda, having regard to the nature of the business to be transacted and the nature of the proceedings and the likelihood as to whether, if members of the press and public were present, there would be disclosure to them of confidential or exempt information as defined in section 100I (1) of the said Act.

14.4 **RESOLVED** - That the press and public be excluded from the meeting during consideration of the item contained in part two of the agenda.

15 MINUTES OF THE PREVIOUS MEETING

15.1 Councillor Mears referred to paragraph 2.2 in relation to the former Oxford Street Housing office. She expressed concerned that a report on this subject was expected and had been withdrawn. Councillor Mears drew attention to paragraph 7.7 which referred to a report back to the committee on St Mungo's.

- 15.2 The Chair confirmed that there would be a report back on the former Oxford Street housing office. The Assistant Director, Adult Social Care reported that he would arrange a presentation from St Mungo's at the committee's convenience.
- 15.3 **RESOLVED** - That the minutes of the Housing and New Homes Committee held on 15 June 2016 be agreed and signed as a correct record.

16 CHAIRS COMMUNICATIONS

New Homes

- 16.1 The Chair was pleased to inform Members that the council had officially opened 12 new homes across the city since the last committee meeting including family houses; flats and wheelchair accessible homes.
- 16.2 Aldwich Mews and Darwell Court were further additions to the council's New homes for Neighbourhoods programme to build at least 500 new council homes on council-owned land, to provide much needed affordable rented housing in Brighton & Hove.
- 16.3 The new flats at St James were the first in a new project aiming to convert redundant spaces in council owned properties to provide extra homes – typically on the ground floor of high-rise blocks, such as former caretaker's rooms or storage areas.
- 16.4 All three projects demonstrated that the council continued to be creative in providing more council homes, whether it is by converting part of an existing building, or building new homes on pockets of little-used council land.

Improvements to the repairs reporting service

- 16.5 The Chair was pleased to advise Members that The Property & Investment team and Mears had been working together to introduce improvements to the council's repairs reporting service.
- 16.6 Residents currently received a reminder text message ahead of their repairs appointment and this service was enhanced from 5 September with text messages confirming the appointment at point of booking and a text request for feedback when a repair is completed which can be directly replied to. This helped Mears to pass on good feedback to the team and also to respond quickly if anything has gone wrong.

Temporary Accommodation, hostel and existing council/social tenants Event

- 16.7 On 9 September there was also a highly successful event for all Temporary accommodation, hostel and existing council/social tenants organised at the Friends Meeting House. 247 visitors attended – with 137 for TA/hostels and 110 for the council/housing association Swap Shop.
- 16.8 Special invitations were sent to under-occupiers who were able to find out more about the Council's new build and adapted new homes, and visitors signed up for Homefinder as well as obtaining advice from Southern Water and Moneyworks.

16.9 To date 40 council tenants had moved since attending a Swap Shop event and the Chair and officers hoped for many more after 9 September.

Your Energy Sussex (YES) Partnership Plan

16.10 The Chair updated the committee on an opportunity for Brighton & Hove City Council to participate in the Your Energy Sussex (YES) partnership plan to establish a local energy tariff scheme to deliver a set of low cost, high value energy tariffs to residents and businesses across the Sussex area.

16.11 As over 70% of domestic customers who had never or rarely switched supplier could save up to £300 per year by switching onto a more competitive deal, the council were keen to promote this project to tackle fuel poverty in the city.

16.12 YES is aiming to procure a licensed energy supplier to deliver the scheme offering householders and businesses the opportunity to purchase their energy from a trusted source that will:

- Offer residents and businesses access to lower cost energy
- Provide excellent customer service
- Ensure customers have easy to understand, more transparent energy bills
- Develop Smarter metering and billing technology

16.13 The procurement process was planned to start in October with the aim of an energy supply partner to be in place in May 2017 with a potential launch of the scheme in Autumn 2017.

(YES is a local authority partnership open to 15 Sussex local authorities working with residents, businesses and other partners to promote energy saving and renewable energy).

National Housing Day

16.14 The housing service took part in the national housing day on social media on Monday 19 September; tweeting over 1,000 followers about all the range of services available from B&HCC.

17 CALL OVER

17.1 It was agreed that all items be reserved for discussion.

18 PUBLIC INVOLVEMENT

Petitions

18.1 The Committee considered the following petition submitted by David Green and signed by 219 people. The petition was presented by David Croydon on Mr Green's behalf. Mr Croydon stressed that as well as the people signing the petition, he had received 200 emails a month on the subject of the petition. 75% of works were deemed

unnecessary, and leaseholders who objected were being faced by a team of barristers, lawyers and council officers.

Justice for Leaseholders

“We the undersigned petition Brighton & Hove Council to - review the contractual relationship, and implementation of contracts, between BHCC and those who have leased property from the council under right to buy legislation. In particular we request that a comprehensive and public investigation be held into:

- The accuracy and validity of Annual Service Charges, cyclical repairs and redecoration.
- The charges for Major Works, in particular the recent city wide cladding programme, wholesale roof and window replacement, and the repair, refurbishment and replacement of lifts. We request that any investigatory body includes experts independent of BHCC and that the terms of reference include;
- The necessity of work carried out
- The validity of the consultation process, particularly with but not confined to leaseholders, Value for Money, the tendering process, and actual costs
- The standard of the work carried out.”

18.2 The Chair responded as follows:

“Thank you for your petition. The council understands the implications to leaseholders when high cost major works are proposed. We do not undertake these lightly, but we have legal obligations to keep our buildings in repair.

To help leaseholders who have difficulty with payment, we offer a number of options we believe are helpful to resident leaseholders.

The petition asks the council to review the contracts and the contractual relationship it has with leaseholders. Each leaseholder has a contract with the council through their lease. The leases are agreed by both parties on purchase of the property and we are confident that we are acting in line with our obligations under those leases. We do take into consideration the financial impact on leaseholders before authorising work whilst ensuring our properties are maintained.

With regard to high cost major works such as cladding, roof and window replacement carried out at some properties, leaseholders are protected in law that:

- The costs have been reasonably incurred
- The works are carried out to a reasonable standard
- The consultation regulations are complied with
- The lease allows the costs to be passed on in the service charge

The council has a 3-stage Leaseholders Disputes Procedure in order to try to resolve matters between the two parties in the first instance.

In addition, leaseholders have the legal right to seek a determination at the First-tier Tribunal if they believe any of these protections apply to particular service charge costs that have been demanded.

In relation to the request that experts independent of the council are instructed, we would very much recommend that it is in the interests of any leaseholders who challenge service charges to take their own legal and professional structural surveying advice in order to evidence their case. This is a matter for leaseholders themselves, as the council already takes its own legal and structural surveying advice in managing our buildings, and is confident that we are managing our buildings, our tenancies and leases properly and in line with our various obligations.

The council's Internal Audit team provides independent, objective assurance of the Council's risk management, internal controls and governance processes. Each year, the internal audit team designs and delivers a programme of work focused on the key risks for the council. In 2015 Internal Audit assessed the leasehold service charge administration as giving substantial assurance. Internal Audit concluded that:

- There are effective controls in place to ensure service charges are accurately and promptly processed.
- There is compliance with major works legislation in relation to consulting leaseholders.
- There are appropriate procedure notes to enable staff to undertake their tasks in a consistent manner and there are also adequate guidance notes available to leaseholders."

18.3 **RESOLVED** – That the petition be noted.

18.4 The Committee considered the following petition submitted by Steve Parry and signed by 39 people. Mr Parry stated that the proposal would save tenants, the courts and landlords money. It would also reduce an enormous amount of stress that people who were homeless were facing. Mr Parry considered that the council's response selected some parts of the guidance but not other sections.

Homelessness from an Assured Shorthold Tenancy

““We the undersigned petition Brighton & Hove Council to adopt a policy that when citizens apply as homeless from an assured shorthold tenancy that BHCC implement the guidelines “that authorities should note that the fact that a tenant has a right to remain in occupation does not necessarily mean that he or she is not homeless" as prescribed by the "HOMELESSNESS CODE OF GUIDANCE" (Under Part 7 of the Housing Act 1996) BHCC should assist citizens that are faced with the certainty of homelessness in the same way as if they are homeless and not wait for the time when Court action is taken, costs incurred, and families are on the street. This is unjust, results in additional costs to BHCC and the family involved, and is socially damaging.”

18.5 The Chair responded as follows:

“Thank you for your petition about homelessness and the ending of private sector tenancies in Brighton & Hove.

Tackling homelessness is a priority for this administration and the council is working hard to maintain and develop its work in assisting households facing homelessness and housing difficulties in an increasingly difficult housing market.

Practice of Housing services with respect to homelessness from PRS

The Council is increasingly trying to become involved earlier and earlier in situations that are likely to result in homelessness, in order to try and prevent it. To avoid homelessness by either resolving the issues to sustain the accommodation or to work with the household to find alternative accommodation and hence avoid homelessness is a better option for all parties and is at the core of our Homelessness strategy.

In terms of actual homelessness or when households are legally threatened with homelessness, the council has not adopted a policy about the timing of assistance when a private sector tenancy is ending, as we want to be involved at an early stage. However the council does have various roles in such circumstances. We must advise tenants about the legal process of a tenancy ending and this must, necessarily, include advice about the process after a section 21 notice is served by the landlord.

It would be to neglect the council's legal obligations as the statutory provider of good quality, professional, lawful, accurate and free housing advice to do otherwise. The council must necessarily operate within a fine balance of acting to provide advice about rights to occupy and acting on the differing interests of its customers who are both tenants and landlords and the Council itself and this is why each case is considered on its individual merits as per the Code of Guidance.

The statutory homelessness Code of Guidance, which local authorities are required by law to have regard to contains guidance on how authorities should treat homelessness applications in circumstances where a tenant has received a valid s.21 notice. It says that housing authorities should not, in every case, insist upon a court order for possession and that no local authority should adopt a blanket policy in this respect. The Guidance states that if the landlord intends to seek possession and there would be no defence to an application for a possession order then it is unlikely that it would be reasonable for the applicant to continue to occupy the accommodation, *however each case needs to be considered on a case by case basis and balanced against the general cost to the authority*. The relevant sections of the Homelessness Code of Guidance are as follows:

"8.31. In determining whether it would be reasonable for an applicant to continue to occupy accommodation, the housing authority will need to consider all the factors relevant to the case and decide the weight that individual factors should attract. As well as the factors set out elsewhere in this chapter, other factors which may be relevant include the general cost to the housing authority, the position of the tenant, the position of the landlord, the likelihood that the landlord will actually proceed with possession proceedings, **and the burden on the courts of unnecessary proceedings where there is no defence to a possession claim.**

8.32. Each case must be decided on its facts, so **housing authorities should not adopt a general policy of accepting – or refusing to accept – applicants as homeless or threatened with homelessness when they are threatened with eviction but a court has not yet made an order for possession or issued a warrant of execution.** In any case where a housing authority decides that it would be reasonable for an applicant to continue to occupy their accommodation after a valid notice has expired – and therefore decides that he or she is not yet homeless or threatened with homelessness – **that decision will need to be based on sound reasons which should be made clear to the applicant in writing.** The Secretary of

State considers that where a person applies for accommodation or assistance in obtaining accommodation, and:

- (a) **the person is an assured shorthold tenant who has received proper notice in accordance with s.21 of the *Housing Act 1988*;**
- (b) **the housing authority is satisfied that the landlord intends to seek possession; and**
- (c) **there would be no defence to an application for a possession order; then it is unlikely to be reasonable for the applicant to continue to occupy the accommodation beyond the date given in the s.21 notice, unless the housing authority is taking steps to persuade the landlord to withdraw the notice or allow the tenant to continue to occupy the accommodation for a reasonable period to provide an opportunity for alternative accommodation to be found.”**

The costs of private rented accommodation in this area plus the requirements and additional fees charged by letting agents means it is increasingly difficult for households on low and medium income to obtain alternative accommodation and hence it can take longer to find alternative accommodation. It is generally this that causes a household to remain in their home after the expiry of the Notice.

When the council is able to assist, or when a family being helped finds accommodation before this, the council will always advise that the new tenancy starts at the same time as the Notice expires. Sometimes some extra time is requested because of the issues associated with moving that may come up unexpectedly.

What is more difficult is when a family that the council is assisting has not found another home to move to and has no alternatives. In this case the family does become homeless and the council's statutory duties to provide accommodation come into play.

In these cases the council will always consider cases on an individual basis and we have agreed, when necessary and pragmatic to do so, to provide statutory temporary accommodation earlier than a possession order.

The cost, to local tax payers (which include landlords) will be considerable if a policy were adopted to always guarantee to provide statutory temporary accommodation on expiry of the s21 Notice and this also would be contrary to the Code of Guidance which says in 8.32 not to have a blanket policy.

With respect to Mr Parry's specific petition, the council position is as follows:

- The council does assist before the court date, and in many cases it has helped families move before court action is needed.
- It is a fact of law that vacant possession is obtained by order of the court. It is also a fact of law that a homeless duty – to provide statutory temporary accommodation – is only triggered at the time that a household becomes homeless. However the Code of Guidance sets out considerations to be taken

into account when reaching a decision as to when to provide accommodation which the council complies with.

- Families we are assisting do not end up on the street. The council provides statutory temporary accommodation where homelessness cannot be avoided, the time to be determined on a case by case basis.
- Fulfilling the lawful way of ending a tenancy does not result in additional costs to BHCC. To provide temporary accommodation does incur costs and this is taken into consideration when determining at what stage to provide temporary accommodation, as per the Code of guidance.”

18.6 **RESOLVED** – That the petition be noted.

Questions

18.7 A question had been submitted by Valerie Paynter as follows:

“I have already reported pointing mortar falling onto my own windows from on high but two tenants from Conway Court have spoken to me about wet concrete setting hard on their windows. One tenant requested and got set concrete removed, but says the glass was left scratched by the Bulgarian concrete workers' tools. Can you tell me, please, why the council is unable to get Mears to protect the glass, and UPVC on newly installed windows from slopped and SETTING concrete being put into drilled out banding areas during work directly adjacent to and above individual window areas?”

18.8 The Chair replied as follows:

“Martin Reid, Head of Housing Strategy, Property & Investment has been in correspondence with Valerie regarding the works at Clarendon & Ellen Estate and recently specifically on window replacements.

We are aware that Ms Paynter has some outstanding ‘snagging’ issues to her windows and we are arranging works to be completed.

We have still to cut out the defective concrete on the blocks and carry out full repairs and until this has been completed the new windows are temporarily sealed with expanding foam to offer some protection from the weather. Once the concrete repairs have been completed the windows will be finished off with plastic trims and sealed.

We are doing what we can to minimise the impact and avoid causing any major issues for residents and Mears are fully aware that all new windows should be protected while carrying out concrete repairs. We are confident this is happening.

The Property & Investment team hold monthly progress meetings on site with the contractors where all specific issues are raised and monitored alongside progress reports on the repairs to the blocks. At these meetings both the council’s quantity surveyors and contract manager surveyors attend to ensure value for money and quality checks on the project.

Overall a percentage of new windows are checked by the council’s surveyors after they

have all been installed in the block to gather any operational and installation issues internally. All elevations are checked externally prior to the mast climbers being taken down to make sure there are no issues.

With works of the type and scale that we are carrying out to the blocks along Clarendon Road, there is going to be some dust, noise and potentially loose debris above the windows but we don't expect this to be substantial and if residents have concerns regarding their properties, they are welcome to contact either the council or the Mears Site Managers and we will help resolve the situation.

It is important to highlight that the windows are under a 10 year warranty, therefore, under this contract if are any issues identified with them within this timescale, they will be repaired free of charge.

To date we have installed 140 flats with new windows on the Clarendon & Ellen Estate high rise blocks and have received only seven reported issues with their windows all of which have been inspected and are what is termed as 'snagging' issues that can be easily resolved and works completed.

These works are part of our commitment to improve the quality of our residents homes as part of c£25m per annum HRA capital investment programme approved at January Housing & New Homes Committee, informed by our Housing Asset Management Strategy developed in consultation with tenants and leaseholders”.

- 18.9 Ms Paynter stated that the windows had been installed before the concrete repairs. Mears wet concrete had slopped onto brand new windows and the glass had not been covered with anything. Ms Paynter stated that people were not registering complaints due to intimidation. One person had been told their tenancy was at risk by complaining. Ms Paynter asked the following supplementary question:

“Please inform me how the council will act to reassure tenants regarding contacting Mears and how will they help tenants to feel safe coming to the council so Mears Ltd can be held to account?”

- 18.10 The Chair thanked Ms Paynter for her questions. She stressed that serious allegations had been made and the Head of Housing would investigate this matter. The Head of Housing would need to know who the people concerned were, and when the issues took place.

- 18.11 The Head of Housing stated that she would take up these issues. She was in regular contact with Ms Paynter. There was a three stage complaints process which could be independently assessed. If a tenant was not satisfied they could then go to the Ombudsman. There was no need for a tenant to be fearful about losing their tenancy if they raised a complaint.

- 18.12 **RESOLVED-** That the Public question be noted.

- 18.13 A question had been submitted by Diane Montgomery. The question was presented by Sue Crossley on Ms Montgomery's behalf as follows:

“The Living Rent campaign support the aims and recommendations of the Private Rented Sector scrutiny panel and ask if they could be one of the groups involved in the Rent Smart Partnership Agreement?”

18.14 The Chair replied as follows:

“As Rent Smart is not a council partnership it is not a decision I can make so I am directing Diane’s question to those members of the partnership present at the meeting today.”

18.15 **RESOLVED-** That the Public question be noted.

18.16 A question had been submitted by Jacqueline Madders as follows:

"Will the council consider reviewing the customer service policy in the housing departments, to having recorded phone calls in line with other businesses to prevent the constant intimidation and bullying that so many are experiencing?"

18.17 The Chair replied as follows:

“I am very sorry to hear that even one person may reportedly be experiencing treatment that they consider to be intimidation and bullying, and would like the opportunity to investigate any allegations of this occurring. In the spirit of always seeking to improve our customer service and to assist with staff training, Housing would indeed like to have telephone calls recorded. Used in other businesses, call recording not only helps deliver customer-focused services and sometimes assists with disputes, but it can also protect staff from abuse and false accusations.

Housing will certainly consider this addition to our service alongside any future upgrading of our telephone system. The additional cost of implementing it with our existing system has been investigated, and does not currently provide value for money.

In the meantime, I would kindly request that any customer who is unhappy with the conduct of our staff, or with our service, please let us know at their earliest opportunity so that we can try to put things right. Customers can contact the line manager of the staff member in question, or if it is in relation to our housing landlord services they can contact the Housing Customer Service Team on 01273-293030, or by email to housingcomplaints@brighton-hove.gov.uk.

Alternatively customers can raise a complaint to the council’s Customer Feedback team using the following contact details:-

- using a link on the council’s website to an [online comments, compliments and complaints form](#)
- by email: customerfeedback@brighton-hove.gov.uk
- by phone: 01273 291229
- using the Complaints, comments & compliments form supplied at council offices
- writing to: Brighton & Hove City Council, Customer Feedback, Kings House, Grand Avenue, Hove, BN3 2LS”

18.18 Ms Madders asked the following supplementary question:

“Is the Chair aware that there is a them and us scenario between Brighton & Hove City Council and residents and that the most vulnerable feel intimidated? People were taking their lives as a result of council intimidation. Where would people go after complaining to the ombudsman?”

18.19 The Chair thanked Ms Madders and informed her that the council would not condone bullying from staff directed at tenants. Tenants could contact Ward Councillors who would take up complaints on their behalf.

18.20 **RESOLVED-** That the Public question be noted.

Deputation

18.21 The Committee considered the following deputation which was presented by Daniel Harris:

“Housing and New Homes Committee, please consider this deputation in which I along with supporting current and previous residents ask for my common sense emergency accommodation proposals and subsequent Green & Tory Amendments be allowed to roll over into the next committee meeting.

Having spent this campaigning tirelessly for the voiceless and vulnerable this year, I feel that giving me less than 24 hours from release of the reports is not long enough for me, residents and service providers to fully review the recommendations proposed from the officers reports.

It seems appropriate that tenants with disabilities & health conditions should be involved in decisions that affect them. Considering recent events including two deaths and a fire it only seems fair that the council take this into account and makes adjustments so that tenants can have their say. At this time tenants need to feel reassured that the council has their safety & well-being in mind and should actively seek to involve. A delay would help this process.

The response from others like myself in emergency and temporary accommodation have phenomenal, so I went on to co ETHRAG which is a fully constitutionalised & democratic residents association. We have had two public meetings and will meet again until the 19th October, having discussed these points with ETHRAG residents, they/we feel that we as a group need time to discuss and agree a way forward.

I am also concerned with the 5 year local connection rule proposed, this would affect vulnerable LGBT people, who are enticed to Brighton and Hove for its equality and diversity values, I hope the committee review these findings with the LGBT community in mind.

So I along with the following professionals, groups and concerned residents ask that this area of consideration be moved to the next meeting. We also invite Councillors to come along to a residents meeting to see the group in action.”

- 18.22 In addition to the written deputation Mr Harris reported that there were a number of people in attendance at the committee who were living in emergency accommodation. There had been an amazing response to ETHRAG which was saving people's lives. ETHRAG was a democratic residents' association with a constitution. It was time the council recognised it. Mr Harris asked for the report to be deferred to allow consultation with the people it affected.
- 18.23 The Chair thanked Mr Harris and stated that she was not inclined to defer the report. It was up to councillors to respond to the report. The Chair stated that she was sure that another report on this subject would be submitted to a future meeting, where all the points being made by Mr Harris could be considered.
- 18.24 **RESOLVED** - That the deputation be noted.

19 ISSUES RAISED BY MEMBERS

- 19.1 There were no Petitions, Written Questions, Letters or Notices of Motion from Councillors.

20 RENT SMART PARTNERSHIP AGREEMENT

- 20.1 The Committee considered a presentation from representatives of Rent Smart and a report of the Executive Director Economy Environment & Culture which drew attention to the Rent Smart Partnership Agreement. Rent Smart, Brighton and Hove was a new citywide partnership of organisations committed to supporting tenants in the private rented sector. The aims of Rent Smart were set out in paragraph 1.4 of the report.
- 20.2 Councillor Hill informed the Committee that she had encouraged a broad range of organisations to get together to look at areas relating to the private rented sector which were outside the remit of the council. Rent Smart had agreed to have a website for tenants which would be launched in November 2016. Councillor Hill asked members to consider requesting an officer report on the council becoming part of the Rent Smart Partnership agreement.
- 20.3 Alex from Brighton Housing Trust and Sarah from Sussex University, Students' Union were in attendance at the meeting. Alex stated that he worked in the Private Sector Housing Team in Brighton Housing Trust and stressed that it had never been so difficult for tenants in the private rented sector. He stated that Rent Smart had a number of key partners and wanted more partners to get involved. The organisation would help to signpost people to relevant agencies.
- 20.4 Sarah stated that Sussex University, Students' Union was involved in representative work and valued the opportunity of being part of the partnership. There were many shared interests and she hoped that it could be demonstrated that organisations are stronger together. The website would be a great resource.
- 20.5 The Chair considered that Rent Smart was a great initiative and a wonderful way forward.

- 20.6 Councillor Gibson welcomed the suggestion that a report be brought back to the committee. He paid tribute to the efforts of Councillor Hill in convening a private rented sector workshop to consider responses to the Private Rented Sector scrutiny report which were outside the remit of the council. Councillor Gibson stressed that Rent Smart was an important group and he was pleased to see that the Living Rent Campaign wanted to be involved.
- 20.7 Councillor Hill asked members to consider adding an additional recommendation 20.2 (2) "That the Committee request an officer report on the council becoming a partner of Rent Smart." This was agreed.

20.8 RESOLVED:-

- (1) That the attached Rent Smart Partnership Agreement be noted as background information to the Rent Smart presentation and discussion.
- (2) That the Committee request an officer report to the next meeting on the Council becoming a partner of Rent Smart.

21 UPDATE ON PRIVATE RENTED SECTOR SCRUTINY PANEL RECOMMENDATIONS

- 21.1 The Committee considered a report of the Executive Director Economy Environment & Culture which explained that the Private Rented Sector Scrutiny Panel's report and recommendations were published in 2015 and the council's formal response was approved by Housing & New Homes Committee on 11 November 2015. The current report was the first annual update to the Housing & New Homes Committee. The report was presented by the Housing Strategy Manager.
- 21.2 Councillor Druitt asked for clarification about 3.6 (1) – Support a strong and buoyant local private sector housing - which was reported as complete. The Housing Strategy Manager explained that pages 42 and 43 of the agenda gave a more detailed response. The private sector was thriving and supported many residents.
- 21.3 Councillor Druitt stressed that most people he knew were paying a disproportionate amount of their income on rent. The Housing Strategy Manager appreciated that there were many issues, but private sector housing was important to the house market in Brighton.
- 21.4 Councillor Hill pointed out that the wording "strong and buoyant local private sector housing" came from the Scrutiny report. The council was aware of major issues regarding rents and housing. She commented that trading standards work was excellent and that recommendations/responses 4 and 5 listed current discussion about HMOs.
- 21.5 Councillor Atkinson considered this to be a significant piece of work. He noted that encouraging a requirement for 40% affordable housing might perversely be affected by the government's Starter Homes Initiative. This might reduce the 40% figure and put accommodation costs beyond most local people. Councillor Atkinson considered that establishing a Greater Brighton living rental model was a positive move. He questioned

why Housing Associations would want to build properties if they were forced to sell them and asked if the council was receiving money back from Council house sales. Councillor Atkinson noted that 158 council properties had been brought back into use in 2015/16 and 40 in this quarter alone. He strongly supported the extension of licensing of HMOs and would like to see more work carried out. He stressed that housing for key workers was an important issue and that the Living Rent campaign was a positive and important move.

21.6 Councillor Mears noted that the report referred to talking to universities about student numbers. She hoped that there would be a report on this matter.

21.7 Councillor Gibson stated that he welcomed the process of bringing back an update. He referred to the comment about a “strong and buoyant local private sector housing”. Councillor Gibson stressed that 70% of private rented housing was not decent. HMO Licensing worked and if extended should improve this situation. He welcomed the 89% improvement through the licensing scheme and hoped to see reports on further extensions to the scheme and an update on the improvements achieved.

21.8 In response to questions put by Councillor Gibson the following was explained by officers.

- The Living Rent issue needed to be joined up with work on the new delivery vehicle.
- Anston House was not part of the affordable housing offer. There were discussions on whether the wholly owned and special purpose vehicle could carry out that type of activity.
- Officers would hopefully provide a further report on the Licensing of HMO's to the next committee.

21.9 Councillor Bell referred to page 78 with regard to prioritising family housing in the council's housing investment plan. There were gaps on family sized type of accommodation. He referred to page 76 – update – and asked for more information about the Greater Brighton Housing and Growth Working Group.

21.10 Officers responded to Councillor Bell's questions/comments as follows.

- There was a demand for smaller units. Officers were trying to prioritise family housing. It was hoped that a sizable number of family homes could be built at Toads Hole Valley.
- The Greater Brighton Housing and Growth Working Group had been formed to discuss the acceleration of housing delivery.

21.11 Councillor Bell made the point that the Greater Brighton Housing and Growth Working Group was looking at the housing needs of the Greater Brighton area. He stressed that the City had its own housing needs. The Head of Housing Strategy, Property and Investment explained that the work was linked to the City Plan and looking at the Greater Brighton area. Work was carried out with planning as well as housing colleagues. It was not about meeting each other's housing needs but about accelerating growth.

21.12 RESOLVED:-

- (1) That the progress made in implementing the Scrutiny Panel recommendations (Summarised in 3.5 and 3.6, and detailed in Appendix 1) be noted.

22 HOMELESSNESS POLICY PETITION RECOMMENDATIONS

- 22.1 The Committee considered a report of the Executive Director Economy Environment & Culture which explained that following a petition submitted to full Council by Daniel Harris, the Council and Housing & New Homes Committee were requested to consider a range of recommendations regarding temporary accommodation. The recommendations had been considered and the findings set out in the report. The report was presented by the Acquisitions Manager.
- 22.2 Councillor Lewry referred to page 89 - paragraph d) relating to a review of the no visitor rule. He questioned whether the response was a breach of human rights. The response seemed harsh and he asked if visitors could be vetted.
- 22.3 The Acquisitions Manager drew attention to page 90 which discussed alternative provision. It was stressed that allowing unfettered access had been problematic in the past. The council were exploring with suppliers whether households could gain access to friends and family whilst protecting residents.
- 22.4 Councillor Moonan welcomed the response to the petition's recommendations. Satisfaction surveys would be useful. The council did have contracts with temporary providers and were monitoring contracts. She welcomed the establishment of ETHRAG and proposed that she and Councillor Hill attend the next meeting of the Group. Councillors Moonan and Hill wanted to hold a joint surgery, to enable residents in temporary accommodation to talk to them if there was anything in the contract that was not being adhered to. The priority was to move people through emergency accommodation.
- 22.5 Councillor Gibson stressed the importance of recognising ETHRAG's efforts and achievements. He considered that the recommendations in the report did not go far enough. Councillor Gibson wanted to see the recommendations deferred until the next meeting of the Committee and proposed the following amendment:

"To add an additional recommendation 2.2 as follows:

That further consideration of this item be undertaken and a further report be brought to the next Housing and New Homes Committee to enable:

- a) The Emergency and Temporary Housing Residents Action Group (ETHRAG) to consider with members and supporters and put forward comments.
- b) Details to be provided of sites under consideration for the provision of low cost emergency accommodation.
- c) Development of proposals for joint working between ETHRAG, service providers, landlords, council officers and members to meet together to drive up standards, increase satisfaction and develop recommendations to Housing and New Homes Committee.

d) A report on recognition of ETHRAG with suggestions for partnership working with this group to be presented to the next Housing and New Homes Committee.”

- 22.6 The amendment was seconded by Councillor Mears.
- 22.7 Councillor Moonan stated that she was happy to support the amendment with the exception of b) as this needed further work. This would provide an opportunity to improve dialogue and the residents’ experience.
- 22.8 The Chair explained that Councillor Hill was Lead Councillor for the Private Rented Sector. Councillor Moonan was Lead Councillor for Rough Sleepers. They would hold a surgery without officers.
- 22.9 Councillor Hill reported that she had been contacted by people who had issues with temporary accommodation. Some wanted visitors and others did not. There were a wide range of people in temporary accommodation, including people with small children and many with issues. Councillor Hill stated that council contractors were looking at funding for the installation of Wi Fi. There had been discussions about having welcome packs in temporary accommodation. These could include basic toiletries, basic food, information about a mentoring scheme and contact information.
- 22.10 Councillor Druiitt asked why there was an objection to section b) of the amendment. The Head of Housing replied that the new build programme had not progressed to the extent that details could be provided. This section of the amendment was therefore not recommended.
- 22.11 The Director, Economy, Environment and Culture informed the Committee that if the amendment was passed, officers would bring as much detail as possible to the next meeting; however he stressed that it was necessary to consider the ability for officers to deliver within diminishing resources.
- 22.12 The Committee voted on the amendment set out at 22.5 and the amendment was unanimously agreed.
- 22.13 **RESOLVED:-**
- (1) That it be agreed that inspection outcomes and satisfaction surveys are reported to Committee twice a year.
 - (2) That further consideration of this item be undertaken and a further report be brought to the next Housing and New Homes Committee to enable:
 - a) The Emergency and Temporary Housing Residents Action Group (ETHRAG) to consider with members and supporters and put forward comments.
 - b) Details to be provided of sites under consideration for the provision of low cost emergency accommodation.
 - c) Development of proposals for joint working between ETHRAG, service providers, landlords, council officers and members to meet together to drive up standards, increase satisfaction and develop recommendations to Housing and New Homes Committee.

- d) A report on recognition of ETHRAG with suggestions for partnership working with this group to be presented to the next Housing and New Homes Committee.

23 SINGLE HOMELESS AND ROUGH SLEEPER ACCOMMODATION & SUPPORT SERVICES REMODELLING & TENDER

- 23.1 The Committee considered a report of the Executive Director Adult Services which detailed the proposed remodelling and retendering of services to meet the changing needs of homeless people, target resources, and improve the outcomes of this section of the population. The re-modelling proposal included commissioned accommodation and support services for homeless people and rough sleepers; and Hostel accommodation and support services which are directly provided by Brighton & Hove City Council. The report was presented by the Head of Commissioning Contracts and Partnerships and the Commissioning & Performance Manager.
- 23.2 Councillor Mears commented that it was important that the Housing & New Homes Committee had a report back on this matter. She noted that page 99 acknowledged that a sit up bed was a chair and stressed that the Committee had never seen a proper breakdown of the £10 million which had come over from Supporting People.
- 23.3 In response to questions from Councillor Mears it was confirmed that officers would be happy for outcomes to be reported back to the Committee. Staff at New Steine Mews had asked about the possibility of putting in a bid and had been given the link to the website should they decide to make a bid. A great deal of work needed to be carried out at Glenwood to re-model the service. The building would need to be fit for purpose and more work needed to be carried out on the model before going out to tender.
- 23.4 Councillor Druitt referred to the reference on page 95 to the new model providing improved outcomes for individuals and better value for money. He commented that this was getting people to do more for less. He referred to the changing demand for services, and asked what examples could be given where services were currently failing, and what the council was looking for the new model to achieve.
- 23.5 It was explained that the tender was weighted towards quality. Officers had identified gaps in the services which they were trying to fill. The intention was to improve outcomes, and extensive work had been carried out exploring good practice with other local authorities.
- 23.6 Councillor Druitt asked why the current system could not address these matters without a remodelling exercise. Officers explained that it was necessary to go out to tender. A smaller trauma informed women only service was required and there was a need to tender for medium support. The proposals included work around older drinkers and people with dependency and physical health issues.
- 23.7 Councillor Moonan welcomed the re-modelling. With regard to the women only service there would be a greater emphasis on assessment work and focus on older people. She was pleased to see more flexibility within the pathways. There would be peer support and life skills work and multi-agency working. She was pleased to see user involvement but disappointed there were fewer beds. The proposals were about outcomes and targeting work where it was needed.

- 23.8 Councillor Lewry asked for more information about page 103, paragraph 4.5 - Feedback from staff and trade unions. The Head of Commissioning, Contracts and Partnerships explained that she had met with staff at Glenwood Lodge and New Steine Mews and had held two meetings with the unions. Some staff were anxious about tendering to an outside source, whilst others welcomed the changes. There was a mixture of views but generally staff were anxious.
- 23.9 Councillor Miller expressed concern about the loss of bed numbers. He asked what work was being carried out to avoid clogging up the system. He noted that one lease was longer than the tendering length.
- 23.10 It was explained that officers were working with Estate Services regarding the lease of New Steine Mews. A low support service had recently been commissioned. This was about people having access to services and having a large network and resource groups. Move on was a big issue, and officers were working with colleagues across the council on this issue. The proposals had included an element for move on in the tender.
- 23.11 Councillor Gibson stated that it would be hard to improve the service if it was being cut. Staff at Glenwood and New Steine Mews had told him that they could not bid as they were not solvent. He could not support 2.6 of the recommendations (to Policy, Resources & Growth Committee) that the directly provided (in-house) services which are identified in Section 4 of this report be included within the tender for the new accommodation and support model. With regard to moving on, there was a need to move people on smoothly and efficiently. Councillor Gibson expressed concern that there would be less accommodation to offer people. The housing allocation plan might be an opportunity to unblock the system.
- 23.12 Councillor Gibson quoted the minutes of the last meeting as set out on page 10, paragraph 7.10 "An evaluation of the pilot programmes suggested Housing First can deliver savings of up to £15,000 a year". Housing First was a way of unblocking the system, to enable people to move on to appropriate accommodation.
- 23.13 Councillor Gibson proposed the following amendment which was seconded by Councillor Mears:
- To add an additional recommendation at 2.5 as follows and re-number existing recommendation 2.5 and all subsequent recommendations (2.5 as 2.6, 2.6 as 2.7, 2.7 as 2.8, and 2.8 as 2.9):
- 2.5. 'That the service remodelling also include the expansion of Housing First provision, a way of funding this devised by capturing the savings this approach yields, with surplus savings being reinvested in additional service provision'.
- 23.14 The Chair asked for advice about the financial implications of the amendment. The Executive Director, Economy, Environment and Culture explained that the true financial implications for this particular report were not known. It was unclear how the new model would work locally. To include the amendment in the recommendations would cause problems. The Committee could ask that Housing First be looked at in the future but it was difficult to agree a recommendation without understanding the financial implications.

- 23.15 The Senior Lawyer stated that the Committee should not take a decision which has financial implications without an officer report.
- 23.16 Councillor Moonan stated that Housing First worked. It did save money in the wider context, as would all the other hostels. The whole service provided wider savings.
- 23.17 The Assistant Director, Adult Social Care informed members that he was happy to bring back a report on the expansion of Housing First, however, there were financial implications and there was a need to know what they were. There would be a need for a separate report on the expansion of the Housing First model.
- 23.18 The Executive Director, Economy, Environment and Culture suggested that a way forward was for a report to be brought back to the Committee on Housing First which would look at the financial implications of expanding provision.
- 23.19 Councillor Hill asked officers what the implications of the amendment would be. The Senior Lawyer stated that there were practical implications for procurement, if the process was delayed a few cycles. The Commissioning & Performance Manager stated that all contracts ran out in March 2017. There needed to be procurement and it had reached the stage where officers needed to move on with the re-modelling.
- 23.20 Councillor Gibson emphasised that Housing First was relevant to this pathway. He agreed that it might be best to take the report on Housing First to the next committee meeting. Councillor Gibson confirmed that he was withdrawing the wording of his previous amendment and was proposing the following (seconded by Councillor Mears):

New recommendation 2.4 (for the Housing and New Homes Committee).

‘That a report be brought to the next Housing & New Homes Committee on the expansion of Housing First provision, a way of funding this devised by capturing the savings this approach yields, with surplus savings being reinvested in additional service provision’.

- 23.21 Councillors voted on 2.1 to 2.3 and the amendment at 2.4 and these were unanimously agreed.
- 23.22 **RESOLVED:-**
- (1) That the information provided within the report to remodel and procure accommodation and support services for single homeless people and rough sleepers be noted;
 - (2) That the commissioning and procurement plans from October 2016 should be aligned with priorities within the Rough Sleeping Strategy 2016, the Council’s Housing Strategy 2015, the Homelessness Strategy 2014-19, and the Council’s priorities for the integration of social care and health through Better care;
 - (3) That ASC Commissioning be delegated authority to review the infrastructure, including the working groups that support services for single homeless people and related strategies;

- (4) That a report be brought to the next Housing & New Homes Committee on the expansion of Housing First provision, a way of funding this devised by capturing the savings this approach yields, with surplus savings being reinvested in additional service provision.

24 HOUSING DELIVERY OPTIONS

- 24.1 The Committee considered a report of the Executive Director Economy Environment & Culture which provided an overview of an offer to develop a Joint Venture for the development of new affordable homes and regeneration from Hyde Housing Association and a proposal to establish a wholly owned Special Purpose Vehicle to provide a range of options to increase the supply of homes. Appendix 1 provided an overview of legal advice to date that has been provided by Bevan Brittan in relation to this opportunity. Appendix 2 provided an overview of governance considerations. Appendix 3 provided an overview of legal advice to date on the establishment of a wholly owned Special Purpose Vehicle or Housing Company. Appendix 4 provided a copy of the high level Heads of Terms document. Appendix 5 in Part 2 of the report provided a summary of Strategic Financial Viability Model and sensitivity analysis. The report was presented by the Head of Housing Strategy, Property and Investment, and the Programme Manager, Regeneration.
- 24.2 The Head of Housing Strategy, Property and Investment stated that representatives of Bevan Brittan and Hyde Housing Association were in attendance at the meeting. The key aim of these projects was the provision of affordable housing in the city and addressing issues relating to the retention of lower income families in the city. Bevan Brittan had been appointed as legal advisors. Risks were set out in paragraph 4.1 of the report.
- 24.3 The Programme Manager – Regeneration spoke about the governance of the joint venture (paragraphs 3.26 to 3.30). The proposal was for there to be a board of six; three to be appointed by Hyde, and three by the Council. Meanwhile a detailed business plan would come back to the Committee. Board members could be councillors or officers but conflict of interests would need to be managed. The council would gain capital receipts for all land in the venture. Valuations would follow an agreed process. Consultation would take place with ward councillors and members.
- 24.4 The Joint Venture had the potential to purchase sites through the open market. Allocation would take place through the housing register. The homes would be highly energy efficient. There would be 500 shared ownership properties with the option to take up a 25% or up to 75% share. Residents could increase the share at any point. This could focus on local people. It was estimated that the proposals would lead to 700 opportunities for apprenticeships. The proposal would support construction jobs and bring new council tax revenue. The next steps would be to finalise the heads of terms by the end of the year. The first scheme would be on site by the end of 2017.
- 24.5 The Finance Officer informed Members that the Joint Venture proposal required £105.47 million total investment to develop 1000 new homes over a five year period. The proposal was that Hyde and the council provide 50/50 funding of £52.7 million. The council's investment of £52.7 million would be funded through general fund borrowing. There would be a surplus by year 6. The financial modelling was set out in Appendix 5

on Part Two of the agenda. The Finance Officer stated that there will be an overarching business plan to come back to committee for approval with reserved matters and for each site development individual viability testing will be carried out to satisfy that the development is in accordance with the business plans and is viable.

- 24.6 Councillor Atkinson welcomed the initiative which would result in possibly building up to 1000 plus new homes in the city. He considered this to be one of the most significant items the Committee would discuss over the next few years. He understood that the joint venture approach was one taken by many local authorities. The legal advice appeared robust and the financial modelling appeared sound. Councillor Atkinson stated that the current housing situation was a national scandal, and the proposal would start to deal with this situation on a local basis.
- 24.7 Councillor Miller welcomed the idea of more homes for low earning working households in the city but had concerns on the impact on the General Fund as result of this borrowing. In response to a series of questions put by Councillor Miller, the Head of Housing Strategy, Property & Investment stated that the Council had procured specialist legal advice. Matthew Waters from Bevan Brittan LLP was in attendance. The proposal had come out of the council's Housing Strategy which had undergone extensive consultation over the last 18 months. The Council's legal officers were party to the advice given by Bevan Brittan. Hyde had their own separate legal advice.
- 24.8 The Senior Council Lawyer stated that the Council had run a full tender process to award the contract to Bevan Brittan. The council required specialist legal advice on this particular area of very specialist law in terms of setting up a joint venture.
- 24.9 Matthew Waters from Bevan Brittan answered Councillor Miller's queries as follows;
- There was a requirement by the tender process to have conflict checks. Bevan Brittan did check and there were no conflicts. Bevan Brittan did not act for Hyde on this or any other matter.
 - The issue of the casting vote for the chair was not something that had been discussed or finalised with Hyde. Mr Waters considered that there would not be one on the premise that the board of the joint venture would be tasked with implementing a business plan that had already been agreed by the two parties.
 - It was confirmed that reserved matters would be set and determined by councillors at the start of the process and later submitted to councillors from the board.
 - Regeneration and the living wage would be separate and ring fenced.
 - Council support on a cost incurred basis – If the council provided support then that would be on the same basis which would be people putting things in at cost.
 - Due diligence on the Hyde framework - the supply chain for delivery of this development would go through the Hyde frameworks.
 - LLP and note in the advice on whether the council could enter into the LLP directly - there were many councils who had entered into LLPs. If

the council had concerns it could enter into it via a company in between the council and the LLP.

- Reverse Teckal – There was a gap in legislation on that point, but it was not considered a material concern for the council. It was agreed that both parties should come to the joint venture pooling resources on an equal basis.
- Questions over planning permission had been discussed but not yet finalised.
- Board equivalent to director's question – it was right to view that Board as an equivalent to directors.
- Wholly owned company and the draw down – That was not a level of detail that had been looked at yet. It would be expected that the council would approve a business plan both as an owner and as a funder, and there would then be permission for the vehicle to draw down funding within the parameters drawn down by the business plan.
- Joint Venture – heads of terms and freehold – Those illustrative heads of terms based on discussions to date [freeholders] was not an agreed position.
- Funding of the first phase was not proposed to be allowed for land banking.
- Unanimous basis for reserved matters – If there was a reserve matter it did provide the authority for Hyde to have a veto.

24.10 Council officers further answered questions as follows. It was confirmed that any regeneration projects that involved any of the council's existing properties would be brought back to the committee as separate projects which would have their own financial model. The Strategic Viability Modelling was the overarching model for this business case. Officers had reviewed the model and held meetings with Hyde to discuss the assumptions. Officers would look at further detailed analysis when finalising the Business Plan. The Council would still need to go back to the Policy, Resources & Growth Committee to approve borrowing over coming years. The Council must demonstrate it is following a prudent code and that the scheme is affordable.

24.11 The Executive Director, Economy, Environment & Culture referred to the question of disposal of land under value. If the undervaluation was less than £2 million there was no need to get the Secretary of State's express approval. The council could rely on a general disposal consent. The Executive Director explained that for each parcel of land, a valuation was made by the Property and Design Team. Disposal generally happened post planning and valuation was subject to planning. Decisions were made by Policy, Resources and Growth Committee.

24.12 Councillor Druitt suggested that the make up of the Board should include one councillor and that they should chair the Board. He asked for reassurance that a new joint venture would uphold the high values of the council with respect to pensions, holidays and sickness. Mr Matthews stated that it was agreed that the vehicle would not have a substantial workforce. Staff would be provided by the council or Hyde.

- 24.13 Councillor Druitt asked about the rules of procurement policy, and specifically matters such as sustainability. Mr Waters replied that Hyde was a public body in the same way as the council. The Joint Venture was a public body. A business plan would need to be brought back to the committee.
- 24.14 Councillor Bell expressed concern about the land value. He wanted reassurance that the LLP would not cherry pick land they wanted. He considered that the council should choose the land it wanted to dispose of. Although Councillor Bell welcomed the initiative he had serious concerns about the way it had been presented and stressed that he had not had time to properly review the papers. He asked how long the company would be kept going. He had questions about the share of costs. In the second year there was a deficit in the finances. Councillor Bell referred to page 121, paragraph 3.22. He would expect to see a full proposal laid out and would expect to see a business plan. Buildings would have long term costs and there was a need to know the end of life costs.
- 24.15 Councillor Bell referred to page 122, paragraph 3.30, relating to the Board. He considered that there was a governance issue with any of the officers involved. Hyde members would be employed by Hyde and council officers would have other duties. There were problems over costings and conflicts of interest. He could not be convinced that there should be officers on the Board. Councillor Bell referred to page 125, paragraph 4.1 relating to risks and opportunities. He asked if legal advice had been received on the issue of State Aid. There needed to be clarity with regard to Site identification. Council officers should not be involved in the identification of sites.
- 24.16 The Executive Director Economy, Environment and Culture referred to the disposal of land. There was legislation that governed how land was disposed of. The advice of a valuer was required. Reports on disposal would be submitted to the Committee. The Council must receive best consideration. The Committee would have a say on which sites will be disposed of.
- 24.17 The Finance Officer reported that with regard to the maintenance of homes over the period, financial modelling does include life cycle costs, which does include works such as the replacement of lifts and structure of the building. With regard to the deficit, both Hyde and the Council would have to fund construction costs. Both would show deficits in the early years and the burden was shared equally.
- 24.18 Mr Waters referred to the conflict of interest for officers. He stressed that it was perfectly legally possible for councillors or officers to be members of the Board. Meanwhile there was no concern regarding State Aid.
- 24.19 Councillor Bell asked about the long term plan for the life of the company. The Head of Housing Strategy, Property and Investment explained that there was a 60 year business plan. The Executive Director stressed that within the business plan there were options to exit.
- 24.20 Councillor Miller asked how costs would be calculated and what they were.

The Finance Officer explained that management costs were set out in the Part Two appendix. Assumptions were based on existing costs on a cost basis.

- 24.21 Councillor Miller asked why general fund tax payers had not consulted on borrowing from the general fund. The Finance Officer replied that a report would be submitted to the Policy Resources & Growth Committee in order to have any approval of borrowing within any given year. Consultation would be carried out as part of that process.
- 24.22 Councillor Miller asked what would happen if two parties disagreed and the dispute mechanism did not work. Mr Waters explained that ultimately, there would be escalating procedures. If the parties could not agree they would have to agree to exit the arrangements.
- 24.23 Councillor Miller asked if the joint venture could be funded by HRA borrowing if the cap was lifted at the autumn statement? The Finance Officer replied that she did not believe it could. She thought that it would have to be ring fenced within the HRA.
- 24.24 Councillor Miller asked about likely impact. If in a number of years there was disagreement there would be a deficit which would affect the general fund. The Finance Officer explained that cash flows showed a surplus. Each development needed viability testing. There would be no loans until viability testing had been carried out.
- 24.25 Councillor Miller asked why the report had not been presented to the Members Procurement Advisory Board for comment. The Executive Director replied that he was happy to take the report to the Board.
- 24.26 Councillor Miller asked about Right to Buy. He asked what would happen if the Government extended the Right to Buy Scheme. This would have an impact on the general fund. The Finance Officer replied that no assessment had been carried out with regard to that scenario.
- 24.27 The Chair stressed that it was not possible to predict what future governments would be elected. She stressed that she did not want to see Right to Buy affecting these delivery options. The council were trying to protect social housing.
- 24.28 The Finance Officer stated that the proposal was a joint venture with Hyde. Board members would review the business plan. If in 20 years time Right to Buy was extended the council would review the business model.
- 24.29 Councillor Miller asked about HRA asset transfer. The Executive Director explained that there was not a proposal to put HRA properties into the joint venture. It was about finding land to put into the Joint Venture. Meanwhile reserve matters were delegated to officers. A list of reserved matters would be presented to the three council members of the Board.
- 24.30 Councillor Miller asked about heads of terms and construction costs. He was

informed that the Heads of Terms were draft. There could only be a higher cost with the agreement of members. Each business plan would be agreed.

- 24.31 Councillor Miller asked about the financial model and potential disputes. The Finance Officer reported that the council and Hyde would have to bear the costs of disputes.
- 24.32 Councillor Miller asked about the appropriateness of Hyde as a partner. Had any assessment been carried out? He was informed that officers had taken legal advice and had not had any other approaches. Hyde approached the council.
- 24.33 Councillor Miller stated that Hyde coming forward did not satisfy him that they were the most appropriate partner. Surely there should be a competitive framework to ensure Hyde were the most appropriate partner. He was informed that there had been a full competitive process for Hyde's frameworks. Mr Waters, Bevan Brittan stated that it would be open to the council to appoint its supply chain as it wished. The proposal to date was to make use of Hyde's frameworks because they were a means of taking things forward at an accelerated rate. The manner in which the council market tested the framework would be in both parties' interest. Hyde was not making any money from using its supply chain.
- 24.34 The Executive Director stated that there was a great deal of data to see if the VFM was better in one framework against another. The Programme Manager, Regeneration confirmed that there would be a project monitor who reported to the council and Hyde at the end of each tender that comes forward.
- 24.35 Councillor Miller had concerns about the reverse Teckal, and quoted paragraph 4.6 on page 135. Mr Waters stated that there were multiple bodies owning a vehicle. It was relevant to consider reverse Teckal. If one or other party was entering into a contract and making a profit from the Joint Venture, then there would be a question mark. This was mitigated through working on a shared basis. The use of the competitive procurement route to appoint the developers would mitigate it further.
- 24.36 Councillor Miller stated that the proposals were hugely risky for the council and there were many unanswered questions. He felt that the proposal had been rushed and was not ready. There was no member oversight and the Conservative Group wished to make an amendment to defer the report.
- 24.37 Councillor Mears stated that she fully supported companies and had led on the LDV that brought forward Seaside Homes. She considered that the proposal was contrary to the allocations policy and that there was an issue about shared ownership. These were the reasons that her Group were asking for a deferment.
- 24.38 Councillor Gibson welcomed both initiatives to address different housing situations. He considered that the council should go ahead with the wholly owned special purpose vehicle proposal. The joint venture was really

welcome and was moving to the principle of providing living rent homes. It was a potentially exciting model and could be a rolling project and go beyond 1000 homes. He considered that building for assets was a good deal for council tax payers. Councillor Gibson stated that he considered the proposal a bit rushed and considered that some of the assumptions were wrong. It relied on property value inflation and lacked building cost inflation.

24.39 Councillor Gibson presented the following amendment as follows:

“To add sub-sections 1-5 to recommendation 2.2 ii (a), as follows:

- a. develop and negotiate the deal with Hyde; in which
 - 1) 100% nominations for Living wage rented housing are provided for households from the BHCC waiting list, for whom the market rent for housing which would meet their needs in the private sector would cost more than 50% of their income (estimated as £36K for 3 bed, 31K for 2 bed, 22.5K for 1 bed and 16K for a studio).
 - 2) 100% nominations are achieved for shared ownership properties for residents with a local connection to Brighton and Hove as defined in the Housing Allocations Policy
 - 3) Hyde commit not to convert vacant social rented properties in Brighton and Hove to affordable rents for the duration of the Limited Liability Partnership
 - 4) A “first refusal” option is agreed to buy Hyde out should they become bankrupt
- 5) There is an agreement that should Hyde dispose of their stake separately from a mutually agreed joint disposal it is sold either to the council or to a charitable housing association with charitable objectives.”

24.40 Councillor Gibson presented a second amendment as follows:

“To remove subsections (b) and (c) from recommendation 2.2 ii) and replace with a new sub-section (b) as follows:

- (b) That the final terms of the agreement be agreed by a full meeting of Council prior to completion of the deal.”

24.41 Councillor Gibson presented a third amendment as follows:

“To add subsection v) to recommendation 2.2 as follows:

- v) That reserved matters for the Joint Venture should include:
 - (a) An option to veto any future rents increases that exceed increases in the National Living wage
 - (b) An option to veto any future rents increases that raise rents over the Local Housing Allowance.”

24.42 Councillor Druitt seconded all three amendments.

24.43 The Executive Director stated that he was concerned about an amendment which asked to develop and negotiate a deal which considered points 1 to 5 (first amendment). It would be difficult for the council to require that a deal was negotiated that required actual points. The implications of these points were

not known and they required action from a third party. If the second amendment was carried then the final papers would come back to council anyway. The Committee Lawyer suggested that the amendments be modified and say that these points are taken into account in the negotiations.

24.44 Councillor Gibson suggested that amendment 1 be changed to read “a. to develop and negotiate the deal with Hyde; in which the following are sought”.

24.45 At this point of the proceedings there was a 10 minute adjournment.

24.46 Following the adjournment Councillor Hill stated that there had been very good questions and that opposition councillors had been right to scrutinise the proposals. Councillor Hill stated that it should be recognised that this was not a procurement process; it was an offer of a joint venture from a particular organisation. This needed to be scrutinised but had there been other offers the Committee would have been informed of them. The Council could not model what might happen if there were changes in government legislation. There needed to be ways of exiting and ways of adapting the model. The Council could not avoid risk but it needed to know what the risks were in order to take things forward. She stressed that there were huge benefits to the proposal and the Committee should not lose sight of what might be gained.

24.47 Councillor Mears requested a deferral to the next Housing and New Homes Committee so that everybody in the three political groups could be satisfied with the proposals.

24.48 The Chair asked for a vote on the proposal to defer the report. The vote was agreed by 6 votes.

24.49 **RESOLVED:-**

(1) That a decision be deferred to the next meeting of the Housing & New Homes Committee to ensure that members can feel fully supportive of the proposals.

25 DRAFT HOUSING ALLOCATIONS POLICY

25.1 The Committee considered a report of the Executive Director Economy Environment & Culture which presented a new Allocation Policy for approval. City wide consultation was carried out from 1st December 2015 to 29th February 2016. It was reported that over the last 5 years the Housing Register had continued to grow and now stood at over 24,000 applicants. Data demonstrated that numbers in current allocation Bands A & B are relatively static, whereas the increase in numbers was within Bands C & D on the register. This reflected the lower priority given. The report was presented by the Service Improvement & Interim Homemove Manager.

25.2 The Service Improvement & Interim Homemove Manager reported that the Equalities Impact Assessment had now been signed off by Corporate Equalities with slight amendments which would be brought back to members. Paragraph 7.7 referred to the “Ealing Case” in which a comparable “working positive contribution” preference element was deemed to be unlawful for discrimination.

- 25.3 Councillor Mears considered that it would be appropriate for the report to be forwarded to the Housing Management Area Panels so they could be acknowledged and informed of what was being recommended, and she would propose an amendment to this effect.
- 25.4 The Chair pointed out that the allocations policy was a city wide policy not funded through the HRA. The City Wide Assembly had been consulted on the policy.
- 25.5 Councillor Hill stated that she was Chair of the North Area Housing Management Panel. She was sure that the Chair's note had notified tenants that a consultation was ongoing.
- 25.6 Councillor Gibson reported that he had spoken to his Area Panel and they had not been aware of the proposals, and wanted to be involved in the matter. Huge changes were being proposed and it seemed that the proposals were more draconian. Councillor Gibson wanted to see safeguards for tenants before he would be happy to support the paper.
- 25.7 Councillor Atkinson considered that the council had consulted as widely as possible. It was a significant consultation and he thanked the Service Improvement & Interim Homemove Manager and his colleagues. Councillor Atkinson considered that the increase to 5 years residency was fair. 74% of people who had been consulted agreed to the change. The new policy was concentrating on those most in need.
- 25.8 The Service Improvement & Interim Homemove Manager reported that the list of organisations that responded to the consultation (as set out on pages 202 to 207 of the report) included all officers in Housing and Adult Social Care, Brighton Housing Trust, Rise, the Police, social workers, and housing associations and all BME organisations in the city. He had also attended the LGBT Community Forum and Victim Support to explain the policy and respond to questions.
- 25.9 Councillor Moonan agreed that there had been a very wide and full consultation. 35% of respondents were people on the register. Pages 182 to 183 of the agenda showed a strong response. The current Allocations Policy was out of date and needed to change. These were good proposals and she thought that councillors could view the bulk of the report very positively.
- 25.10 Councillor Mears stated that she had read the list of respondents, but stressed that there was an issue around the Housing Management Area Panels. They should be consulted for the sake of transparency and openness. Councillor Mears was also concerned that some aspects of the policy were draconian.
- 25.11 Councillor Gibson emphasised that his concerns were not about avoiding change, but the need for further consultation, and receiving people's views. He wanted to hear from people who were at the 'sharp end', and wanted to know what other councils were doing.
- 25.12 The Senior Lawyer reported that there was no statutory duty for the council to consult with the Housing Management Area Panels. He stressed that there were elements in the current policy that were unlawful and at risk of challenges (paragraph 7.7 of the report). The Senior Lawyer had seen four separate challenges to local authorities. One

was the 'Ealing Case'. Two challenges had been made last week. There was constant pressure on allocation policies at the moment.

- 25.13 Councillor Mears suggested that there could be a special Housing Management Area Panel meeting to consider the policy. This was why she was asking for the item to be deferred.
- 25.14 Councillor Hill asked for an agreement whereby should the report be deferred, it was agreed that the committee would consider the proposed policy following the Area Panel meetings. It was agreed that the amendment put by Councillor Mears would not open up the whole consultation again.
- 25.15 The Service Improvement & Interim Homemove Manager suggested that one event for all of the Area Panels be arranged. The views of the Area Panel representatives could be added to the consultation as an addendum.
- 25.16 Councillor Druitt stressed that there was agreement to the broad issues in the policy and problems could have been avoided by councillors being consulted at an earlier stage. Councillors need proper time to look at documents.
- 25.17 The Chair asked what the impact of a Judicial Review would be following a deferral. The Senior Lawyer stressed that there would be no personal liability on individual members.
- 25.18 At this point in the proceedings Councillor Mears proposed the following amendment which was seconded by Councillor Gibson. The proposal was agreed by 6 votes in favour and 4 against.

“That the Housing & New Homes Committee agrees to defer consideration of the proposed new Housing Allocation policy until full consultation has taken place with existing tenants through the Housing Management Area Panels.”

25.19 The proposal was agreed by 6 votes in favour and 4 against.

25.20 **RESOLVED:-**

- (1) That it is agreed to defer consideration of the proposed new Housing Allocation policy until full consultation has taken place with existing tenants through the Housing Management Area Panels.

26 REPAIRS & IMPROVEMENTS PARTNERSHIP UPDATE

- 26.1 The Committee considered a report of the Executive Director Economy Environment & Culture which provided an update on processes in place within the Repairs & Improvement Partnership with the Mears group to manage quality and avoid overpayments following the results of an internal audit review of overpayments identified by the council in respect of contracted housing repairs. The report was presented by the Business and Performance Manager who explained that the agreed actions undertaken were set out in paragraphs 3.5 to 3.13 of the report. This had included the reduction on the use of sub-contractors (3.8) and onward quality assurance work (3.10). David Miles,

Chief Executive, Mears Group and Lucas Critchley, Managing Director, Mears Group were in attendance.

- 26.2 Councillor Bell referred to paragraph 3.11 on page 283. This related to Mears funding an additional council resource to work alongside the existing team of three quantity surveyors in sample checking the post inspection process. Councillor Bell asked if the quantity surveyors were Mears Group employees. Councillor Bell mentioned that the Committee had heard earlier about dissatisfaction from residents with repairs. Would there be an independent inspection?
- 26.3 The Head of Housing Strategy, Property & Investment explained that the council had its own quality assurance resource and its own clerk of works. The council would look at the client contractor balance in the review being taken forward.
- 26.4 Councillor Miller welcomed the reduction in spend on sub-contractors. He referred to paragraph 3.5 and the fact that Mears had agreed to pay interest. Councillor Miller asked how the repayment was progressing. The Head of Housing Strategy, Property & Investment explained that the council had recovered all loss on the contract including percentage profit. David Miles stated that Mears Group had committed to paying the interest and full charge. Councillor Miller requested that officers check that the interest charge sum had been collected.
- 26.5 Councillor Moonan welcomed the fact that the percentage of sub-contractors was down to 12%. She asked if 12% was a desirable number, and the right balance or was it expected that it would continue to reduce. She noted that the number of jobs was 12% and the cost was 31%. She assumed that they were big expensive jobs.
- 26.6 Lucas Critchley explained that 12% was broadly the right figure for specialist works. Mears would continue to review this. Work such as minor drainage jobs were now carried out in-house. Mears Group sub-contracted the larger more complex jobs which was why they had a higher value.
- 26.7 Councillor Mears stressed that Mears Group needed to provide a good service to the council and should address the concerns of tenants. Councillor Mears was pleased that the investigation had resolved many issues, but emphasised that it was necessary for Mears Group to treat tenants as customers.
- 26.8 The Chair mentioned that the committee had requested six month updates and to the credit of Mears Group, they had been working closely with the council.
- 26.9 Councillor Druitt asked if the figure of £513,113 was the total or was there any re-payment outstanding. He pointed out that if an inspection was carried out at the end of a job there was no way of knowing how many coats of paint had been applied. Councillor Druitt asked for reassurance that there was some kind of quality assurance mechanism that was followed during the period the job was being carried out, in addition to the inspection at the end of the process.
- 26.10 David Miles confirmed that the figure of £513,113 was the total value. However, he did not know if interest was included within that figure. The Business and Performance Manager confirmed that in terms of inspection, that both the council and Mears would

review an ongoing job. Each work stream would have a dedicated supervisor and manager, working for Mears, and a contract manager/clerk of works who worked for the council who would be involved from specification stage. For larger projects they would be involved in regular checks whilst works were underway.

26.11 RESOLVED:-

- (1) That the updates on progress following the initial report to both Audit & Standards Committee and Housing & New Homes Committee in January 2016, be noted.

27 HOUSING MANAGEMENT PERFORMANCE REPORT QUARTER 1 2016/17

27.1 The Committee considered a performance report of the Executive Director Economy Environment & Culture which covered quarter one of the financial year 2016/17. The report was presented by the Head of Income, Involvement & Improvement, who explained that the redesign of the report was to make it more accessible.

27.2 Councillor Druitt referred to page 293 (1.14 Area breakdown of rent collected). He asked how the trends for these statistics compared with previous quarters. The Head of Income, Involvement & Improvement explained that performance overall had improved. She could extend the trend arrow for the next report.

27.3 Councillor Gibson referred to page 298 - Repairs and Maintenance Indicators. He asked for an explanation of 4.7 – Repairs completed at first visit. The Head of Income, Involvement & Improvement replied that the percentage was not as good as officers would like. Mears were now carrying out more work in house rather than sub-contracting. This was affecting jobs, training and the nature of the work. It was hoped that performance would improve by the next quarter.

27.4 The Chair thanked the Head of Income, Involvement & Improvement for her hard work.

27.5 RESOLVED:-

- (1) That the report, a summary version of which went to Area Panels in July 2016, be noted along with the comments of the Committee.

28 ITEMS REFERRED FOR FULL COUNCIL

28.1 The following items were referred to Full Council on 20 October 2016, for information.

Councillor Hill referred Item 20 – Rent Smart Partnership Agreement.

Councillor Gibson referred Item 23 – Single Homeless and Rough Sleeper Accommodation & Support Services Remodelling and Tender.

29 HOUSING DELIVERY OPTIONS - EXEMPT CATEGORY 3

29.1 The appendix to the report at Item 24 of the agenda was not discussed in Part Two.

30 PART TWO PROCEEDINGS

30.1 The appendix attached at Item 29 would remain exempt to the press and public.

The meeting concluded at 11.08pm

Signed

Chair

Dated this

day of

Subject:	Retro Fitting Sprinklers in High Rise Blocks		
Date of Meeting:	16 November 2016		
Report of:	Executive Director Economy Environment & Culture		
Contact Officer:	Name:	Theresa Youngman	Tel: 29-3190
	Email:	Theresa.youngman@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 This report updates on the completion of the recent pilot project to retro-fit a sprinkler system at Somerset Point. This was a joint, match funded initiative with East Sussex Fire and Rescue Services (ESFRS), who have made provision for a second block (St James House) to be match funded in 2017/18.
- 1.2 The intention of the pilot project was to identify how further installations could be carried out to blocks in the city and what issues may arise.

2. RECOMMENDATIONS:

- 2.1 That the Housing & New Homes Committee notes the success of the pilot installation at Somerset Point.
- 2.2 That the Housing & New Homes Committee agrees that officers proceed with resident consultation, procurement and subsequent installation of a further pilot sprinkler system at St James House subject to match funding from East Sussex Fire & Rescue Services and consideration of leasehold implications.
- 2.3 That the Housing & New Homes Committee agrees that officers prepare a business case to East Sussex Fire & Rescue Services for match funding of a sprinkler installation to Essex Place.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 In November 2014 Housing Committee considered an initial report on retro fitting sprinklers in housing owned high rise blocks. Committee agreed that a pilot project should be undertaken to Somerset Point and a subsequent report be provided ahead of a further pilot installation to St James House.
- 3.2 Somerset Point is a sheltered housing scheme high rise block comprised of 72 dwellings over 13 floors. St James House is a general needs high rise block comprised of 120 dwellings over 16 floors. 30 flats (25%) at St James House are

leaseholder owned and will be subject to additional consideration with regard to leaseholder implications; this is set out in 5.5.

- 3.3 The report asks members to agree to the preparation of a business case for retro fitting sprinklers to Essex Place. Essex Place is a general needs high rise block comprised of 128 dwellings over 17 floors. 31 flats (24%) at Essex Place are leaseholder owned.
- 3.4 The council has invested over £1.5 million on fire safety works across Housing Revenue Account (HRA) owned stock throughout the city to ensure compliance with the Regulatory Reform (Fire Safety) Order 2005. This includes works to ensure dwellings are appropriately compartmentalised, signage is in place and doors and windows onto common ways are of the appropriate fire safety standard.
- 3.5 Ongoing compliance of fire safety is overseen by a Fire Health & Safety Board which includes officers from Housing, Health & Safety, East Sussex Fire & Rescue Service and partners including Mears.
- 3.6 The retro fitting of sprinkler systems is an improvement to the existing measures in place and is not a requirement of fire safety regulations. However following fires at Lakanal House in July 2009, in which 6 people died and Shirley Towers in April 2010, in which two fire fighters died, coroners issued recommendations on both that:
- “Social housing providers should be encouraged to consider the retro-fitting of sprinklers in all existing high rise buildings in excess of 30 meters in height”.*
- 3.7 Blocks identified for enhancement / improvement of fire safety measures derive from fire service advice on where such additional measures are best applied. ESFRS is providing match funding for a number of pilot projects based on this advice with the objective of supporting installations and encouraging partners to fund further sprinkler installations from their own resources.
- 3.8 In line with previous Housing Committee recommendations detailed in 3.1 the council has successfully completed a pilot retrofit installation of sprinklers at Somerset Point. A report detailing the outcome of this pilot was considered and well received at the Housing Area Panels, in September 2016. This report is attached as Appendix One.
- 3.9 The sprinkler installation at Somerset Point is at practical completion stage. The final account is being agreed and is expected to amount to £0.145 million. ESFRS will pay 50% of this cost.
- 3.10 This project and its funding fits with one of the key priorities of our recently agreed Asset Management Strategy to invest in homes and neighbourhoods to provide safe, good quality housing.
- 3.11 The council has also invested in retro fitting sprinklers to other properties including Evelyn Court and homes of vulnerable residents who may be at greater risk of fire.

- 3.12 In addition sprinklers are being installed as part of the extra care scheme at Brooke Mead as part of the New Homes for Neighbourhoods programme and as part of the conversion of unused space in St James House under-croft into three new homes.
- 3.13 Further installations of sprinklers will be subject to required procurement processes in line with the council's contract standing orders.
- 3.14 This report is timely given recent widely reported fires in council homes which, it should be noted, do not reflect any failure of Council statutory duties in relation to the fire safety compliance of the blocks.
- 3.15 One of the main benefits of installing a sprinkler system is that it reduces the risk of loss of life to residents and fire fighters. In addition a sprinkler system would ensure that an outbreak of fire is confined to one small area and reduce damage to the overall unit.
- 3.16 The reinstatement costs on the four recent fires have amounted to £0.12million, and this potential cost for any future fire would be greatly reduced.
- 3.17 This work aligns to the Community Initiatives Partnership with ESFRS, a cross agency group looking at how to reduce fire risk related to vulnerable people in the city.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Selection of the two pilot scheme installations was based on a matrix provided by ESFRS in 2014. This guidance identified Somerset Point and St James House as the recommended blocks for the pilot within council owned stock. Further guidance has identified that a business case for installation of sprinklers in Essex Place should be considered.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 A comprehensive consultation process was carried out with residents at Somerset Point before the commencement of the project; this was developed by the council in partnership with ESFRS and Triangle Fire Systems (the installer). An initial installation was carried out to a guest flat in the block so that residents could see how the installation would look within their homes. Additional boxing in was carried out to ensure the installation would be aesthetically pleasing for residents.
- 5.2 The sprinkler feedback briefing paper was presented to all Area Panels in September and received positive feedback
- 5.3 Following completion of the works a tenant satisfaction survey was completed which demonstrated a high satisfaction rate, where most residents gave a satisfaction rate of nine or ten out of ten. This is included in Appendix One and shows a high 55% response rate.

- 5.4 Potential installations at St James House and Essex Place will include similar consultations with residents ahead of works and satisfaction surveys following completion of works.
- 5.5 St James House and Essex Place contain a mixture of tenants and leaseholders, implications for leaseholders will need to be considered in more detail as part of the further pilot project. St James House has 30 leasehold flats (25% of the block); Essex Place has 31 leasehold flats (24% of the block).
- 5.6 Initial advice is that leaseholders will not be obligated to have a sprinkler installed within their properties although discussions between the council and ESFRS have indicated that there will be joint work to emphasise the benefits to leaseholders of connecting to the block sprinkler systems. At this stage further legal advice will be required to identify the mechanism by which leaseholders are consulted on sprinkler installations within blocks and dwellings and to what extent costs are recoverable under the lease.

6. CONCLUSION

- 6.1 This report includes outline costs for the funding of St James House installation through the 2017/18 HRA Capital programme, which will be subject to Committee approval through capital budget papers.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The final costs for Somerset Point are expected to be approximately £0.145 million with 50% of this amount to be funded by ESFRS.
- 7.2 If recommendation 2.2, to proceed with a sprinkler system at St James House is approved, a budget amount of £0.250 million will be included in the HRA Capital Programme Budget proposals for 2017/18, which will be reported to this Committee for approval in January 2017, prior to approval at Policy Resources & Growth Committee in February 2017. These proposals assume that match funding is available from ESFRS of £0.125 million. Any significant variations in costs or funding arrangements would need to be reported back to Policy Resources & Growth Committee for approval. Maintenance costs are minimal at £250 per block per annum and will be met within HRA existing revenue budgets.
- 7.3 Subject to approval of recommendation 2.3, finance officers will review the financial implications of the business case proposals for Essex Place sprinkler installation, which will be reported back to this Committee.

Finance Officer Consulted: Susie Allen Date: 31/10/16

Legal Implications:

- 7.4 There is no statutory obligation on the council to fit sprinklers. However,

their installation will assist in discharging the council's obligations to take fire precautions under the Regulatory Reform (Fire Safety) Order 2005.

Lawyer Consulted: Judith Fisher: 01/11/2016

Equalities Implications:

- 7.5 Somerset Point is a senior housing scheme comprising 72 flats over 13 floors. As this scheme houses older and more vulnerable residents, the logistics of ensuring the safe evacuation of the block in the event of an outbreak of fire, present greater challenges and complications than general needs blocks. The installation of a sprinkler system removes the risk of any consequences derived from delayed evacuation procedures.

Sustainability Implications:

- 7.6 The new installation is highly sustainable in terms of lifespan and type of material. The system offers a 50 year lifespan and the product is fabricated from chlorinated polyvinyl chloride which is fire retardant plastic.
- 7.7 The system will require annual maintenance checks, but the cost of these is negligible.

Any Other Significant Implications:

- 7.8 The sprinkler system that has been installed houses a sprinkler head in each room of the dwelling. The system will not activate unless the prevailing conditions are synonymous with an established fire (heat and smoke discharge levels).

Crime & Disorder Implications:

- 7.9 None

Risk and Opportunity Management Implications:

- 7.10 The decision to use Somerset Point as the pilot project was following a risk rating matrix held by ESFRS. The matrix sets out a 'risk' score to each block across the city and the dimensions of the risk are categorised by factoring in the number of call outs and severity of the fire. Somerset Point was in the table of top ten risk blocks. As there is still match funding available for an additional one or two blocks, we are seeking agreement to complete further blocks that remain within the table of top ten risks.

Public Health Implications:

- 7.11 In line with our principles of demonstrating citizen focus and increasing equality to improve:

Health and Wellbeing: Safeguarding our most vulnerable children and adults from neglect and harm. Providing better care services for older and vulnerable people, focused on personal choice and staying independent.

Corporate / Citywide Implications:

- 7.12 Corporate Plan Commitments, the council has pledged, through its corporate plan to deliver on its main values / purpose:

A good life: Ensuring a city for all ages, inclusive of everyone and protecting the most vulnerable.

SUPPORTING DOCUMENTATION

Appendices:

1. Report to Area Panels on installation at Somerset Point

Documents in Members' Rooms

None.

Background Documents

None.

Area Panels: September 2016

Report: Somerset Point Sprinkler Project

Purpose of Report:

The Purpose of this report is to gain feedback from Area Panels on the recent Pilot project for the installation of a Sprinkler system at Somerset Point. This feedback will be used assist Housing Committee in reaching a decision to progress with further installations in high rise blocks across the City that are designated as 'high risk' of incidents of fire outbreak.

Introduction:

Through the joint partnership working delivered by the Repairs and Improvement Partnership, we have successfully invested £1.5m in the upgrade of fire safety to our properties.

The Partnership (BHCC / Mears), have developed collaborative relationships with our stakeholders and other public bodies and we work closely with East Sussex Fire and Rescue Services (ESFRS) to continue to review and improve Fire Safety throughout the city.

Background - ESFRS

Fires in the home still account for the greatest number of fire deaths and injuries each year. All fires will grow and spread until someone, often the Fire Service intervenes to halt the spread and extinguish the fire. Most fire safety measures are designed to guarantee a safe escape from premises in the event of fire; however ESFRS, in partnership with BHCC, are keen to further improve fire safety and progress the installation of sprinkler systems within our blocks, paying particular attention to those housing vulnerable residents and high rise dwellings.

BHCC – Corporate Plan Commitments

BHCC have pledged, through its corporate plan to deliver on its main values / purpose:

A good life: Ensuring a city for all ages, inclusive of everyone and protecting the most vulnerable.

And in line with our principles of demonstrating citizen focus and increasing equality to improve:

Health and Wellbeing: Safeguarding our most vulnerable children and adults from neglect and harm. Providing better care services for older and vulnerable people, focused on personal choice and staying independent.

Sprinkler Systems – overview

Sprinklers are one of the few measures that intervene to control the fire at an early stage – significantly earlier than the fire service could and without placing anyone in danger to do so. This not only guarantees the occupants time to escape but stops

the fire from growing and damaging the property further as well as reducing the risk for the firefighters.

ESFRS are committed to promoting and encouraging the installation of sprinklers, particularly in premises housing vulnerable people. In order to do this, they committed a sum of money to match fund sprinkler installations in selected premises. This was to demonstrate the feasibility of such schemes, and obtain a commitment to continue installing sprinklers. The overall goal is to protect vulnerable people in the future. Brighton & Hove City Council & ESFRS were one of the first partnerships to declare such a commitment.

Somerset Point – Sprinkler Installation Pilot

Somerset Point was selected for a pilot study with BHCC as it was a high-rise premise housing elderly people, both of which created added challenges to ensuring the safety of the occupants from fire. It contains 72 flats on 13 floors plus various communal facilities. The guest flat was fitted out to show the residents how the system would look in their flat on completion.

A comprehensive consultation process was carried out with residents before the commencement of the project, by BHCC, ESFRS and Triangle Fire Systems (the installer). The main concerns from residents were around aesthetics, however we were able to demonstrate how the pipework would be sympathetically ‘boxed in’ following installation and this was well received.

The project is due to be completed in early October which meets the anticipated target completion date.

Project Feedback:

- a) Resident disruption – The Project Team sought to keep disruption and inconvenience to an absolute minimum and each resident was consulted personally before commencement of works to fully explain the installation procedure. The pipework was ‘boxed in’ and decorations made good. There was only one complaint throughout the project.
- b) Scope of Works / VFM – As this was a pilot scheme, we procured the works through a supplier known and trusted by ESFRS. We conducted some soft market research around the quotes / estimates received and were satisfied that the project offered VFM. The final cost for the Somerset Point installation was £136k and this was match funded by ESFRS.
- c) Tenant Satisfaction – we have carried out a Tenant Satisfaction Survey following the works and our survey (achieving a 55% response rate) demonstrated a high Satisfaction rate, where most residents gave a satisfaction rate of 9 or 10. (Table attached).
- d) Ongoing costs – maintenance – We have established that the ongoing maintenance costs are relatively low. The systems will need an annual maintenance regime which is currently being quoted at around £250 pa. We will continue to review costs and value for money.

Somerset Point Sprinkler System – Gallery

Somerset Point – Scheme Managers and Installation Team



Somerset Point Sprinkler System – Satisfied Customers!



Sprinkler System – Boxing in detail



Somerset Point Sprinklers Satisfaction Survey

	Scores – 10 out of 10	Comments
1	10	
2	10	Still to box in pipes
3	10	
4	8	Would like to have known contractor coming
5	9.5	Did not have a letter stating contractors coming
6	10	
7	10	
8	10	
9	9.5	Only issue was noise as tenant sensitive
10	10	
11	10	
12	10	
13	10	Still to box in pipes
14	3	Tenant away and not happy that contractors left dust in flat – spoke with scheme manager and contractors apologised
15	10	
16	7	Hold up to finish because of tenant in certain flat
17	10	
18	10	
19	8	Still to finish
20	9	Tenant asking when external decorations being done on block
21	10	
22	7	
23		Have not finished yet will say after
24	8	
25	8	
26		Good so far not finished yet
27	7	Lifts a bit dusty untidy from contractors
28	10	
29	9	
30	10	
31	9	Acceptable clean up – what was told did not happen in that they had to get another company to drill through the concrete
32	10	Polite
33		Still to box in
34		Still waiting to finish but good so far
35	10	
36	10	Would have been good to give dates to do flats
37	9	Polite – tidy neat
38	7	Not to tidy – some mess
39	8	
40	10	

Subject:	Homelessness Policy Petition Recommendations		
Date of Meeting:	16th November 2016		
Report of:	Director of Economy, Environment and Culture		
Contact Officer:	Name:	Sylvia Peckham	Tel: 293318
	Email:	Sylvia.peckham@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 Following a petition submitted to full Council by Daniel Harris, the Council and Housing and New Homes Committee were requested to consider a range of recommendations regarding emergency accommodation.
- 1.2 Those recommendations have been considered and the findings set out below.

2. RECOMMENDATIONS:

- 2.1 That Housing and New Homes Committee agree that inspection outcomes and satisfaction surveys are reported to Committee twice a year.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 In March 2016 Council recommended that Housing & New Homes Committee consider a range of options which was reported at Housing & New Homes Committee in June 2016 regarding emergency accommodation. In addition Housing and New Homes Committee made some amendments to request further recommendation and in September further amendments were suggested Following due consideration of those recommendations this report sets out the findings as follows :-

- a) *An increase in the frequency of inspections of emergency accommodation and report on the outcome of these inspections at regular intervals to Housing & New Homes Committee*

Inspections take place at monthly intervals. For the larger blocks of emergency accommodation which have in excess of 50 units, these inspections take 2 days for each block. Every room is inspected as well as the common ways. Due to the number of units this is resource intensive and can be quite invasive for the residents.

In addition to the council's inspections the proprietors are required to check on each room on a weekly basis. There are also various support agencies regularly visiting the premises.

Based on the current inspection programme; increasing the frequency of inspections over current provisions is unlikely to provide any added value and would be invasive for residents.

However, to provide greater transparency it is recommended that the outcome of the inspections which forms part of the contract monitoring is reported in October and April.

- b) *That satisfaction surveys are undertaken with residents moving into emergency accommodation and the results reported back.*

The council is keen to understand the customer experience for those requiring emergency accommodation and does carry out feedback surveys to help monitor the service provision against the contract. However, as residents requiring emergency accommodation are dealing with a great deal of urgent issues and are very focused on resolving their immediate housing situation; we have found previous feedback surveys have resulted in very low returns;. Therefore we will offer satisfaction feedback at various stages of a household's stay at emergency accommodation and feedback forms will also be made available at the accommodation. The results will be collated and reported to Housing & New Homes Committee on a biannual basis alongside the inspection reports.

- c) *As a matter of priority the identification of sites exploration of options for the development of council-owned low cost emergency accommodation, either through a council-owned company or directly owned by the council. That this exploration focuses on non-traditional, quick to build, construction such as the Y cube and containers for these sites.*

The Council has a strong track record of improving housing supply in the City making best use of assets and investment opportunities to deliver more affordable homes.

As reported to March 2016 Housing & New Homes and Policy, Resources & Growth committees, we are reviewing options for the Council to intervene in the local housing market as a potential purchaser (or lessee) of housing being brought forward on development sites in the City to meet housing needs, including delivery of homes let at LHA rates to households to whom the Council owes a statutory duty to accommodate.

In addition to the potential for wholly owned Special Purpose Vehicle for these purposes the Council has also been investigating options to work with a Registered Provider partner to deliver new homes, potentially through Joint Venture companies.

Housing & New Homes Committee and Policy, Resources & Growth approved recommendations to procure specialist legal advice in order to evaluate and progress the proposals for the delivery of alternative models for the supply of affordable housing. This will be reported back to Committee for review / agreement.

Housing & New Homes Committee (September 2015) agreed a pilot to review system and modular build options. System and modular build methods and prototypes which have potential to offer lower capital and development costs have been developed recently. A pilot has been agreed to test these construction methods for small, challenging sites on which initial assessment indicates that traditional forms of construction would not achieve viable development of affordable new homes. This pilot is currently underway and the outcome will be reported back to a future Housing & New Homes Committee.

- d) *A review of the no visitor rule and consider the outcome at a future meeting; with a brief to devise workable systems that enable residents to have visitors.*

Emergency accommodation is accessed by a wide variety of households who are in priority need. This means there can be a broad mix of household types at any one time within the accommodation blocks; many of whom will have dependent children; or a pregnant member of the household or they have a mental or physical health issue such that they are considered less able to manage than the average person.

Some households may be fleeing domestic abuse or substance misuse problems; been subject to or at risk of sexual exploitation and /or other exploitation.

The council has reviewed the no visitor rule; including consultation with providers.

The outcome of the review is that prior to providers introducing the no visitor rule, providers found it difficult to keep residents safe as there were regular attempts by unwelcome “visitors” to gain access to the building and individual resident’s rooms. These “unwelcome” visitors included people who maybe exploiting some of the very vulnerable residents; including perpetrators of domestic abuse; drug dealers, loan sharks and people trying to sexually exploit residents.

Some residents who invited such visitors into the blocks were not easily able to refuse entry and could not be reasonably held responsible for the behaviour of these “visitors” as they were often at risk of exploitation from these visitors themselves. It was exceptionally difficult for the providers to know who should or shouldn’t be in the building and hence to manage it.

The list of anti-social behaviour the providers have reported they were dealing with due to visitors covered the following: noise, violence, theft, intimidation, drugs and neighbour complaints. NB this information is anecdotal as the providers did not collate formal statistics at the time.

However independently from each other the providers requested to introduce a no visitor rule to try and better manage the accommodation and ensure all residents were safe.

Providers report that since the no visitor rule, they are much better able to manage the accommodation and keep it a relatively safe and pleasant environment for residents. As most properties are located in residential areas, they are also better able to maintain a good relationship with the neighbours.

It should be noted that the no visitor rule does not apply to support agencies or where a resident makes a specific request e.g. for a supportive parent/relative to visit.

Following the recommendation of Housing & New Homes Committee we have explored the possibility of whether visitors could be permitted and how this could be managed. Providers have offered solutions as to how this could be facilitated as follows:

- The council to inform the provider if a particular visitor is authorised to attend and schedule in a time for the visit so the caretaker can permit entry and also ensure there are no issues. As this would be in addition to current requirements and as the visitor is not risk assessed it would require additional resources to manage the risk of potential abuse to residents and staff which is not covered under current contract. Assuming two additional staff for each building and to cover outside office hours and for holidays/ sickness this would cost in the region of £120k pa per building. (Assumes an average £30k with on-costs per employee including out of hours allowance x 4). There are 3 large emergency accommodation blocks that would equate to £360k pa additional funding and likely lesser amounts for the smaller blocks. The Housing general fund does not have a current budget to cover this additional work.

Alternative options currently available:

- residents can visit their guests at their guest's homes
- There is provision in the city for people to meet which would also have the benefit of reducing social isolation
- The voluntary sector may be able to provide a safe meeting place. We are currently approaching the third sector to see if this can be facilitated

e) *Adopting a policy of only using emergency accommodation which satisfies the Brighton & Hove Standard including guaranteed hot water.*

Emergency accommodation is procured through Framework agreements which have specified standards; including the provision of hot water.

The standards ensure a reasonable standard of accommodation but cannot achieve B&H decent homes standards set out for council properties due to their nature i.e. whilst a lot of emergency

accommodation is self-contained some of the B&B style blocks do not have separate kitchens.

NB There has been a specific issue at one block following the installation of showers in each unit to provide individual facilities. The water pumps were not powerful enough to pump the hot water quickly and so it was taking a long time for the hot water to arrive at some units. This is being rectified by the provider and managed under the contract.

- f) *To acknowledge the Emergency and Temporary Housing Residents Action Group (ETHRAG), and work in partnership with the group and landlords to improve housing standards and quality of life for residents in emergency accommodation.*

We are happy to work with residents in emergency and temporary accommodation to improve standards.

- g) *To immediately establish an emergency accommodation board comprised of representatives from the Emergency and Temporary Housing Residents Action Group (ETHRAG), service providers, residents, landlords and elected members and council officers. The board will meet regularly to review conditions, complaints, evictions and to develop a strategic plan for recommendation to the Housing & New Homes Committee.*

The council already has existing governance in place to manage the current contracts and consult with services users, providers and partners.

Emergency and temporary accommodation is procured through a stringent process for which detailed specifications set out the standards and obligations. Qualified providers are awarded contracts which are then managed by the Council. Where standards are not adhered to by the provider, which will be identified through the regular inspections in addition to that which is reported by residents and visiting support providers, action is pursued by the council through contract management. The council is accountable for its contract management through audit oversight.

In addition, the council has adopted strategies relating to temporary accommodation in particular the Homelessness Strategy which sits under the Citywide Housing Strategy; which are as a result of a public consultation process to ensure the council's strategies reflect local needs and priorities. These strategies are monitored through the council's existing governance structures and consultation structures including a diverse range of representative groups ranging from local providers, third sector groups, the Clinical commissioning group and the police. With regard to individual matters relating to homeless households; these matters are confidential and subject to the council's existing processes and governance including the council's complaints process and are subject to data protection.

Any additional/duplicate structures will have a financial implication for the council and there are no identified funds to cover this.

It is therefore not recommended to further investigate and cost additional governance structures, which would conflict with existing arrangements. However, the council will continue to improve outcomes for service users through existing strategies and consultation arrangements.

h) Separately the council has been asked to also consider the following:-

a) To ask providers to fit spyholes in doors to improve security.

Some accommodation does have spyholes but they are not currently retro fitted to double glazed doors which would necessitate the replacement of the whole door.

With regards to wooden doors this would approx. cost £15.48 +vat to supply and fit spyholes. Therefore the cost for larger providers (90 units) would be £1671.84. We are currently working with our providers to fit spyholes as part of the void process where feasible.

This is not a requirement of the current contract and will be reviewed as part of any future re-procurement process.

b) To ask providers how much it would cost to provide Wi fi within the blocks.

The average installation cost for wifi is estimated at £700 to £1080 with monthly costs of between £350 to £500. This would equate to around £10 per month per resident.

However, the Council provides free wi fi access in all its buildings including libraries and in addition there are many other venues in the city and on buses which provide free wi fi.

For residents wishing to access the internet in their accommodation there are two options:

- i) They could use the mobile data component as part of a phone contract which is typically around £8 pcm (Virgin) for a rolling 30 day contract giving 1GB of data. This is a sim only contract but users would need to have a smartphone already. This would be cheaper than the provider installing wifi for their use.
- ii) Residents could buy a broadband “dongle” for use with a laptop and costs around £10 pcm but the dongle costs about £25 up front cost. This is not a requirement of the current contract and could be reviewed as part of any future re-procurement process but may increase the cost for residents who may or may not require the provision.

l) Further amendments made by Housing & new Homes Committee in September:

- a) *The Emergency and Temporary Housing Residents Action Group (ETHRAG) to consider with members and supporters and put forward comments. Officers await comments.*

- b) *Details to be provided of sites under consideration for the provision of low cost emergency accommodation.*

The Housing Delivery Options report being considered elsewhere on the agenda requests permission to take forward options for a wholly owned housing company. This will enable the council to meet a range of statutory duties including those to households who require temporary and / or emergency accommodation.

Specific developments involving any council land or assets would be subject to a business case and approval through both the cross party Estate Regeneration Board and Housing & New Homes Committee.

- c) *Development of proposals for joint working between ETHRAG, service providers, landlords, council officers and members to meet together to drive up standards, increase satisfaction and develop recommendations to Housing and New Homes Committee.*

With regard to driving up standards this has been covered under para 3.1 (g). In terms of increasing satisfaction, Councillors Moonan and Hill are arranging joint surgeries for occupiers to raise any issues of concern which can be relayed to officers. This will supplement the customer satisfaction surveys and feedback that will be undertaken and reported back to H&NHs Committee on a twice yearly basis. In addition Councillors Moonan and Hill will be attending the Ethrag meeting to act as a conduit between officers and occupiers and help develop recommendations.

- d) *A report on recognition of ETHRAG with suggestions for partnership working with this group to be presented to the next Housing and New Homes Committee.*
We have requested the community development team consider what assistance they can offer to Ethrag to become a recognised representative group that can feed back to Housing being the commissioner as part of a user group.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 Not applicable

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 None.

6. CONCLUSION

- 6.1 Due consideration has been given to the Council recommendations as amended by Housing & New Homes Committee as requested. The report is to note the findings and to agree the recommendations as set out in 2.1.

7. FINANCIAL & OTHER IMPLICATIONS:

- 7.1 The current housing general fund budget monitoring 2016/17 shows a forecast overspend of £0.152m (at month 2) and Housing is trying to find ways to mitigate this. Therefore it will be necessary to minimise costs when implementing any of these recommendations in order to manage within the current housing general fund budgets for 2016/17 and beyond.

Finance Officer Consulted: Monica Brooks

Date: 22/08/16

Legal Implications:

- 7.2 As noted in the report, there are legal and practical difficulties associated with implementing the proposed measures. New tenancy/licence conditions requiring residents to give access on a more frequent basis for inspection purposes may fall foul of Office of Fair Trading guidance on “Unfair Terms in Tenancy Agreements” which states, “We would object to a provision giving the landlord an excessive right to enter the rented property.” There are significant penalties under the Data Protection Act for the inappropriate sharing of personal data, which would be necessary for any group reviewing complaints and evictions. Under the council’s constitution, the setting up of any permanent task groups, consultation forums and commissions is the responsibility of the Policy, Resources and Growth Committee. That Committee’s authority may be necessary if an emergency accommodation board is established, but that will be dependent on the Terms of Reference of the Board.

Lawyer Consulted: Liz Woodley

Date: 24/08/16

Equalities Implications:

- 7.3 None

Sustainability Implications:

- 7.4 None

Any Other Significant Implications:

- 7.5 None

SUPPORTING DOCUMENTATION

None

Subject:	Rent Smart Brighton and Hove		
Date of Meeting:	16 November 2016		
Report of:	Executive Director Economy, Environment & Culture		
Contact Officer:	Name:	Andy Staniford	Tel: 01273 29-3159
	Email:	andy.staniford@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 A presentation was made to the Housing & New Homes Committee on 21 September 2016 from members of the new Rent Smart Brighton and Hove partnership.
- 1.2 This is a new citywide partnership of organisations committed to supporting tenants in the private rented sector. It is a community led self-help group that seeks to work collaboratively with the council as a formal partner.
- 1.3 Housing & New Homes Committee requested an officer report to the next meeting on the Council becoming a partner of Rent Smart.

2. RECOMMENDATIONS

- 2.1 That Housing & New Homes Committee authorises the Chief Executive to sign the Rent Smart Partnership Agreement (Appendix 1) on behalf of Brighton & Hove City Council.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Council's formal response to the Private Rented Sector Scrutiny Panel was approved by Housing & New Homes Committee on 11 November 2015 in relation to matters within the remit of the Committee.
- 3.2 While non-housing matters were to be reported to the relevant policy committee for consideration some Scrutiny Panel recommendations were outside the remit of the council as a whole. This included recommendations related to a city wide 'rate my landlord' scheme for all private rented housing, promoting the development of university endorsed landlords and lettings agents and joint working outside of our existing formal council partnership arrangements.
- 3.3 Following the Housing & New Homes Committee approval of recommendations relating to matters within their remit, Cllr Hill convened a private rented sector

workshop to consider responses to the PRS scrutiny report that are outside the remit of the Council. This has led to the Rent Smart initiative.

- 3.4 Rent Smart Brighton and Hove (www.rentsmartbrightonhove.org) is a new citywide partnership of organisations committed to supporting tenants in the private rented sector. Rent Smart aims to:
- Increase awareness of rights and responsibilities amongst private renting tenants and people looking for a place to live in the private rented sector
 - Give tenants/potential tenants more confidence in dealing with agencies and landlords
 - Signpost tenants to up to date information and advice about privately renting
 - Promote use of a ratings system for letting agencies
- 3.5 The Partnership is yet to be formally launched (planned for 22 November 2016), however, early work includes organisations such as:
- Brighton Housing Trust
 - Brighton & Hove Citizens Advice Bureau
 - Brighton Students Union
 - University of Sussex Students Union
 - University of Sussex
 - University of Brighton
 - Sussex Student Lettings
 - Southern Landlords Association
 - Brighton & Hove Estate Agents Association
 - Brighton & Hove Economic Partnership
- 3.6 This self-help group plans to base their objectives on the relevant recommendations of the March 2015 Scrutiny Panel report produced by Brighton & Hove City Council:
- 13: Promote the development of university-endorsed landlords and letting agents, and encourage these to be championed
 - 14: Promote the use of a city-wide rate-my-landlord scheme
 - 16: Development and promote the uptake and benefits to landlords of registration to PRS accreditation schemes
 - 18: Increase the supply of private sector housing with rental costs that are affordable
 - 20: Foster joined-up working between city council departments and other relevant organisations
- 3.7 These recommendations also support the Housing Strategy 2015 through the following strategic actions:
- Promote support services to students around tenancy management, rights, and responsibilities.
 - Promote the Student's Union "Rate Your Landlord" report across the city and the idea of rented accommodation that is 'fit for study'.
 - Support for landlords to better manage properties.
 - Up skill small and accidental landlords to improve tenancy management.
- 3.8 Rent Smart was invited to September 2016 Housing & New Homes Committee to present their work and officers were asked to bring a report to the next meeting

with a recommendation as to whether the council should, or should not, become a member of the partnership.

- 3.9 In signing the Partnership agreement, the Council will signal its support for this self- help group that aims to tackle some of the challenges in the city's private rented sector. The Partnership Agreement states that meetings will usually be held in the Housing Centre. It should be noted that this is subject to room availability and the council's ongoing use of the building.
- 3.10 The Council reserves the right to leave the Partnership.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The Council's formal response to the Private Rented Sector Scrutiny Panel was approved by Housing & New Homes Committee on 11 November 2015 and with progress reported to committee on 21 September 2016. These reports recognised that many of the recommendations were outside the control of the council.
- 4.2 The Rent Smart Brighton and Hove initiative has the potential to bring about a partnership of public, private and third sector organisations with the collective ability to tackle some of the issues identified that were beyond the council's remit.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Respondents to the consultation for the Housing Strategy 2015, the Private Sector Housing Scrutiny Panel 2015 and more recently, the Fairness Commission Report 2016 all call for the council to take action to improve the quality of homes and management across the private rented sector.

6. CONCLUSION

- 6.1 Joining the partnership does not preclude the council working through existing (or other new) groups and mechanisms to achieve outcomes aligned to the Housing Strategy 2015 and wider Community Strategy.

7. FINANCIAL & OTHER IMPLICATIONS

Financial Implications:

- 7.1 Brighton and Hove City Council has not committed any funding to support his self help group. Therefore, any staff time or office accommodation provided will need to be met from within existing resources.

Finance Officer Consulted: Monica Brooks

Date: 01/11/16

Legal Implications:

- 7.2 The Housing & New Homes Committee has overall responsibility for the council's housing functions, including private sector housing, tenancy relations and the

provision of housing advice. Authoring the Executive Director to sign the Partnership Agreement is compatible with that responsibility. The agreement is not intended to create any legal obligations, enforceable against the council.

Lawyer Consulted: Name *Liz Woodley*

Date: 31.10.16

Equalities Implications:

- 7.3 In seeking to tackle disrepair and management issues in the private rented sector, Rent Smart Brighton & Hove has the potential to have a positive impact on tenants including those with protected characteristics.

Sustainability Implications:

- 7.4 Evidence for the extension of discretionary licensing (see report to Housing & New Homes Committee, 16 November 2016) has identified poor property conditions in the private rented sector. Action to tackle this is expected to improve the quality of the city's housing stock, thereby improving its sustainability.

Crime & Disorder Implications:

- 7.5 Evidence for the extension of discretionary licensing (see report to Housing & New Homes Committee, 16 November 2016) has identified anti-social behaviour linked to properties in the private rented sector. Action to improve management standards in the sector expected to reduce anti-social behaviour and nuisance associated with these properties.

Risk and Opportunity Management Implications:

- 7.6 This is not a council run partnership. Whilst partners are entering into agreement in the spirit of co-operation to help improve conditions for the city's tenants, the council needs to be mindful of its public duty and as such, reserves the right to leave the partnership should its aims not be in keeping with our duties.

Public Health Implications:

- 7.7 Poor housing conditions, nuisance and anti-social behaviour impact negatively on health. Improvements to housing quality and management will have a positive health impact on tenants and neighbours.

Corporate / Citywide Implications:

- 7.8 The long term impact will be a higher quality and better managed private rented sector to the benefit of owners, tenants and neighbours. Improvements to living conditions and reductions in nuisance and anti-social behaviour will have a wider impact in reducing pressures for other services such as environmental health, the police and wider health services.

SUPPORTING DOCUMENTATION

Appendices

Appendix 1: Rent Smart Partnership Agreement

Documents in Members' Rooms

None

Background Documents

1. Private Rented Sector Discretionary Licensing Scheme: The evidence and next steps, Housing & New Homes Committee, 16 November 2016: <http://present.brighton-hove.gov.uk/ieListDocuments.aspx?CId=884&MId=6161&Ver=4>
2. Rent Smart, Housing & New Homes Committee, 21 September 2016: <http://present.brighton-hove.gov.uk/ieListDocuments.aspx?CId=884&MId=6160&Ver=4>
3. Update on Private Rented Sector Scrutiny Panel Recommendations, Housing & New Homes Committee, 21 September 2016: <http://present.brighton-hove.gov.uk/ieListDocuments.aspx?CId=884&MId=6160&Ver=4>

Rent Smart Brighton and Hove Partnership Agreement

Rent Smart Brighton and Hove is a citywide partnership of organisations committed to supporting tenants in the private rented sector.

To achieve this aim, Rent Smart will work as a partnership between organisations. This Partnership Agreement is to outline the scope of the partnership and clarify the relationship between partners to ensure everyone is supported and together we utilise our experience, networks and resources to bring about the most positive change for tenants in the city.

Rent Smart aims to:

- Increase awareness of rights and responsibilities amongst private renting tenants and people looking for a place to live in the private rented sector
- Give tenants/potential tenants more confidence in dealing with agencies and landlords
- Signpost tenants to up to date information and advice about privately renting
- Promote use of a ratings system for letting agencies

Objects of Rent Smart:

- To run a website with basic information about renting and links to multiple other websites where tenants can go for detailed information and advice
- To provide hard copy information which can be handed out to people who need advice about renting in the city, which includes information for those who do not have online access
- To encourage tenants to leave agency ratings on the preferred ratings site (www.allagents.co.uk) and use the site to evaluate agents
- To run periodic campaigns to raise awareness amongst tenants, for example annual reviews of agency fees or information campaigns about changes in the law
- To maintain a blog page and comment on good and bad practice in the industry in relation to codes of conduct and tenants' rights
- To agree annual objectives which members can make time available to complete either with staff or volunteers, according to an agreed work plan
- The Group can raise funds for the sole purpose of furthering the objects and aims of the group, as defined by these terms of reference. The partnership/group will record all income and expenditure and operate within the law and with due care and diligence when managing funds and resources
- Funding would be applied for via a designated member which would take responsibility for holding the money and in whose name bids would be submitted, although all members will work on and take responsibility for the bid and use of the funds

Reporting system for Rent Smart:

- The success of the group will be evaluated against the relevant recommendations of the March 2015 Scrutiny Panel report produced by Brighton and Hove City Council following widespread consultation throughout the city. The relevant recommendations are 13, 14, 16, 18 and 20. The exact recommendations may not be followed if the group feels that another approach would be more appropriate and effective.
- We will produce regular updates of our activities (at least annually) to be reported back to the Strategic Housing Partnership and the Housing and New Homes Committee of Brighton and Hove City Council
- Other metrics will also be used to evaluate success such as website page views and number of reviews on allagents.co.uk.
- Minutes can be made available and copies emailed to interested parties

Meetings:

- Meetings of the membership will be held approximately once a quarter, usually at the Housing Centre on Moulsecoomb Way.
- The group may wish to invite other representatives from organisations or interested parties and this will be agreed within the group.
- Notes will be written up of meetings, to include attendance and details of decisions agreed.
- Decisions will be by consensus and task allocation will be clearly minuted and agreed.

- New members to the group will have access to the partnership agreement, previous meeting notes and reports.

Partners will:

- Complete and sign a Rent Smart Partnership Agreement stating what they can commit to in terms of meeting Rent Smart's Aims.
- Keep Rent Smart informed of any initiatives or activities carried out as part of their Partnership Agreement or in the name of Rent Smart.
- Endeavour to attend meetings and events hosted by Rent Smart for Partners.
- Provide relevant information about services and activities for Rent Smart to advertise on the Rent Smart website.

Rent Smart Partnership Agreement

I agree to commit to being part of the Rent Smart collaboration, committed to supporting tenants in the private rented sector in Brighton and Hove by:

Please tick the activities that you can get involved with (specifying any further details in the box below)

- | | | | |
|---|--------------------------|---|--------------------------|
| Follow & promote Rent Smart Via social media | <input type="checkbox"/> | Promote Rent Smart through promotional material | <input type="checkbox"/> |
| Encourage my workplace/organisation to engage with Rent Smart | <input type="checkbox"/> | Spread the word about Rent Smart to your client group | <input type="checkbox"/> |
| Provide resources – printing, funding, equipment or venues for events (specify details below) | <input type="checkbox"/> | Share skills – e.g. communication, PR, web development, design (specify details below) | <input type="checkbox"/> |
| Contribute written content for use on the blog page | <input type="checkbox"/> | Help in the production of regular updates of our activities to be presented at various groups | <input type="checkbox"/> |

Please specify further details ticked above

Whilst this Partnership Agreement states that meetings will usually be held in the Housing Centre, it should be noted that this is subject to room availability and the council's ongoing use of the building.

To help me carry out my above commitment I would like the following support from the Rent Smart Partnership:

(eg. Supply Rent Smart literature, information on other similar activities, advice and support)

Signed: Name & Position: Name of organisation (if applicable):	
Contact details:	<i>Email address:</i> <i>Telephone number:</i> <i>Address:</i>
Date:	
<i>Partners who sign this Agreement are not legally constituted in anyway. This Agreement is about a commitment to work collaboratively to achieve the goals of Rent Smart outlined above.</i>	

Subject:	Housing Delivery Options – Living Wage Joint Venture		
Date of Meeting:	16 November 2016 – Housing & New Homes Committee 8 December 2016 – Policy, Resources & Growth Committee		
Report of:	Executive Director Economy, Environment & Culture		
Contact Officer:	Name:	Martin Reid Sam Smith	Tel: 01273293321 01273291383
	Email:	martin.reid@brighton-hove.gov.uk sam.smith@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 Housing & New Homes Committee on 21 September 2016 considered a report requesting members recommend to Policy, Resources & Growth Committee support in principle for the Living Wage Joint Venture proposal and delegation of authority to relevant Executive Directors to progress this opportunity with Hyde with reserved matters coming back to Committee for approval. Committee resolved: *That a decision be deferred to the next meeting of the Housing & New Homes Committee to ensure that members can feel fully supportive of the proposals.* Following September Committee further work has been undertaken including: ongoing financial and legal due diligence on the terms of the proposed joint venture; meetings between the council and Hyde's legal teams; further development of key documents; and, additional briefings for Housing spokespersons and their lead members / political groups. Details of briefings are outlined in this report. A comprehensive list of Frequently Asked Questions has also been produced and appended to this report to help inform member decisions (Appendix 3).
- 1.2 The opportunity considered in this report is a proposal from Hyde Housing Association to develop a Living Wage Joint Venture with the council to acquire land and develop new homes for lower cost rental and sale for low income working households in the city. This proposal is informed by the outcome of the Housing Market Intervention options study presented to Housing & New Homes Committee in March 2016. Committee approved the Housing Delivery Options report and agreed to the procurement of legal and other specialist advisers to pursue this work.
- 1.3 The key aim of this project is the provision of lower cost rented housing. Supply of new lower cost rented homes is not keeping pace with demand and there is limited

evidence of market appetite from developers and Registered Providers to deliver this product. There is also potential to generate a long term income for the council through funding returns and/or a margin through lending from the council.

- 1.4 The council has appointed Bevan Brittan LLP as its legal advisors. This report provides an overview of an offer to develop a Joint Venture (JV) for the development of lower cost rental and sale homes for low income working households in the city from Hyde Housing Association. Appendix 1 provides an overview of legal advice to date that has been provided by Bevan Brittan in relation to this opportunity. Appendix 2 provides a copy of the draft Heads of Terms document. Appendix 3 provides a list of frequently asked questions and answers. Appendix 4 in Part 2 of the report provides a summary of the Strategic Financial Viability Model and sensitivity analysis.

2. RECOMMENDATIONS:

2.1 That Housing & New Homes Committee:

- i) Recommends the report to Policy, Resources & Growth Committee as out at paragraph 2.2

2.2 That Policy, Resources & Growth Committee:

- i) Support in principle the living wage joint venture proposal; and
- ii) Give delegated authority to the Executive Director of Economy, Environment & Culture following consultation with the Executive Lead Officer for Strategy Governance & Law, the Executive Director of Finance & Resources, the Estate Regeneration Board and the Strategic Delivery Board to:
 - a. develop and negotiate the deal with Hyde;
 - b. agree and authorise execution of the Heads of Terms and subsequently the documentation required to implement the proposed Joint Venture;
 - c. make the appointments from the Council to the management board;
- iii) Note that reserved matters (as detailed in 3.30) will come back to committee for approval including any business plans which are to be delivered through the Joint Venture, and the disposal of land/sites to the JV.

3. CONTEXT/ BACKGROUND INFORMATION

Action since September 2016 Housing & New Homes Committee

- 3.1 Housing & New Homes Committee on 21 September 2016 considered a report requesting members recommend to Policy, Resources & Growth Committee support in principle for the Living Wage Joint Venture proposal and delegation of authority to relevant Executive Directors to progress this opportunity with Hyde with reserved matters coming back to Committee for approval. Committee resolved: *That a decision be deferred to the next meeting of the Housing & New Homes Committee to ensure that members can feel fully supportive of the proposals.*

3.2 Since September Housing & New Homes Committee Council officers, Bevan Brittan (the Council's lawyers) and Hyde have further developed legal documentation, continued to review the financial model and undertaken additional councillor briefings as outlined below:

- Progressed development of legal documents, including Living Wage Joint Venture draft Heads of Terms, following Committee discussion, incorporating: Governance (Reserved Matters, Board, Deadlock, Dispute Resolution); Structure (LLP direct participation; Exit routes; Planning, Allocations Policy, Support services – Council role; Hyde frameworks; VFM assurance; VAT on development).
- Progressed financial matters, including financial model assumptions sensitivity analysis and funding.
- In addition to briefings undertaken prior to the September Committee report, further briefings & updates for members have been undertaken since Committee, including: Estate Regeneration Members Board (17 October 2016); Labour Group (24 October 2016); Green Housing & New Homes Committee Members (31 October 2016), Green Group (31 October 2016); Conservative Housing & New Homes Committee Councillors (1 November 2016). Conservative Group (7 November 2016).
- A detailed response has also been prepared to questions on the potential joint venture with Hyde Housing raised by councillors and political groups. Questions arising from these meetings / groups are provided as a list of Frequently Asked Questions appended to this report.

Background

3.3 Brighton & Hove is a growing city with high housing prices, low incomes, an ageing population and a significant proportion of households with support needs. There are over 23,000 households on the joint housing register, 1,800 households in temporary accommodation and rising homelessness. Social housing makes up only a small proportion of the overall housing in the city with 9.8% of homes owned by the local authority and 5.1% by Registered Providers (RPs).

3.4 Housing demand, growth in the private rented sector and rising rents have an adverse effect on affordability of housing in the city. This has contributed to a decline in owner occupation as those seeking to buy their own home are increasingly unable to take advantage of housing for sale either through cost or as a result of sales of residential accommodation meeting demand from buy to let or other landlord investors rather than prospective home owners.

3.5 This increasing housing demand, reduced public subsidy for affordable homes (in particular no funding for lower cost general needs rented homes) and a shift away from development of rented and family homes remain key challenges identified by the Council's Housing Strategy and Budget. This has an adverse impact upon the Council's ability to respond to the needs of a growing more diverse population and the council's capacity to maintain mixed and balanced communities and retention of lower income working households and employment in the city.

3.6 For stock holding authorities such as Brighton & Hove, the Housing Revenue Account debt cap, reduction in rental income of 1% per annum over four years and the potential impact of Housing & Planning Act (in particular proposed High Value Void tariff) will restrict resources available for new build and regeneration.

- 3.7 The HRA medium term and 30 year financial forecast was reported to Housing & New Homes Committee (13 January 2016) which showed that the Council is nearing its self-financing cap (or limit) on the amount of HRA borrowing permissible for capital investment. For Brighton & Hove this limit is currently set at £156.8 million and the outstanding debt reaches its peak in 2023/24 where the borrowing level is £147.4 million leaving headroom of only £9.4 million.
- 3.8 This position means that the Council needs to look at alternative funding and delivery mechanisms if it is to deliver the new affordable homes the city needs. The council has also been looking other opportunities including those related to the structures researched in the Housing Market Intervention project in order to deliver new homes potentially financed from outside the HRA.
- 3.9 Options to mitigate reduced public subsidy for affordable rented homes and Registered Provider shift away from development of this type of accommodation have been subject to regular discussion and review at our Affordable Housing Delivery Partnership (RPs, Homes & Community Agency (HCA) and council) meetings. In particular, as addressing the acute shortage of affordable rented homes and in particular family housing has been identified as a key priority in our Housing Strategy.

Joint Venture with Hyde Housing

- 3.10 Hyde Housing Association (Hyde), a long standing member of our Affordable Housing Delivery Partnership, has approached the Council with a proposal which could deliver 1,000 new lower cost rental and sale homes for low income working households in the city whilst generating a long term return for the council and Hyde.
- 3.11 The proposed Joint Venture is an attractive opportunity for the Council to accelerate the delivery of lower cost homes for rent and sale for low income working households that the city needs whilst generating a return on our investment. Our legal advisors have provided advice that the Council can enter into the JV without a procurement process for the following reasons: There is no public contract in place between the Council and Hyde – entering into the joint venture itself need not involve the awarding of a contract for goods, works or services; this is public sector co-operation that is permitted under the procurement rules – both parties are public bodies for procurement purposes and could make use of inter-public body exemptions; public contracts that do exist can be awarded without a procurement process in light of what is known as the Teckal exemption – this allows entities controlled by and delivering activity for public bodies to be awarded contracts without a competitive procurement process.

The Hyde Living Wage Housing proposal

- 3.12 This is a proposal for a JV partnership between Hyde and the council to be established as a 50:50 Limited Liability Partnership (LLP). The concept behind the Joint Venture is that the sum of the whole is greater than the value of the individual parts. By combining resources, funding, technical expertise and supply chain, the council and Hyde could deliver more together than individually.

- 3.13 There are risks and opportunities entering into any joint venture and there are a number of important considerations for the council. The first is selecting the right partner with the same objectives. The objectives of Hyde as a charitable housing association whose core purpose is as a housing charity providing low cost homes is a good fit with the council's aspirations to deliver a supply of good quality low cost homes for local people in housing need, including for low income working households essential to the economy of the city.
- 3.14 The joint venture model also enables the Council to access Hyde's commercial developer skills, expertise and resources, in particular the volume buying power of their framework agreements for both consultancy and construction services which would deliver commercial savings, reducing the cost of delivery. Hyde also has substantial experience delivering major regeneration projects as part of its house building programme of circa 1,500 homes per annum. Hyde have an excellent track record of delivery of new homes within the city and the council is confident that the joint venture will deliver the new homes that are so needed in Brighton & Hove.
- 3.15 The cost and risk of developing the homes would be shared equally between the project partners as would the commercial returns.
- 3.16 The JV would deliver 1,000 new homes let and sold on sub-market terms:
- 500 homes at sub market prices which are affordable to rent for working Brighton & Hove residents earning the new National Living Wage (assumed delivery from 2019 onwards); and
 - 500 shared ownership homes affordable to buy for Brighton & Hove residents on average incomes.
- 3.17 Living Wage housing in this context is defined as a home provided at a cost which is at 40% of gross pay to a household earning the new national Living Wage. Current estimates are that this would require an average 40% discount on the market rent. This compares to a 20% discount for the Government's Affordable Rent product.
- 3.18 The Housing Strategy approved at Council in March 2015 highlighted key themes including the availability of affordable family homes, in particular rented homes, and the economic impact of this lack of housing supply on our ability to retain lower income working households and employment in the City. In our Housing Strategy we are committed work collaboratively with Adult Social Care, Children's Services and Health colleagues to meet our shared objectives including the availability of homes in the city to meet the needs of their workforce and those of other employers for whom the recruitment and retention of lower income workers in Brighton & Hove has increasingly become an issue. The proposed Living Wage Joint Venture would align to our strategic aim of contributing to addressing this issue.
- 3.19 The nature of the joint venture would provide the flexibility to sell homes from developments if it was in the JV's best interests. This is not currently envisaged, however the model would allow this flexibility subject to agreement from both LLP Members and within legal constraints on commercial activity.

- 3.20 The LLP will operate within the parameters of a Business Plan approved by both parties and subject to reserved matters. The initial Business Plan would be annexed to the shareholder agreement for the LLP (known as a Member's Agreement) which would be signed by the Council and Hyde. This is an important document that sets out, how the LLP will be run, including amongst other things: how profits are shared, who needs to agree decisions, members' responsibilities, dispute resolution and how members can join or leave the LLP.
- 3.21 It is proposed that the joint venture would have no direct staff, with services contracted in from the partners or from external contractors as necessary. The proposal from Hyde which is currently under consideration and is subject to negotiation is that they would provide development, sales and marketing and letting services to the JV with the Council providing financial and corporate services. There is an indicative allowance for corporate and financial services within the financial model. The provider of these services (which could be the Council) will need to ensure that full costs are recovered and this will be subject to final schedule of service agreed with the LLP. A services agreement would be put in place with each of the partners at the point of forming the joint venture. It is yet to be agreed which party will provide the property management services.
- 3.22 The business case is supported by a Strategic Financial Viability Model (SFVM) to demonstrate a viable financial model and the scale of development that could be supported by an approximate level of investment. The council's Finance team have reviewed the financial model and its inputs, testing assumptions and auditing the validity of the outputs, i.e. carrying out due diligence on the business case and SFVM.
- 3.23 The initial proposal is for £105.47million total investment and Hyde propose that the council and Hyde both provide £52.7million funding to achieve this.
- 3.24 It will also be possible for the council to invest commuted sums it is able to raise from developers in lieu of onsite s106 affordable housing into the JV and therefore reduce the level of cash that the Council has to source from Public Works Loan Board (PWLB) or existing resources. The Council agreed how commuted sums should be calculated in relation to planning applications at the June 2016 meeting of Economic Development and Culture Committee and they are likely to continue to accumulate in the future. However it should be noted that the level of commuted sums collected is only likely to constitute a small percentage of the overall investment requirement. In addition, this is likely to be affected by the introduction of the requirement of Starter Homes on all major planning applications.
- 3.25 Value would be returned to the Council and Hyde through profit distributions and/ or repayment of debt in respect of loans made, with the balance depending on the final agreed approach to funding. Sensitivities and scenarios have been modelled evidencing the impact of various events including rising construction costs, changes to property prices, changes in rental amounts, interest rate assumptions and different accommodation sizes and standards. Profit generated from the JV will be an ongoing revenue income to the council as detailed in the Financial Implications section of this report and associated appendices.
- 3.26 An advantage of the proposed Limited Liability Partnership corporate structure is that the LLP Members retain their own tax profile. In other words the corporate

structure is tax transparent and the profits would be subject to tax based on the corporate tax status and affairs of each individual LLP member.

- 3.27 Investment into the joint venture will be on State Aid compliant terms at a market rate. In the longer term the JV may opt to retain the portfolio but seek an external funder to invest.
- 3.28 The initial estimate of the investment requirement taken from the SFVM is detailed on the table below. The table details the anticipated development costs for each of the five years of the project. The Council contribution is based on half of these costs minus the anticipated annual shared ownership sales.

Year	Costs £M	BHCC £M	Sales £M	JV Debt £M
1	17.13	8.57	0	17.13
2	17.32	7.95	-1.41	33.04
3	45.50	14.28	-16.95	61.59
4	48.60	15.75	-16.95	93.10
5	35.92	9.48	-16.95	112.02
6	7.54	-3.30	-14.13	105.47

Governance of the Joint venture

- 3.29 Governance of the JV will be key to ensuring it is able to operate effectively and meet the best interests of the Council and key considerations are outlined in more detail in Appendix 1. The Council will interact with, and be able to exercise control over, the joint ventures activities in three principal ways:
- as a landowner, with contractual rights governing what sites the Council wants to transfer and on what terms;
 - as a member of the LLP, which in broad terms is equivalent to being a shareholder of a company (i.e. an owner of the vehicle);
 - through appointees to the management board, which is comparable to a company's board of directors.

Reserved Matters

- 3.30 The Council, and Hyde, will retain strategic control over the LLP's operation through their rights as members of the LLP. This will be achieved through the Council having the right to approve the LLP's annual Business Plan and the requirement that certain listed decisions, referred to as reserved matters, will have to be referred back to it rather than being within the discretion of the management board. It is proposed that this level of strategic control, i.e. the right to make decisions as member of the LLP, is retained by councillors. Reserved matters are likely to include:

Officers and members of the LLP

- Agreeing the appointment and the appointment terms (including any remuneration terms), or the removal, of any management board member other than one appointed by Hyde or the Council.

- Approving the admission of further members to the LLP or agreeing any rights or restricting attaching to any shares/equity allocated to such new members.
- Agreeing or approving any increase in the maximum size of the management board.

Future direction and development of the LLP

- Agreeing to enter into or entering into any debt facility or loan agreement other than the member loan agreements
- Forming any subsidiary or acquiring an interest in any other LLP or participating in any partnership or joint venture (incorporated or not).
- Amalgamating or merging with any other LLP or business undertaking.
- Selling or disposing of any part of the LLP
- Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent)
- Apply for the listing or trading on any stock exchange or market.

Management of the business of the LLP

- Changing the name of the LLP.
- Adopting and/ or agreeing any material amendments or variations to a Business Plan.
- Creating or agreeing to create a charge, security or encumbrance over the LLP's assets, interest or income.
- Changing the nature of the business of the LLP or commencing any new business which is no ancillary or incidental to the business.
- Agreeing to enter into or entering into any acquisition or disposal of any material assets by the LLP.
- Giving notice of termination of any arrangements, contracts or transactions which are material in the nature of the business or materially varying any such arrangements, contracts or transactions.
- Appointing and changing the LLP's auditors.
- Agree to make or making any loan (otherwise than by way of a deposit with a bank or the institution, the normal business of which includes the acceptance of deposits or in the ordinary course of business) or granting any credit (other than in the normal course of trading) or giving any guarantee (other than in the normal course of trading) or indemnity outside the normal course of business
- Changing the accounting reference date of the LLP
- Accepting any capital contributions in the LLP.
- Authorising the return of any capital contributed to the LLP to a member.
- Allocating and distributing any profit of the LLP.

3.31 The Council and Hyde will have the right to appoint a management board. The board will be given a role equivalent to a company's board of directors meaning the individuals will have duties to manage the activity of the LLP acting in the best commercial interests of the LLP for the benefit of the Council and Hyde as its

members and will have the task and remit of implementing the Business Plan set by the Council and Hyde and subject to those matters / decisions reserved to the members. The main costs for running the board will officer and member time from the Council and Hyde and costs associated with arranging and holding board meetings. These will need to be covered by both parties in the JV and it is likely that council or Hyde building will be used to host board meetings.

- 3.32 The level of discretion given to the management board will depend on the precise framing of the Business Plan – i.e. how prescriptive or flexible it is – and what the reserved matters are.
- 3.33 The proposal is for a board of six, three to be appointed by Hyde and three by the Council. It is for the Council to determine who represents it on the Board and this could include elected member representation. There are arguments for and against, in the case of the latter largely around potential conflicts of interest, However, in response to feedback from Councillors, officers are working on the basis that the JV Board would require elected member involvement to enable agile decision making. This is ultimately a decision for elected members, for example it could be that the Council's elected member on the Board is the Chair of the Housing & New Homes Committee. The relatively low number of management board members should ensure that the LLP is focussed and operationally flexible, enabling it to deliver the objectives of the Living Wage proposal faster and in a more streamlined way. Potential conflicts of interest will need to be managed and these are outlined in more detail in Appendix 1.

Allocations and nominations

- 3.34 The Living Wage proposal concurs with the Council's draft Allocation Policy which proposes an income cap against size of accommodation needed so that those high earners who can resolve their housing in the private rented sector are no longer on the Housing Register whilst retaining those on lower incomes who would benefit from the Living Wage housing. The income caps have been set such that households who could expect to pay more than half of their income on average market rents would be retained on the Register whilst those who would expect to pay a lesser percentage would no longer be on the Register and hence would ensure they do not benefit from Living Wage homes. The Council can also develop a Local Letting Policy for these properties to give priority to those on the Housing Register who are working.

Land disposal to the Joint Venture

- 3.35 The Council may dispose of land to the JV on the basis of open market valuation assessed in line with legal obligations in respect of land disposals by councils to secure 'best consideration'. Any land disposal by the council would follow the usual processes and procedures within the council prior to transacting any disposal including Policy, Resources & Growth Committee approval in the normal way.
- 3.36 The joint venture would complete the transaction to purchase the land once it is satisfied that any scheme is viable as evidenced by the individual Scheme

Financial Viability Appraisal (SFVA). Any land purchase by the JV would follow agreed corporate governance procedures within the JV as set out in the initial Business Plan.

- 3.37 For any disposal of land by the Council to the JV, the Council would follow all normal and prudent commercial practices, including obtaining the opinion of a professionally qualified independent valuer, in order to comply with the required legal process for any disposal of an interest in land.

Hyde Procurement Frameworks

- 3.38 The proposal is that Hyde's procurement frameworks will be used for construction and professional services relating to the development of the homes. The frameworks Hyde have procured are accessible to the Joint Venture and the Council under procurement law. They have been procured following EU and UK procurement regulations and value for money has been extensively tested through this process. Hyde have shared full details of their frameworks with the project group, who have reviewed this documentation closely and are satisfied that they offer a good option for delivery of JV projects.
- 3.39 Other organisations have joined and used Hyde's frameworks so that they can access the services and reduce procurement timescales and complexity (including other housing associations, registered providers and local authorities). Hyde generally charge for access to their frameworks, and it is worth noting that other local authorities and housing associations are paying Hyde considerable sums to use them. It has been negotiated and agreed that Hyde will not charge these access fees to the JV when the LLP is buying goods or services through Hyde's frameworks. The LLP will also benefit considerably from Hyde's volume buying power, providing efficiencies and economies of scale.
- 3.40 The Hyde frameworks include some suppliers that have previously or are currently in contract direct with the council, including Westridge Construction Limited, the main contractor under the successful Strategic Construction Partnership. Each development delivered under the framework will have its own procurement process within the framework with a mini-competition undertaken between contractors providing a further opportunity to test value for money, ensuring that economically advantageous price is achieved and reducing the risk of anti-competitive behaviour and/or supplier complacency.
- 3.41 The joint appointment of an independent Project Monitor / Quantity Surveyor will provide an additional layer of assurance for both the Council and Hyde as they will provide a full value for money assessment of each contract that is delivered through the JV. Projects will not proceed without assurance that the individual project represents value for money and is in accordance with the overarching Business Plan.

4. RISK AND OPPORTUNITIES

4.1 A number of risks have been identified by the project team and the Council's legal advisors:

Risk	Details	Action
Consents and Best Consideration	Failure to structure arrangements to meet general consents could mean needing to go to the Secretary of State which would create uncertainty over timing and ultimately whether or on what terms consent would be given.	Legal advice has been taken to ensure regulations are met.
State Aid	An issue if contribution of land for no consideration or additional rights.	Legal advice has been taken that advise that the project is compliant
Site identification	Not able to identify suitable sites to transfer to the JV.	Sites are being reviewed and any council sites will be brought to future committees once confirmed as suitable for the JV.
Project financing	Understanding of financial risks and mitigation. Commuted sums may not be realised.	Extensive financial due diligence work has been undertaken to mitigate this risk, including modelling the council's investment assuming 100% borrowing and modelling various scenarios to test the sensitivity of the Strategic Financial Viability Model. Independent financial/treasury management advice will be sought as part of further due diligence review to ensure financial risk exposure to the council is kept to a minimum and benefits of the proposals are achieved.
Governance	The governance structure needs to be fit for purpose in managing delivery of development and does not cause inappropriate conflict issues that affect ability of the Council to manage the JV or the JV to manage its business.	Legal team have developed a range of options for the structure that have been discussed with Hyde.
Planning	Changes to national and / or local Planning policy framework. Including potential impact of Housing & Planning Act, in particular in relation to Starter Homes. Not able to gain planning permission for specific	Early planning advice will be taken on individual schemes. Planning Performance Agreements and Design Panels will be used for individual projects as required.

	schemes or maximise capacity of sites.	
Community opposition	Potential opposition to schemes.	Communities will be engaged in a similar way to they have been for the New Homes for Neighbourhoods programme, for example using Planning for Real techniques.
Tax	Tax implication and liabilities such as SDLT and VAT need to be reviewed in relation to the proposed structure.	Tax advice has been given on the proposed structure and will continue to be reviewed with the progression of the JV proposals. The financial model includes An allowance for SDLT. Legal advice is that VAT liability is low risk as there are well established methods to ensure VAT is not payable of developments. Legal advice is that the council can directly enter the LLP, therefore the returns to the council would not liable for Corporation Tax. Counsel advice has been sought to confirm this.
Policies and standards	The current proposals do not fully meet the council's Affordable Housing Brief standards in terms of unit size, mix, Life Time Homes and percent of wheelchair accessible units. However the proposal does address issues of housing supply and in particular the provision of lower cost rented homes.	Sensitivity analysis has been undertaken on a range of potential changes in relation to these policies.
Housing Market	Impact of any future economic uncertainty on the housing market and construction costs will be monitored. A significant fall in the housing market or increase in construction costs may require additional borrowing or increased percentage of sales.	Sensitivity analysis has been undertaken on a potential drop in house prices and increase construction costs. House prices would have to fall significantly to incur a loss on shared ownership sales.

5. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 5.1 The Council has a number of existing options to deliver of new lower cost homes in the city including: continued work with our Affordable Housing Development Partnership; our New Homes for Neighbourhoods Programme (subject to Housing Revenue Account borrowing Cap); joint work with Planning in support of delivering Planning Policy Affordable Housing Requirements; freedoms and flexibility to accelerate housing delivery sought as part of Greater Brighton Devolution proposals. For the reasons outlined in

this report the Council has also been investigating a number of additional delivery options in order to find a range of mechanisms to increase the supply of affordable housing in the city. This includes the work undertaken in the recent Housing Market Intervention report by Trowers & Hamlins and Savills, as well as the JV proposals from Hyde Housing.

5.2 Alternative options that have been considered are provided in the list below. It is likely that a range of delivery options will be progressed in the longer term in order to maximise the delivery of new homes. Individual proposals would need to be agreed by relevant committees.

- Wholly owned council vehicle e.g. Housing Company
- JV with a Registered Provider
- A joint venture procured under The Public Contracts Regulations 2015
- Disposal of sites to private developers
- Do nothing

6. COMMUNITY ENGAGEMENT & CONSULTATION

6.1 General consultation on our approach to stimulating new house building, making best use of our Housing Revenue Account (HRA) assets and estate regeneration through the New Homes for Neighbourhoods programme has been undertaken with councillors, council tenants and leaseholders through reports and presentations to Housing & New Homes Committee.

6.2 Consultation with residents and ward councillors on specific schemes and sites will require a similar level of community engagement as with the existing New Homes for Neighbourhoods Programme, for example Planning for Real techniques. This has followed a comprehensive process with ward councillors, residents and other stakeholders engaged and consulted at all key stages of individual projects. Consultation will also be undertaken via the Planning process.

7. CONCLUSION

7.1 The offer from Hyde to establish a Joint Venture company provides an excellent opportunity to combine resources and expertise to make a significant contribution to tackling the city's housing crisis by delivering additional lower cost homes for sale and rent to low income working households. It is considered that Hyde's track record of delivery, along with their scale and experience will enable the council to deliver new homes that represent value for money and that are of good quality.

8. FINANCIAL & OTHER IMPLICATIONS:

8.1 This report sets out financial modelling in the form of the Strategic Financial Viability Model (SFVM) to develop a Business Case for the development of 1,000 new homes in a Joint Venture with Hyde. Although the overarching aim of this proposal is to provide 1,000 new homes at no net cost to the council (through any

surpluses financing the debt), the current model also provides the council with a positive return after repayment of debt.

- 8.2 The recommendation therefore in this report is to support in principle the living wage proposal and give delegated authority to develop and negotiate the deal with Hyde, agreeing the Heads of Terms and other principle documentation to implement the proposed Joint Venture. If this recommendation is approved, finance officers, as part of the JV project team, will continue to review the SVFM and ensure financial due diligence is followed throughout the process to ensure financial risk exposure to the council is kept to a minimum and benefits of the proposal are achieved. This will include obtaining independent financial advice to support the council through the negotiations and implementation of the Joint Venture.
- 8.3 It is anticipated that the cost of this independent financial advice will be met through the capital budget of £0.151 million, which was approved for legal and financial advice for Housing Delivery Options. If there are any significant variations to costs, this would be reported and approval sought through the councils budget management process.
- 8.4 Officers have reviewed the SFVM for the Hyde Joint Venture proposal, which includes a review of its inputs, testing of the assumptions and auditing the outputs, and have carried out various sensitivity analysis of the SFVM. Part 2 of this report (Appendix 4), includes a summary of the financial model results, main assumptions used and sensitivity analysis that has been carried out.
- 8.5 The JV proposal requires £105.47 million total investment to develop 1,000 new homes over a 5 year period. The proposal is that Hyde and the council provide 50/50 funding of £52.7 million each to fund the investment requirements.
- 8.6 The council has yet to decide how it will fund its investment into the Joint Venture and this decision will be informed by the structure of the LLP (including whether the council directly enters into the LLP or through a wholly owned company). The council's investment of £52.7 million will be financed mainly from borrowing and some commuted sums. The initial financial modelling carried out assumes the council will undertake borrowing to fund its equity investment, this shows that the returns on investment will achieve surpluses to the council after financing costs of borrowing (both interest and capital repayments). The financial modelling shows that the council's share of surpluses are forecast to total £221.4 million over 64 years with a net present value (NPV) £37.6 million (i.e. the return at today's values).
- 8.7 How the council enters into the LLP and the terms of funding could impact on the amount of forecast return to the council, which could reduce the cash surplus after borrowing costs and corporation tax liability. Sensitivities modelled in appendix 4 show that returns to the council would still be positive and are therefore still recommended. One of the principal documents to be developed is the Members' Agreement which will govern the commercial terms of the joint venture and how the two parties will jointly run and fund the LLP.
- 8.8 The table in paragraph 3.28 provides the forecast investment requirement for the JV profiled over the first 5 years. Any borrowing undertaken by the council to fund

the council's share of investment will need to be included councils capital borrowing limits which are approved Policy, Resources and Growth Committee.

- 8.9 The council will need consider how it is going to cover the financing costs of borrowing during the construction stage and include this in its medium term financial plans. This will be required to be funded through the General Fund and the best economic option for this interest cover will need to be considered as part of the council's Treasury management decisions. Initial estimates of the total cost to the General Fund could be in the range of £0.023 - £0.045 million over a 4 year period.
- 8.10 The reserved matters will include any Business Plans and disposal of land/sites to the JV and will be reported to appropriate committees for approval. Each development will be have its own viability model and will only proceed if it is consistent with the approved overarching Business Plan .
- 8.11 As with other new developments in the city, the council will also receive income associated with the development of these 1,000 new homes. S106 income is estimated in the region of £6.0 million. It is also estimated that the delivery of an additional 1,000 properties in the city would raise in the region of £0.830 million in council tax income per annum, this is a prudent estimate based on a number of assumptions such as council bands, discounts applied and assumed council tax increases. It is difficult to assess the additional revenue relating to the New Homes Bonus scheme as the Government is amending the scheme to sharpen the incentive whilst reducing the overall funding, including looking at a maximum of 4 years payments instead of 6 years but potentially could go as low as 2 years. Under the current scheme, the council could receive a maximum of £1.25 million per annum over 4 years for delivery of 1,000 properties, if these were over and above the number of properties that fall out of the scheme or potentially receive a significantly reduced sum.

Finance Officer consulted: Susie Allen

Date: 07/11/16

Legal Implications:

- 8.12 As set out in the body of the report, the council has appointed Bevan Brittan LLP as its legal advisor and continues to provide advice to the council in relation this matter. The legal advice so far is set out in the body of the report as well as in the Appendices attached to this report.

Lawyer consulted: Jo Wylly

Date: 7/11/16

Equalities Implications:

- 8.13 An increase in housing supply will extend opportunities to provide new, well designed homes to accommodate local households on the Housing Register who are in housing need.

Sustainability Implications:

- 8.14 Attaining high sustainability standards is an important in delivering homes that are energy efficient, minimise carbon emissions and reduce water usage. Addressing fuel poverty and reducing total costs of rental or ownership is also an important consideration.

SUPPORTING DOCUMENTATION

Appendices:

1. Bevan Brittan advice to BHCC on the Joint Venture proposal
2. Draft Heads of Terms
3. Frequently Asked Questions
4. Part 2 Summary of Strategic Financial Viability Model and sensitivity analysis (see item 46 on Part Two of the agenda)

Documents in Members' Rooms

None

Background Documents

1. Housing Delivery Options - Housing & New Homes Committee Report 2 March 16
2. Housing Delivery Options – Policy & Resources Committee Report 17 March 16

Crime & Disorder Implications:

- 9.1 The development of Special Purpose Vehicle and / or Joint Venture partnerships offers the opportunity to provide new, well-designed homes which link to the council's wider regeneration aspirations for the city, including the council's economic development and sustainability objectives. Well-designed urban housing has been shown to influence the rate of crime and disorder as well as the quality of life for future occupants.
- 9.2 Vacant sites can sometimes attract anti-social behaviour. With careful planning, the future development of these sites is likely to improve the safety of existing neighbourhoods by reducing crime and the fear of crime.

Public Health Implications:

- 9.3 There are strong links between improving housing, providing new affordable homes and reducing health inequalities. Energy efficient homes which are easier and cheaper to heat are likely to have a positive influence on the health of occupants of the new homes.

Corporate / Citywide Implications:

- 9.4 Increasing Housing Supply is a City Plan and Housing Strategy priority. In particular, meeting our housing target of 13,200 new homes in the City by 2030.
- 9.5 In addition, in our Housing Strategy (2015) priority of increasing housing supply to meet identified needs, we are committed to work collaboratively with Adult Social Care, Children's Services and Health to reduce long term social care cost pressures and address issues arising with recruitment and retention of lower income staff in the City essential to the operation of these services.
- 9.6 In exploring Housing Delivery Options we are also working in support of the following Corporate priorities:
 - **Increasing Equality**- Coordinate services and spending better between public services to improve equality.
 - **Economy, Jobs and Homes** - Enable development of new, affordable homes, working with government, Registered Providers and other partners to maximize investment.
 - **Health & Wellbeing** - support for key worker housing to meet Health and Social Care employee requirements.
 - **Contributing to the Medium Term Financial Strategy** - Maximising New Homes Bonus and Council Tax revenue resources through improving housing supply; Ensuring Housing investment aligns with the Corporate Plan priorities.
 - **Greater Brighton** – Accelerating housing delivery through exploring housing market intervention / housing company models at a Greater Brighton level. Delivering activity alongside other initiatives and ensuring that the

strength of the housing market is captured to meet local needs including housing type and tenure

9.7 The JV will bring a number of benefits to the city and council including:

- 1000 new affordable homes
- Potential long term revenue income from surpluses
- Regeneration of key sites and public realm improvements
- Each new home has potential to generate new Council Tax and New Homes Bonus
- Potential £3 of economic output for every £1 of public investment based on national calculations
- Apprenticeships and training

BRIGHTON & HOVE CITY COUNCIL

ADVICE ON JOINT VENTURE WITH HYDE HOUSING

1 OVERVIEW

- 1.1 Brighton & Hove City Council (**Council**) is considering a proposal by Hyde Housing (**Hyde**) to enter into a corporate joint venture for the purposes of acquiring and developing property for the provision of sub-market rent products linked to living wage and shared ownership housing (**Living Wage Proposal**).
- 1.2 This is a summary paper providing headline advice on the legal viability of the proposal highlighting key areas that will require further advice if the proposal is developed further.
- 1.3 The Living Wage Proposal is a legally viable structure. The joint venture could be structured so that the Council could enter into the arrangements with Hyde without a competitive procurement process. Whilst there is no legal requirement to undertake a competitive procurement process, the Council should satisfy itself as to the appropriateness of Hyde as a partner and the commercial terms being proposed.

2 LIVING WAGE PROPOSAL

- 2.1 The proposal is that:
 - 2.1.1 the Council and Hyde enter into a 50 / 50 corporate joint venture established as a limited liability partnership (**LLP**);
 - 2.1.2 the LLP is established for the Living Wage Proposal;
 - 2.1.3 the Council and Hyde each contribute 50 per cent of the LLP's required capital (estimated by Hyde to be £54m each);
 - 2.1.4 the Council and Hyde will:
 - (a) each be entitled to appoint three members to the LLP's management board;
 - (b) appoint a chair of the board for the term of one year, which right will rotate between them, with the Council being entitled to exercise it first. The chair will not be entitled to exercise a casting vote in the event of any deadlock;
 - 2.1.5 the LLP purchases sites to deliver the development. These could be either sites identified by the Council as being potentially suitable or from third parties;
 - 2.1.6 the LLP appoints:
 - (a) contractors and professional team for development, from Hyde's frameworks where possible;
 - (b) Hyde's trading company (**HNB**) as development manager on a costs incurred basis;
 - (c) [Hyde] as housing and asset management services on a costs incurred basis;
 - (d) the Council or a third party to provide corporate and financial services;
 - 2.1.7 the Council and Hyde jointly appoint an independent project monitor who will undertake a value for money assessment of each proposed project with a view to either giving or refusing consent for it to be implemented by the LLP.

3 CORPORATE STRUCTURE

- 3.1 The Council has the power to enter into the proposed structure, but would not necessarily need to set up a Council-owned intermediary trading company to do so.
- 3.2 A company is required where the Council is relying on the general power of competence (s.1 Localism Act 2011), as is proposed here, and is doing something for a commercial purpose. There is a question as to whether the purpose of the joint venture is commercial. If an activity's primary purpose is to make profit, either immediately or in the longer term, then it is reasonable to conclude that it is being performed for a commercial purpose. If the primary purpose is something else, but profit may be realised as an ancillary or incidental benefit, then that should not require the use of a company.
- 3.3 The Council has a strategic objective to increase affordable housing both within the housing revenue account (**HRA**) and also outside of it by using housing delivery vehicles. The Living Wage project is being established for the purposes of achieving this. It is reasonable to conclude that a company is not required and an LLP would not breach the requirement to use a company where something is done for a commercial purpose. There will be a residual risk of a court concluding otherwise as there does not seem to be any case law on the point even though the LLP model has been used this way before, for example, see [Matrix Homes](#) in Manchester, which was incorporated as an LLP.
- 3.4 If the joint venture is established for a commercial purpose, for example increased elements of private sale then the use of a company would be a lower risk approach. Hyde and the Council are obtaining a Counsel opinion on this point to provide assurance. If there is an unacceptable level of risk on direct participation the overall structure would stay the same but with the Council participating through a holding company which could for example be the wholly owned housing company being considered.
- 3.5 An LLP would be a viable vehicle for the joint venture and would offer tax transparency meaning tax is assessed in the hand of the members. This would be particularly advantageous if the Council enters into the LLP directly as the Council's share of revenue would be assessed for tax within the hands of the Council which would then be able to benefit from its advantageous tax position, e.g. exemption from corporation tax.

4 PROCUREMENT / SELECTION OF HYDE

- 4.1 The Council is subject to procurement legislation that requires it to run competitive tenders when awarding contracts for goods, works or services. The Living Wage Proposal involves the Council selecting Hyde without a tender. There are a number of grounds that could justify the Council doing so and present a low risk procurement position, namely:
- 4.1.1 there is no public contract in place between the Council and Hyde – entering into the joint venture itself need not involve the awarding of a contract for goods, works or services;
- 4.1.2 this is public sector co-operation that is permitted under the procurement rules – both parties are public bodies for procurement purposes and could make use of inter-public body exemptions;
- 4.1.3 public contracts that do exist can be awarded without a procurement process in light of what is known as the Teckal exemption – this allows entities controlled by and delivering activity for public bodies to be awarded contracts without a competitive procurement process.

Contracting authority status and contracting between the entities

- 4.2 The LLP is likely to be classified as a contracting authority under the Regulations. This is because it will fall within the definition of "bodies governed by public law". Corporate bodies set up by local authorities or other contracting authorities are often classified this way even though there is the

potential to structure them so that they do not do so. The Regulations permit a controlling authority to contract directly (without a tender) with a controlled person and vice versa.¹

- 4.3 In order to meet the requirements in respect of the LLP any intermediate companies should also be structured to be contracting authorities. This point, and HNB's contracting authority status, will need to be considered further with Hyde. It would not be an issue if a joint venture model involving direct ownership by Hyde and the Council is taken forward.
- 4.4 Although there are no plans in the current proposed structure for either the Council or Hyde to purchase goods, works or services from any of the other parties in the arrangement, the potential for them to do so will therefore exist.
- 4.5 Where there is only one controlling authority, the Regulations also explicitly permit the controlled person to award contracts directly to the controlling authority, known as "reverse" Teckal after the case the exemption was originally based on. However, the Regulations do not explicitly permit or prohibit an award by a controlled person where there is more than one controlling authority, as will be the case here. This may be relevant as the LLP may contract with the Council for corporate, finance and lending services, and with Hyde and HNB for housing management and development management services.
- 4.6 In our view it would be difficult to challenge successfully the award of such contracts on these grounds, particularly as they will be related to the wider Living Wage project, and will enable the LLP to meet the objectives for which it was established rather than to pursue alternative aims, perhaps competing with others on the market. The use of competitive procurement routes to appoint providers of services and works relating to the development, such as the frameworks as considered below, would mitigate risk as the market would still be engaged with the opportunity.
- 4.7 The appointment of Hyde for development and possibly also for management services is to be done on a costs incurred basis rather than for profit which supports the applicability of the procurement exemptions outlined above.

5 STATE AID

- 5.1 The state aid rules prohibit the Council from transferring its resources to a third party in a way that could distort competition and affect cross-border trade in the European Union. This will need to be considered in relation to the selection of Hyde and the transfer of assets (e.g. land and funding) to the LLP or Hyde.
- 5.2 Where an advantage is being given to the LLP or Hyde the Council's best approach to mitigate state aid risk is likely to be relying on the market economy investor principle. This provides that if the Council can demonstrate that it is acting as a rational private sector investor in similar circumstances would, then the activity is not a breach of the state aid rules. To rely on this the Council should provide funding and any other resources transferred to the Living Wage LLP on market terms. This is what is being proposed in the Living Wage Proposal.
- 5.3 There is also an exemption in the state aid rules for support given to services of general economic interest, which include social housing. This is potentially relevant if any resources will be transferred by either the Council or Hyde at below market value, and will require additional terms to be included in the transfer documents to ensure that the requirements of the exemption are met. Structuring the transaction to comply with the SGEI exemption could be the best way of mitigating state aid risk in relation to any transfers of land at undervalue.

6 LAND TRANSFERS – MARKET VALUE, CONSENTS AND SDLT

- 6.1 The Council will transfer land to the LLP as part of the Living Wage Proposal. In addition the LLP could purchase land from the market. The proposal for Council land to be transferred needs to be considered in light of the consent framework that exist for:

¹ Regulation 12.

- 6.1.1 disposal of HRA property;
- 6.1.2 disposal general fund property; and
- 6.1.3 financial assistance, which could include both the funding of the vehicle and any gratuitous benefit such as transfer of land at undervalue.

HRA Land

- 6.2 Any disposal of HRA land will need to either have prior consent of the Secretary of State or compliance with one of the more general consents issued under s.32 Housing Act 1985. There is a general consent available in respect of disposal of vacant land which could be used.
- 6.3 Disposal of vacant land at less than market value is likely to constitute a financial assistance for the purposes of s.24 Local Government Act 1988 (**1988 Act**) requiring specific consent from the Secretary of State or compliance with one of the general consents under s.25 1988 Act. There is a general consent for disposal of vacant land which would require transfer of the freehold or leasehold of over 99 years and would prohibit the Council from maintaining or managing the housing.
- 6.4 There are not any current plans to use any HRA land and any disposal would be on market terms so this is not seen as an issue.

General fund land

- 6.5 The Council has a broad power to dispose of property held in the general fund in any manner it wishes subject to an obligation to do so for the best consideration reasonable obtainable (s.123 Local Government Act 1972).
- 6.6 The Council can dispose of property held in the general fund for less than market value provided that consent is obtained from the Secretary of State. The Local Government Act 1972 General Disposal Consent (England) 2003 (**General Consent 2003**) is a wide reaching consent that allows disposal at an undervalue to promote economic, social or environment wellbeing. The difference between the market value and the consideration must not exceed £2 million, and a "professionally qualified valuer" must give a view as to the likely amount of the undervalue. If open space will be disposed of then there are additional publicity requirements.
- 6.7 In determining what the value of the land is for this purpose it is the unrestricted value that is considered, i.e. the amount which would be received for the disposal of the property where the principal aim was to maximise the value of the receipt. Voluntary restrictions imposed by the Council, such as a restriction in the proposed lease to use the land for social housing, would not be taken into account.
- 6.8 If one of the general consents is not applicable then the Council would need to approach the Department for Communities and Local Government to obtain Secretary of State consent to the disposal on the proposed terms. There is not a statutory framework for this process so it would be uncertain as to how long it would take and whether it would be given.
- 6.9 Where land is appropriated to planning purposes then it would need to be disposed of for market value unless the Council obtained SoS consent to an undervalue disposal. This requirement overrides the General Consent that allows a disposal at an undervalue of up to £2m (as considered in paragraphs 6.6 to 6.8).
- 6.10 This has the potential to be a significant factor given the Council would need to appropriate to planning to benefit from s.237 Town and Country Planning Act 1990 which allows for override of easements or interests annexed to land, such as right to light or support which is common with developments.
- 6.11 Again, the proposal is for land disposals to be at market value so it is not envisaged that there will be any issue in relation to best value duties or planning appropriation.

SDLT

- 6.12 The entity/entities will be subject to Stamp Duty Land Tax (**SDLT**) on land purchases, including the acquisition of land from the Council as the transaction.
- 6.13 The deemed market value rules for SDLT purposes apply on a transfer to a connected company or on a transfer by a partner to a partnership so, regardless of whether the joint venture entity is a company or an LLP, the market value rules could apply. The mechanism for determining market value follows the capital gains tax mechanism, which considers (in effect) what the consideration would be in a hypothetical sale at arms length (there are more details in the RICS Valuation Professional Standards).
- 6.14 The valuation would take any covenant imposed by the Council on the use of the land, e.g. restriction for social housing, into account – assuming that it affected the property at the transfer date. However, HMRC are unlikely to accept that there is *no* market value, although they may be prepared to agree that the market value is *de minimis* and potentially below the threshold, if a valuation following the RICS standards would determine that the market value was below threshold.
- 6.15 In *IRC v Gray (Executor of Lady Fox decd.)* it was held that valuation must be based on the assumption that the property *could* be sold in the open market, even if it was in fact inherently unassignable or held subject to restrictions on sale. The relevant question to value the property is what a purchaser would have paid to enjoy whatever rights were attached to the property at the relevant date, assuming such a hypothetical sale.
- 6.16 The SDLT payable is based on a formula which - effectively - means that the market value of the share that is allocable to the other partners (i.e.: other than the one contributing) is subject to SDLT. So, in a 50/50 partnership, a contribution of land by one partner to the partnership would result in an SDLT charge on 50% of the market value of the property.
- 6.17 Group relief will not be available for acquisitions from the Council as the Council's interest in the joint venture will be below that required for SDLT group relief to be available and, in the case of an LLP, an LLP cannot be a qualifying subsidiary for SDLT group relief in any case as it has no share capital and so cannot meet the definition.

7 GOVERNANCE

- 7.1 The governance structure for the joint venture will be framed by the Council's role and rights as a member of the LLP, even if this is indirectly through a company. There would also be a board charged with management of the LLP.
- 7.2 The members of the joint venture will retain strategic control over the operation of the vehicle through the right to approve, and monitor delivery of, a business plan and the requirement that certain listed decisions, referred to as "reserved matters", must be referred back to the owners rather than being within the discretion of the board. The principle is that the joint venture partners approve the business plan and the board then have the remit and discretion to implement it subject to the reserved matters. The level of discretion given to the board depends on the framing of the business case – i.e. how prescriptive or flexible it is – and what the reserved matters are.
- 7.3 The board of the LLP would be given a role equivalent to role of a board of directors on a company. Although a board member of an LLP is not the same as the director of a company, it is common in the governance documents to treat the position as the same meaning the individual will have duties to act in the best commercial interests of the LLP for the benefit of both parties. The Living Wage Proposal suggests a board of six, three to be appointed by Hyde and three by the Council. It would be possible for members or officers of the Council to be board members. On a joint venture of this nature focused on delivery of operational matters an officer majority board would typically be recommended with strategic and significant control retained to members via the shareholder or LLP member rights. It is proposed that there is one councillor and two officers appointed.
- 7.4 It is generally easier to manage conflicts of interests issues for an "officer board member" than for an elected member as the Council can agree to the officer continuing to act as an officer despite

potential conflicts and agree not to take action against the individual where the individual is required to act contrary to the interests of the Council due to the person's role as a board member.

- 7.5 Where a board member is a councillor, the person must disclose any potential conflicts of interests and observe the requirements of the Code of Conduct of the Council. The board member must also be careful (when undertaking their Council role) to behave in ways which avoids suggestions of bias or predetermination.
- 7.6 Whilst the Council could grant a dispensation under the Code of Conduct to allow a councillor to continue to take decisions relating to the joint venture within the Council, it is not possible for the Council to avoid accusations of bias or predetermination, especially if the councillor is particularly senior. Participation on the board of the joint venture could therefore preclude a councillor from being involved in decisions within the Council relating to the joint venture and this will need to be a factor in deciding what councillor(s) would be suitable to act on the board.
- 7.7 The risks around conflicts for officer board members are hard to manage where officer directors are responsible within the Council for decisions materially affecting the vehicle. This risk is best mitigated by not putting Council officers who are directors of Council vehicles or joint ventures in roles where they have to make decisions relating to those vehicles. For this reason we would advise against statutory officers (monitoring officer, s.151 officer and the head of paid service) being appointed as board members as they may be required to undertake their statutory roles in relation to the vehicle at some point which would raise difficult conflicts. If this is a requirement we advise careful thought and further advice is taken on how to mitigate the impacts.

4th November 2016

Living Wage Joint Venture

Heads of Terms v.7 24.10.16

1 BACKGROUND

- 1.1 Hyde Housing Group (**Hyde**) and Brighton & Hove Council (**Council**) wish to work together in partnership. They intend to establish a limited liability partnership (**LLP**) to act as a joint venture vehicle for the construction of 1000 homes to meet the needs of the residents of Brighton and Hove¹. These will include a new Living Wage rent housing model for low income working households and shared ownership homes. The activity will generate an annual surplus to be distributed to Hyde and the Council as the members of the LLP.
- 1.2 Various Council-owned properties have been identified as potentially being suitable for the joint venture. Any decision by the Council to dispose of any property to the LLP would be a decision for the Council undertaken in accordance with the Council's normal governance and procedural arrangements for disposal of land. Various additional properties owned by the Council, or properties owned by Hyde or any third party, may be identified from time to time and the parties will decide whether to pursue the acquisition and development of those properties on a case by case basis in accordance with the documents referred to in paragraph 2.
- 1.3 These heads of terms represent the commercial agreement of the parties at the current stage of negotiations. Whilst this document therefore reflects a reasonably advanced agreed position on the fundamental features of the joint venture, these heads of terms are not exhaustive or intended to be legally binding². The parties only intend to be legally bound to one another when they enter into formal contracts for that purpose.

2 DOCUMENTATION

- 2.1 The joint venture will be based around the following principal documentation:
- 2.1.1 overarching strategic land agreement (**OSLA**)
 - 2.1.2 limited liability partnership members' agreement (**Members' Agreement**)
 - 2.1.3 [funding agreements]
 - 2.1.4 development management agreement (**DMA**)
 - 2.1.5 asset management agreement (**AMA**)
 - 2.1.6 residential management agreement (**RMA**)
 - 2.1.7 corporate and financial services agreement (**CFSA**)
- 2.2 In addition, the members will approve a Business Plan and financial model. Any material amendments to the Business Plan and/or financial model will require the approval of the LLP's members.

¹ Advice is being taken on how the structure could work to ensure minimal irrecoverable VAT. This may require an additional company (a "VAT Shelter") to enable separation between asset ownership and development or the use of one of the Hyde companies to develop.

² Confidentiality and exclusivity are normally elements that are sometimes made legally binding. It is assumed that there are no legally binding elements given the NDA that has been signed and no proposal for exclusivity.

3 OSLA

3.1 Parties:

3.1.1 Council;

3.1.2 [Hyde]; and

3.1.3 LLP.

3.2 The OSLA will govern the arrangements between the Council [and Hyde] as landowners and the LLP. This will allow the Council [and Hyde] to establish a clear separation of duties and responsibilities when dealing with the LLP in their capacity as a landowner.

3.3 The OSLA will provide appropriate controls, protections and mechanisms for the timing of the drawdown of land from the Council and/or Hyde into the LLP. The following controls, protections and mechanisms are envisaged:

3.3.1 the circumstances under which properties will be transferred into the LLP;

3.3.2 an option for the LLP to call down identified properties once the relevant property is vacant;

3.3.3 the obligations to be performed by each of the Council or Hyde and the LLP in order to prepare and enable properties to be drawn down:

(a) when a property is ready to be drawn down, the LLP will have a period of [] months within which to exercise a drawdown option and if the option is not exercised within this period it will lapse and the property will cease to be included in the OSLA;

(b) all properties will be drawn down on the basis of either a lease or a freehold transfer which will be granted by the landowner to the LLP. Properties may not be drawn down for land banking but must be developed in accordance with the agreed Business Plan. The option preconditions will be framed so that at the time of draw down, a property must be ready for development in accordance with the Business Plan for that property;

3.3.4 the price to be paid for a property will be established (or verified) upon draw down on the basis of a pre-agreed appraisal and approval methodology including circumstances where less than market value consideration is to be provided;

3.3.5 preconditions for exercise of draw down option – any option to draw down a property will become exercisable by the LLP when the following have been achieved:

(a) the LLP has adopted a Business Plan for the relevant property (which is consistent with the overarching LLP Business Plan) and includes an indicative development programme for the property;

(b) the proposed development scheme satisfies a viability test in accordance with the overarching LLP Business Plan and there is a development appraisal adequately costed and verified in sufficient detail to support the viability test;

(c) the project monitor or development manager has signed off a value for money certificate in respect of construction costs;

- (d) the project monitor or development manager has provided a report to the LLP on likely values and costs within specified parameters to support the development appraisal;
 - (e) vacant possession can be obtained when needed (and/or arrangements for further decant are in place);
 - (f) planning consent has where relevant been obtained by the LLP for the development (or first phase if a multi phased scheme). The assumption in respect of any Council property is that the costs of obtaining planning permission will be met by the LLP (funded 50:50 by the LLP's members) and the property will be valued and transferred with the benefit of planning permission;
 - (g) funding has been agreed for the development (or first phase);
 - (h) any required amendments to the pro forma lease or transfer documentation for the relevant property have been approved by the landowner (acting reasonably); and
 - (i) any consents for disposal which have not already been obtained have been given; and
- 3.3.6 viability test – prior to exercising any draw down option, the LLP must be satisfied that development is viable in accordance with the Business Plan and financial model. Viability testing (and market analysis) will be on the basis of pre-agreed required levels for IRR for development so that the viability test (and the resulting residual land value), is determined by external or objective market criteria. Elements such as construction costs and anticipated values must have been costed and verified in sufficient detail to ensure that the viability test is robust. This will in part be satisfied by the project monitor/development manager signing off or reporting on certain aspects of the proposed development, as set out above.
- 3.4 Separately, the Council may wish to obtain its own independent report to ensure it is satisfied that the resulting land value and "value for money" analysis meets the Council (as landowner)'s regulatory and constitutional requirements for land disposals.
- 4 MEMBERS' AGREEMENT**
- 4.1 Parties:
- 4.1.1 Council;
 - 4.1.2 [Hyde] [Hyde New Build]³; and LLP.
- 4.2 The parties will make the following funding available by way of non-interest bearing debt to the LLP:
- 4.2.1 Council: £[] on the timetable provided at Schedule [];
 - 4.2.2 [Hyde] [HNB]: £[] on the timetable provided at Schedule [];
- 4.3 on terms to be agreed between the members and the LLP and recorded in member loan agreements. The parties will hold the following interests and voting rights in the LLP:
- 4.3.1 Council: [50]%
 - 4.3.2 [Hyde] [HNB]: [50]%

³ To further mitigate any risk associated with the question of whether the Council can directly participate in LLP Hyde's 50% interest may be shared between two entities

- 4.4 The Members' Agreement will govern the commercial terms of the joint venture and how the two parties will jointly run and fund the LLP.
- 4.5 The stated business of the LLP will be: [].
- 4.6 Strategic control over the operation of the LLP will be retained by the members through the right to:
- 4.6.1 approve the LLP business plan; and
 - 4.6.2 make decisions on a unanimous basis in respect of those matters listed at schedule 1 (**reserved matters**).
- 4.7 If a matter which would otherwise be a reserved matter is included in the Business Plan, then there is no requirement to obtain an additional approval in respect of that matter and the LLP has the authority to proceed and implement it. As a result, reserved matter approval should only be sought in respect of matters outside the Business Plan.
- 4.8 The parties will establish an LLP management board comprising of [six] individuals:
- 4.8.1 Hyde appointees: [];
 - 4.8.2 Council appointees: [].
- 4.9 One member of the board shall be appointed as chair for an annual term. The right to appoint the chair shall rotate between the parties and the Council shall make the first appointment. The chair will not have a casting vote.
- 4.10 The parties do not intend that a management board member will provide any goods or services to the LLP in a personal capacity. Accordingly, the LLP shall not remunerate any member of the management board and expenses shall only be paid in accordance with a policy approved from time to time.
- 4.11 The management board will have the task of delivering the business plan.
- 4.12 Each management board member shall have one vote on any matter unless he/she has a conflict of interests. A conflict of interests in this context means a personal conflict, a conflict between his/her appointing member (or member of its group) and the LLP (including under any contracts between them) or actual or alleged default of that member under the Members' Agreement. If at any point a conflict of interest arises, the conflicted member and its appointees to the management board member shall be excluded from the LLP's decision-making processes in respect of the matter giving rise to the conflict of interest.
- 4.13 Any deadlocked decision at management board level (arising by reason of the same number of votes cast for and against a resolution, or by reason of a lack of quorum) may be referred by any management board member to the members for resolution.
- 4.14 If at any point the members are unable to agree as to how the LLP should proceed in relation to a reserved matter or a matter referred to them by the management board, a deadlock shall have arisen and the following deadlock resolution procedure shall apply:
- 4.14.1 the matter shall be escalated within each member's organisation to [] for the Council and [] for Hyde;
 - 4.14.2 failing resolution it may be referred by either member to non-binding mediation; and
 - 4.14.3 failing resolution through mediation, either member may give notice that the LLP should be independently valued and sealed bids made by each member for the other member's

equity and debt interests in the LLP. In the event neither member makes a bid, the parties shall do all things necessary to approve a winding up of the LLP.

- 4.15 If a member suffers or commits a default event under the Members' Agreement (broadly, a change of control, unremedied material or persistent breach or insolvency), the other member shall have the right, but not the obligation, to acquire the defaulting member's equity and debt interests in the LLP at 90% of the fair value of those interests as determined by an independent valuer.
- 4.16 A member may transfer its equity and debt interests in the LLP:
- 4.16.1 at any time, to another member of its group, provided the transferee has a sufficient financial covenant to meet its obligations under the Members' Agreement, and provided that there is a transfer back in the event the transferee leaves the group of the original member transferor;
 - 4.16.2 at any time, with the prior written consent of the other member;
 - 4.16.3 after an initial lock in period (equivalent to practical completion [*in respect of which development?*] plus one year), to a third party but only after offering those interests to the other member on the same terms.
- 4.17 Any incoming third party shall be required to adhere to the terms of the Members' Agreement and the Business Plan then in force. In no circumstances shall a transfer of interests in the LLP be permitted where the transferee is an "unsuitable person" (broadly, a person with a material interest in the production, distribution or sale of tobacco, alcohol or pornography, any person whose activities are incompatible with the provision of housing services or services to the public sector in general, or any person who poses or could pose a threat to national security).
- 4.18 On the [seventh] anniversary of the Members' Agreement and on the expiry of each subsequent seven year period, the members will consider their continued relationship and each of them will have the following rights:
- 4.18.1 to call for the sale of the LLP's assets and its liquidation; and
 - 4.18.2 [alternative exit events].

5 DEVELOPMENT MANAGEMENT AGREEMENT

- 5.1 Development Management Agreement between the LLP and HNB for the management of all development services (**DMA**).
- 5.2 The LLP will appoint HNB pursuant to the DMA in a form to be agreed, but which will include the following key items:
- 5.2.1 a fee calculated on costs (including costs of the Chief Executive, overheads, business rates, etc.) as signed off by the project monitor, to be payable in accordance with the agreed relevant financial model;
 - 5.2.2 an agreed scope of service; and
 - 5.2.3 [*other key terms to be determined including relationship with proposed project monitor role*]

6 ASSET MANAGEMENT AGREEMENT & RESIDENTIAL MANAGEMENT AGREEMENT

- 6.1 The new homes will be managed by [] who will provide both housing management and asset management services.

- 6.2 The LLP will appoint an housing and asset manager pursuant to a management agreement in a form to be agreed with:
 - 6.2.1 an agreed scope of services and KPIs;
 - 6.2.2 a fee calculated on costs as signed off by the project monitor, to be payable being not less than [TBA] subject to [RPI][CPI] increase; and
 - 6.2.3 []

7 CORPORATE AND FINANCIAL SERVICES AGREEMENT

- 7.1 Corporate and Financial Services Agreement between the LLP and [] for company secretarial, tax and accounting services (**CFSA**);
- 7.2 The LLP will appoint a provider pursuant to a services agreement in a form to be agreed and following an open tender process against an agreed scope of services and KPIs, and including the following key items:
 - 7.2.1 a fee calculated on costs as signed off by the project monitor, to be payable being not less than [£] a month subject to [RPI][CPI] increase];
 - 7.2.2 an agreed scope of services; and
 - 7.2.3 []

These heads of terms are non - binding and subject to contract.

.....
Signed for and on behalf of Hyde Date

.....
Signed for and on behalf of the Council Date

Schedule – Reserved Matters

Officers and members of the LLP

- 1 Agreeing the appointment and the appointment terms (including any remuneration terms), or the removal, of any management board member other than one appointed by Hyde or the Council.
- 2 Approving the admission of further members to the LLP or agreeing any rights or restrictions attaching to any shares/equity allocated to such new members.
- 3 Agreeing or approving any increase in the maximum size of the management board.

Future direction and development of the LLP

- 4 Agreeing to enter into or entering into any debt facility or loan agreement other than the member loan agreements
- 5 Forming any subsidiary or acquiring an interest in any other LLP or participating in any partnership or joint venture (incorporated or not).
- 6 Amalgamating or merging with any other LLP or business undertaking.
- 7 Selling or disposing of any part of the LLP.
- 8 Passing any resolution for its winding up or presenting any petition for its administration (unless it has become insolvent).
- 9 Apply for the listing or trading on any stock exchange or market.

Management of the business of the LLP

- 10 Changing the name of the LLP.
- 11 Adopting and/ or agreeing any material amendments or variations to a Business Plan.
- 12 Creating or agreeing to create a charge, security or encumbrance over the LLP's assets, interest or income.
- 13 Changing the nature of the business of the LLP or commencing any new business which is not ancillary or incidental to the business.
- 14 Agreeing to enter into or entering into any acquisition or disposal of any material assets by the LLP.
- 15 Giving notice of termination of any arrangements, contracts or transactions which are material in the nature of the business or materially varying any such arrangements, contracts or transactions.
- 16 [Appointing and changing the LLP's auditors].
- 17 Agree to make or making any loan (otherwise than by way of a deposit with a bank or other institution, the normal business of which includes the acceptance of deposits or in the ordinary course of business) or granting any credit (other than in the normal course of trading or giving any guarantee (other than in the normal course of trading) or indemnity outside the normal course of business.
- 18 Changing the accounting reference date of the LLP.
- 19 Accepting any capital contributions in the LLP.

- 20 Authorising the return of any capital contributed to the LLP to a member.
- 21 Allocating and distributing any profit of the LLP.

DRAFT

Frequently Asked Questions

Potential Joint Venture between Brighton & Hove City Council and Hyde Housing Association

1. Why is the council proposing to enter into a Joint Venture?

The proposed Joint Venture is an attractive opportunity for the Council to accelerate the delivery of lower cost homes for rent and sale for low income working households in Brighton & Hove whilst generating a return on our investment. This proposal supports Housing Strategy priorities around improving the supply of affordable homes and City Plan priorities around meeting the need for new housing in the City.

The Council has been looking at a range of funding and delivery mechanisms to meet our identified need for lower cost homes the city needs. Hyde Housing Association (Hyde), a long standing member of our Affordable Housing Delivery Partnership, has approached the Council with a proposal which could deliver 1,000 new lower cost rental and sale homes for low income working households in the city.

This is one of a number of options we are proposing to deliver new lower cost homes in the city, including;

- A wholly owned Council housing company, building upon Government funded Housing Market Intervention research reported to Housing & New Homes Committee in March 2016;*
- Continued work with our Affordable Housing Delivery Partnership including Registered Provider partners, the Council and the Homes & Communities Agency;*
- Our New Homes for Neighbourhoods Programme, subject to current limitations of the Housing Revenue Account (HRA) borrowing cap;*
- Making best use of existing stock through our Hidden Homes and conversions projects, supporting delivery of new homes as part of our HRA Asset Management Strategy;*
- Joint work with Planning in support of delivering Planning Policy, Affordable Housing Requirements;*
- Freedoms and flexibilities to accelerate housing delivery in the city sought from Government as part of Greater Brighton Devolution proposals.*

Hyde have developed a distinctive proposal with both types of homes tailored to the specific needs of local people within Brighton & Hove. The opportunity is attractive as it can be delivered quickly as it does not require a lengthy procurement and mobilisation process. It also has the advantage of being a partnership with a trusted partner who has similar aims to the Council and are the only developing Housing Association currently based within the city's boundaries. Hyde also have an excellent track record of delivering new build projects within the city and have delivered more new affordable homes than other Registered Providers and developers in recent years. Hyde also have a good history of bringing additional benefits such as employment, training and apprenticeship opportunities for local people. This makes the JV an attractive opportunity for the Council to accelerate the delivery of lower cost homes for

rent and sale for low income working households that the city so desperately needs whilst generating a return on our investment.

2. What is the Living Rent Joint Venture Proposal?

The proposal is to establish an equal Joint Venture (JV) Limited Liability Partnership (LLP) between Brighton & Hove City Council and Hyde Housing Association. The partners would provide equal funding to build new homes for low working households in Brighton & Hove. The JV would aim to deliver 1,000 lower cost homes for rental and sale, including:

- *500 lower cost homes at sub market prices which are affordable to rent for working Brighton & Hove residents earning the new National Living Wage (assumed delivery from 2019 onwards); and*
- *500 shared ownership homes affordable to buy for Brighton & Hove residents on average incomes.*

3. Why is the council looking at projects like this?

Brighton & Hove is a growing city with high housing prices, low incomes, an ageing population and a significant proportion of households with support needs. There are over 23,000 households on the joint housing register, 1,800 households in temporary accommodation and rising homelessness. Social housing makes up only a small proportion of the overall housing in the city with 9.8% of homes owned by the local authority and 5.1% by Registered Providers (RPs).

Housing demand, growth in the private rented sector and rising rents has an adverse effect on affordability of housing in the City. This has contributed to a decline in owner occupation as those seeking to buy their own home are increasingly unable to take advantage of housing for sale either through cost or as a result of sales of residential accommodation meeting demand from buy to let or other landlord investors rather than prospective home owners.

This increasing housing demand, reduced public subsidy for affordable homes (in particular no national funding for lower cost general needs rented homes) and a shift away from development of rented and family homes remain key challenges identified by the council's Housing Strategy and Budget. This has an adverse impact upon the council's ability to respond to the needs of a growing more diverse population and the council's capacity to maintain mixed and balanced communities and retention of lower income working households and employment in the city.

4. How will you ensure the homes go to local households?

The primary purpose of this JV proposal is to provide lower cost rental and sale homes for low income working households in Brighton & Hove. There is no intention to provide nomination rights or access to households who do not live or work in the City.

Our Housing Strategy highlighted key themes including the availability of affordable family homes, in particular rented homes, and the economic impact of this lack of housing supply on our ability to retain lower income working households and employment in the City. In our Housing Strategy we are committed work collaboratively with Adult Social Care, Children's Services and Health colleagues to meet our shared objectives including the availability of homes in the city to meet the needs of their workforce and those of other employers for

whom the recruitment and retention of lower income workers in Brighton & Hove has increasingly become an issue. The proposed Living Wage Joint Venture would align to our strategic aim of contributing to addressing this issue.

The Living Wage proposal concurs with the Council's draft Allocation Policy which proposes an income cap against size of accommodation needed so that those high earners who can resolve their housing in the private rented sector are no longer on the Housing Register whilst retaining those on lower incomes who would benefit from the Living Wage housing. The income caps have been set such that households who could expect to pay more than half of their income on average market rents would be retained on the Register whilst those who would expect to pay a lesser percentage would no longer be on the Register and hence would ensure they do not benefit from Living Wage homes. The Council can also develop a Local Letting Policy for these properties to give priority to those on the Housing Register who are working.

With regard to lower cost homes for sale, the proposal does not including making use of Government funding which enables us to limit availability of homes to households who live and work in Brighton & Hove. Government shared and lower cost home ownership schemes are resourced to meet national housing strategy requirements and do not apply local connection criteria with regard to applicants for homes for low cost sale developed through Registered Providers in the City.

5. What are the wider benefits of the joint venture?

There are a number of potential wider benefits of the JV for the city, these include:

- *700 opportunities for education, training and apprenticeships*
- *An average of over 400 FTE construction jobs supported each year for 5 years*
- *4,500 direct and indirect jobs supported*
- *After leakage and displacement, the joint venture produces over 2600 net new jobs*
- *Estimated Gross Value Added to the economy of £350M over 5 years*
- *New Council Tax revenues – see Finance section below*
- *New Homes Bonus – see Finance section below*
- *£6M of direct investment into new civic and community infrastructure through S106, benefitting the wider city*

6. Could the JV deliver more than 1,000 homes?

The Council has looked at the potential for Joint Ventures to also deliver larger estate regeneration projects, but any such projects would be brought forward as separate proposals with their own bespoke financial model and funding proposal that would need to be agreed by the Housing & New Homes and Policy, Resources and Growth Committees.

We may also be approached in the future with other JV proposals. These would also have to be carefully considered to ensure compliance with our strategic, financial, procurement and governance requirements, including approval through Committee under existing procedures.

Any increase in the scale or funding for the project proposed with Hyde (such as increasing the number of homes beyond 1,000) would be a reserved matter and require the unanimous approval of the investors (which for the Council would require new Housing & New Homes and Policy Resources & Growth committee approvals).

7. Why doesn't the Council do this on its own?

The Joint Venture means that the council is able to share investment and risk with Hyde to double the capacity available for building new homes by delivering them through a Joint Venture. Working in partnership with Hyde also means that we are able to benefit from their volume buying power as they build an average of 1,500 new homes a year, providing efficiencies and economies of scale. This means that more than double the amount of homes can be built than if the Council progressed the project on its own.

FINANCES

8. How much would each partner invest in the Joint Venture?

It is estimated that each partner would need to invest £53M (a total of £106M) to deliver the 1,000 homes. Within this overarching financial model and business case, each proposed scheme would be subject to separate financial viability testing and approval process.

9. Where will the council borrow the money from?

For financial modelling purposes it has been assumed that the Council will use the Public Works Loan Board to borrow the required equity. Any new borrowing will have to be deemed affordable, prudent and sustainable in order to meet the requirements of the Prudential code. The full due diligence process on the business case/business plan of the JV would meet this requirement as it would demonstrate that the borrowing is affordable for the council to repay debt from the council's share of surplus returns from the JV. Actual investment decisions will be made appropriate to the funding terms agreed in the Members agreement.

The Council follows the Prudential Code, and any new borrowing limits (i.e. the maximum the council is able to borrow) is approved by Budget Council within the budget report each year.

10. What is the expected return on investment?

The Financial model has estimated that the rate of return for the model is in the region of 8%. This is considered a good rate of return.

11. What is the expected Council Tax from the new homes?

It is estimated that the delivery of an additional 1,000 properties in the city would raise in the region of £0.830 million in council tax income per annum, this is an estimate based on a number of assumptions such as council bands, discounts applied and assumed council tax increases.

12. What is the expected New Homes Bonus from the new homes?

It is difficult to assess the additional revenue relating to the New Homes Bonus scheme as the Government is amending the scheme. Under the current scheme, the council could receive a maximum of £1.25 million per annum over 4 years for delivery of 1,000 properties, if these were over and above the number of properties that fall out of the scheme or potentially receive a significantly reduced sum.

13. How will value for money be assured with the provision of works, goods and services to the Joint Venture?

Goods, works and services purchased by the JV (which will be a Limited Liability Partnership or LLP) will be subject to a procurement process (for example consultancy and construction services). The proposal is to use Hyde's competitively tendered Open Journal of the European Union (OJEU) compliant consultancy and construction frameworks. Each development delivered under the framework will have its own procurement process within the framework with a mini-competition undertaken between contractors providing a further opportunity to test value for money, ensuring that economically advantageous price is achieved and reducing the risk of anti-competitive behaviour and/or supplier complacency.

Other organisations have joined the Hyde's frameworks so that they can access the services and reduce procurement timescales and complexity (including other Housing Associations Registered Providers and Local Authorities). Hyde generally charge for access to their frameworks, and it is worth noting that other local authorities and housing associations are paying Hyde considerable sums to use them. It has been negotiated and agreed that Hyde will not charge these access fees to the JV when the LLP is buying goods or services through the frameworks. The LLP will also benefit considerably from Hyde's volume buying power, providing efficiencies and economies of scale.

Project monitor

The joint appointment of an independent Project Monitor will provide an additional layer of assurance for both the Council and Hyde as they will provide a full value for money assessment of each contract that is delivered through the JV. Projects will not proceed without assurance that the individual project represents value for money.

Mutual benefits and incentives

While the primary purpose of the joint venture is to provide lower cost housing for low income working households in Brighton & Hove, there is a commercial rate of return expected to be returned from the Council's investment. The proposed legal and financial structure of the JV ensures that both parties' interests are aligned through the investment returns. The only way either Hyde or the Council can earn a profit from the venture is through the investment return on its equity invested. Therefore for Hyde to be making money from the venture the Council would be earning exactly the same return. In simple terms what's good for Hyde financially in the JV is good for the Council. The structure therefore gives assurance as it motivates the right behaviours of the Council's JV partner, in this case Hyde, as it is in the mutual interests for both parties to minimise all costs to maximise the return on their investment. This helps to ensure value for money for both parties.

14. What are the costs of running the company and board?

The main costs for running the board will be officer and Member time and costs associated with arranging and holding board meetings. These will need to be covered by both parties in the JV and it is likely that council or Hyde building will be used to host board meetings.

There is currently an indicative allowance of £60K per annum for corporate and financial services within the financial model. The provider of these services (which could be the Council) will need to ensure that full costs are recovered and this will be subject to a final schedule of services agreed with the LLP.

15. What sensitivities have been tested?

The following sensitivities have been tested:

- Inflation assumption reduced to 1% over 60 years
- Rents reduced to 30% of living wage
- Construction costs increase by 10%
- Market Value of properties decrease by 5%
- National Space Standards applied
- Market Value of properties increase by 5%
- Construction costs decrease by 10%
- Loan rate sensitivity

16. How are the figures for Market Sales calculated?

The assumptions come from Hyde's experience of having sold several hundred shared ownership homes locally and a market research exercise by Hyde. The final values would of course vary by site and actuals could be lower or higher than the average assumed but the figure used for the financial modelling is considered to be achievable under current market conditions. The financial modelling we have completed to date shows that there are significant surpluses within the model.

17. Why has the council not produced its own financial model?

The Strategic Financial Viability Model produced by Hyde is considered to be an industry standard form which uses prudent financial assumptions and forecasts to analyse the financial viability of major capital projects.

The model is an open excel file which has been reviewed and analysed by the Council's Finance team and is considered to be an adequate financial modelling tool. The Council's audit of the model shows that the calculations and cashflows calculate correctly and the financial inputs and outputs of the model have been validated by the Council's Finance team.

Brighton & Hove City Council has developed its own excel viability modelling for its smaller developments in the New Homes for Neighbourhood programme, which has commenced the delivery of over 200 homes to date. Both financial models use a similar set of parameters and assumptions, except that Hyde's model is a more sophisticated modelling tool appropriate to the size and complexity of the proposed Joint Venture and therefore more appropriate to use for reviewing the JV business case proposal.

The Council has reviewed the model and its inputs, testing assumptions and auditing the validity of the outputs being produced. The Council's Finance officers, who are experienced in providing support for the New Homes for Neighbourhood programme and other major projects, have then updated and reproduced the excel financial model to test various scenarios and the sensitivity of the financial business case.

Additional independent financial/treasury management advice will be sought as part of further due diligence review to ensure financial risk exposure to the council is kept to a minimum and benefits of the proposals are achieved.

In conclusion, the Council's Finance officers are satisfied with the validity of the financial information produced using the SFVM.

18. What would happen if a number of issues happened at the same time e.g. house prices drop, construction costs increase, deflation and not being able to sell shared ownership properties?

The purpose of the Joint Venture is to deliver 1,000 lower cost rented and sale homes for low income working households. The financial modelling to support the business case for the JV proposal shows that in addition to providing 1,000 homes the JV is forecast to generate a significant long term financial return for the Council and Hyde.

Officers have tested several different scenarios that could impact on these surpluses and the ability to fund repayment of general fund borrowing used to fund the Council's equity investment and are satisfied that the financial case is sound and robust. Although unlikely to all occur, the effect of these possible combination scenarios has been tested and although they could reduce the returns, the forecast return to the council would still be positive.

19. What happens if the JV is not able to sell the shared ownership properties?

The risk of selling shared ownership properties is considered to be low; the cost of buying a shared ownership property from the scheme is comparable or lower than the cost of privately renting in Brighton & Hove and is therefore an attractive option for local buyers who are unable to afford to buy 100% of a property. Whilst the strategic financial model shows 500 shared ownership properties being constructed, the reality is that these would be developed in phases over 5 years, so at no time would the Council be exposed to the risk of 500 shared ownership sales (the maximum would be around 50 sales at any one time).

If homes were not selling or were selling at reduced prices, this would trigger a review of the business plan by the JV partners. Hyde has a strong track record of developing and selling shared ownership property and has evidence of sustained demand for property in the Brighton & Hove area. House prices could fall up to 48% before the Council and Hyde would face losses on the shared ownership properties being proposed. This is a much higher margin than for most speculative developers of even outright sale housing, who typically work on gross margins of between 15 – 25% subject to the risk of a given project. Therefore, whilst there is risk in developing and selling shared ownership housing, the risk is mitigated by the phased nature of the business plan and the margin.

It should be noted that as well as downside risks modelled and shown above, there is the possibility that returns to the investors could be higher as the economic situation could improve in a way that favours the financial model.

20. Why is this not being undertaken through the Housing Revenue Account?

The Housing Revenue Account (HRA) does not have financial capacity to deliver the significant amount of lower cost rented housing required in the City. This position means that

the council needs to look at alternative funding and delivery mechanisms to deliver the new lower cost homes this city needs. The option being considered by the Council is to deliver new homes through a partnership through the General Fund.

If circumstances change that increase the financial resources of the HRA, options would be reviewed for increasing housing supply through the HRA. The Council could not fund its equity contribution to the proposed LLP from the HRA as the properties would then be required to be held within the HRA to do this, which they would not be as the properties would be owned by the LLP.

21. What are the risks for the General Fund?

The Strategic financial viability modelling supports the business case for the JV proposal. The forecast internal rates of return, total gross development value/cost ratio and sensitivity analysis provide financial reassurance that the JV Business Case proposals are sound and robust.

It was highlighted in the September H&NH committee report financial implications that the council's General Fund would need to cover financing costs of borrowing during the construction stage, the estimated costs of this not being significant, ranging between £23-45k.

The Council's equity investment to the JV is incremental and is phased over 5 years; equity funding will only be committed to individual projects that pass agreed viability tests.

The financial performance of the LLP against the Business Plan will be regularly monitored and reported to Members of the Board in accordance with the Heads of Terms and schedule of services.

The LLP will be operated according to sound commercial principles in the best interests of the LLP Members, if economic conditions change over the period, the Board would need to review the Business Plan in order to mitigate any adverse impacts of market changes and could decide to pause or stop the venture depending on the situation faced.

22. Are the maintenance costs in the financial model high enough?

The Strategic Financial Viability Model includes allowances for management, responsive maintenance and life cycle costs for ongoing stock investment (described as major works sinking fund in assumptions table). These costs are based on the actual costs incurred by Hyde and used across its development programme.

The life time costs allowance (sinking fund) would be held in the LLP reserves for future investment when required and no costs associated with the management, maintenance and repair of homes held in the LLP will fall to the General Fund or Hyde.

The Council's Finance department have reviewed the assumptions and costs compared to those used in BHCC New Homes for Neighbourhood (NHFN) viability modelling and consider them comparable and adequate to provide a good quality management and maintenance service, together with adequate allowance for stock investment into cyclical works for example to include replacement windows and roofs and so forth.

23. What if right to buy were to be extended, would this affect the general fund?

The primary purpose of the Joint Venture is to increase supply of lower cost rental and sale homes for low income working households in the city..

There is no indication that the Government intends to extend legislation to cover private corporate entities or partnerships such as LLPs, which are widely used in the private sector. If the Government was to legislate for LLPs to be subject to Right to Buy this would affect a significant number of private / commercial property investors. The risk of Right to Buy legislation being extended to cover these homes is therefore considered low.

If Right to Buy legislation were to be extended to cover these homes it is likely that the legislation would be like current proposals for Housing Associations, with the discount funded from public sector budgets. The financial impact on the Joint Venture would therefore be minimal and potentially financially beneficial. However, as outlined in answers above, a wide range of scenarios and combinations of scenarios have been tested which demonstrate the financial model is robust and could manage a range of negative financial impacts without putting additional strain on the General Fund.

The average cost to market value ratio between development costs and market value of the homes is 52% which demonstrates a paper margin of 48% in investment, this is a considerable buffer against the various risks of the JV.

24. How are rent increases calculated? Could they be 'pegged' to the National Living Wage

Rent increases will be in line with the Consumer Price Index (CPI). This will ensure that rents do not rise at a higher rate than the cost of living and should keep pace with wage increases. This is lower than usual rent increases for Housing Associations and Council's which are generally at CPI+1%.

It is not possible to 'peg' rents to the National Living Wage as these increases are politically controlled. It is not prudent or sensible to make a significant investment decision based on an unknown factor and would not be agreed by the financial advisors for either party in the Joint Venture.

LEGAL ISSUES

25. How would disputes between the JV partners be resolved?

There are two scenarios where dispute resolution would apply.

Firstly deadlock – i.e. no one is in breach of a contractual obligation but there is a lack of agreement between the investors on how to take the JV forward and given both parties have a 50% vote, nothing can progress. This risk is significantly mitigated through a clear Business Plan that is agreed upon and adopted at the outset and which forms part of the JV legal agreement. Therefore the risk is that things change and the business plan cannot be delivered and a disagreement arises on how to proceed. If such a dispute could not be resolved at LLP Board level it would be escalated within each organisation (likely up to the Chief Executives and potentially then Chairman to Council Leader) and non-binding

mediation would be used if required. If agreement cannot be reached following mediation the parties would have options to sell to each other in the first instance (bidding against each other for each other's shares), if this was not taken up by either party there would be an option to sell to third parties or wind up the JV and liquidate the assets. This would be the 'nuclear' option for each investor and a very serious difference of opinion would need to arise for such a route to be taken due to the financial risks involved.

The second scenario is if one party is in breach of its contractual obligations. In this scenario, whilst dispute resolution would hopefully resolve the matter (as above), there would always remain, as with any contract, the risk that the other party could bring litigation. This is the same position as any contract with a third party and the Council will manage it by being clear on the obligations it is signing up to and ensuring it complies with them. If Hyde was in irremediable breach of contract and the Council took legal action, then the Council would also seek reimbursement of its costs together with any other losses incurred.

This is a standard approach to dispute resolution in Joint Ventures and LLPs.

26. Is there a budget for dealing with legal disputes?

The Council would not set aside a separate budget line for potential legal disputes over the 60 years as it is not entering the JV with the intention of becoming embroiled in a dispute and litigating. However, if the Council believed there to be the potential for litigation in the future, then it could consider allowing for a risk provision in its future financial planning with the likely source of funding this provision from LLP returns. This is standard practice when reviewing and monitoring major projects.

If the Council had to litigate for breach of contract then in addition to its losses it would also seek an award for its costs against the defendant.

27. Could the Joint Venture be legally challenged for not using a traditional procurement route?

The Council and Hyde jointly setting up a Limited Liability Partnership (LLP) and agreeing to invest equal amounts into building 1,000 new affordable homes is not classified as procurement of goods or services. The risk of legal challenge has been carefully considered; moreover the setting up of the Joint Venture (JV) is not considered to be procurement, there is no risk of a third party bringing a successful challenge against the Council in relation to the JV. This has been confirmed by independent legal advice.

Our legal advisors have provided advice that the Council can enter into the JV without a procurement process for the following reasons:

- There is no public contract in place between the Council and Hyde – entering into the joint venture itself need not involve the awarding of a contract for goods, works or services;*
- This is public sector co-operation that is permitted under the procurement rules – both parties are public bodies for procurement purposes and could make use of inter-public body exemptions;*
- Public contracts that do exist can be awarded without a procurement process in light of what is known as the Teckal exemption – this allows entities controlled by and delivering activity for public bodies to be awarded contracts without a competitive procurement process.*

28. What happens in the event of Hyde running into financial difficulties or ‘going out of business’?

In the unlikely event of Hyde going out of business or wishing to leave the Joint Venture due to financial difficulties the agreed exit processes would be triggered. The JV proposes an initial lock-in period aligned to the development phase of the partnership where either party were not able to exit. However, if Hyde did go out of business or decide to exit after the lock-in period the Council would have the first option to buy out Hyde’s share of the JV. If the Council were not to take this up Hyde could dispose of their share to another organisation. The buyer would need to meet set criteria to ensure they were appropriate and would also be required to continue to provide the housing as envisaged in the business plan.

Hyde have been in operation for 50 years and now have a portfolio of 50,000 homes making it is one of the largest Housing Associations in the UK. Hyde is a stable and well run business which has consistently demonstrated the ability to trade through difficult financial circumstances, growing its profitability consistently year on year, whilst investing significantly in providing affordable homes for local people in housing need.

The LLP Member’s Agreement would deal with circumstances in which either Hyde or the Council has defaulted on its obligations under the Member’s Agreement or ceased trading.

In the unlikely circumstances either party was found to be in default of its obligations under the Member’s Agreement, “the defaulting party”, in the event the defaulting party did not act to remedy the breach, that party would become liable to transfer its interest in the LLP to the other party at a discount to Fair Value (typically at 90%). In the event of insolvency (or equivalent default for the Council), the defaulting Member’s share would be transferred at 100% of Value or sold to another party, subject to the agreed Business Plan.

These are usual and customary provisions which would be expected to be incorporated into a Limited Liability Partnership Member’s Agreement.

GOVERNANCE

29. Will councillors be on the JV Board?

It is for the Council to determine who represents it on the JV Board and this could include elected member representation. There are arguments for and against, in the case of the latter largely around potential conflicts of interest. However, in response to feedback from Councillors officers are working on the basis that the JV Board would require elected member involvement to enable agile decision making. This is ultimately a decision for elected members.

30. Who will chair JV Board meetings and will they have a casting vote?

The Chair will not have a casting vote. It is likely that the Chair would change annually with each investor taking it in turn to Chair.

HYDE HOUSING ASSOCIATION

31. Have financial checks of solvency been carried out on Hyde?

Yes - preliminary checks have been completed and it is considered that Hyde's financial standing is acceptable to the Council for this project. A further full and in depth review of the group, including assessments of future risks, will be undertaken as part of the due diligence process, which is standard council practice for any major projects.

32. Why did the London & Quadrant Housing Association and East Thames merger not go ahead?

Both Hyde and L&Q mutually agreed to end their merger discussions when it became apparent to the Shadow Board that the practical difficulties of merging two large and complex organisations meant that the operational efficiency savings envisaged would take longer than expected and therefore would not deliver sufficiently against the merger business case.

Hyde is financially sound and well governed, as indicated by its financial and regulatory ratings, and is proceeding with a programme of operational efficiencies to make savings from its core business in order to fund an expansion of its housebuilding programme and expects to make an announcement in this regard shortly. In short Hyde's board felt there was a stronger case for being able to deliver against its core objective of providing quality services to residents and additional investment into affordable house building on its own than was possible joining up with L&Q.

DEVELOPMENT SITES

33. How will the council ensure all sites have the correct valuation?

The sites will be valued by an independent valuer following a process agreed by the council's Property & Design team and any disposal to the JV will be the subject to the agreement of Policy Resources and Growth Committee. This will be a transparent process which follows agreed principles and meets the requirements of Best Consideration legislation.

Entering into the JV does not change the Council's processes or statutory obligations in disposing of land for best consideration.

34. Will the JV get all the council's best sites?

The Council and councillors will have full control over deciding on any sites to be transferred to the JV as all land transfers will need to be agreed by Policy, Resources and Growth Committee under existing arrangements. Consultation would be undertaken with ward councillors and other relevant members similar to for sites used in the New Homes for Neighbourhoods programme.

Any land to be transferred would need to be independently valued to allow the Council to meet its duty to obtain best consideration. This would be undertaken by an independent valuer following an agreed process and principles. The independent valuer would take into account the likely construction costs of developing a given site when calculating the residual land value, so lower construction costs would be reflected in a higher residual land value (i.e. land receipt to the Council) and vice versa.

SHARED OWNERSHIP

35. What is the management company model for Shared Ownership properties once properties are sold?

The shared ownership properties would be managed by either Hyde or the Council depending on who is appointed to provide the LLP with property and asset management services.

Management of shared ownership homes is principally leasehold management consisting of collecting rent and dealing with consents and so forth under the lease. Consents would incur a charge and are therefore self-funding. As for dealing with arrears of rent, this would incur reasonable administration fees which are recovered along with arrears. As there is generally a mortgagee with a charge over the property then arrears of rent and service charge can be passed through to the mortgagee if the leaseholder (the mortgagor) fails to make payments due under the lease.

The lease for shared ownership properties passes the obligation for interior maintenance on to the leaseholder, with an obligation to pay a fair and reasonable proportion for exterior and structural repairs. The service charge includes allowances for the management costs of providing the services (approximately 15%).

36. How would the sale and re-sale of the shared ownership homes be managed?

Unlike some Housing Associations Hyde have a preference for selling shared ownership homes on as shared ownership products rather than on the open market. This means that the affordable home is not lost if the owner decides to sell. This will be applied to shared ownership homes managed by the JV where possible.

HOUSING & NEW HOMES COMMITTEE	Agenda Item 41 Brighton & Hove City Council
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Subject:	Housing Delivery Options – Wholly Owned Housing Company		
Date of Meeting:	16 November 2016 – Housing & New Homes Committee 8 December 2016 – Policy, Resources & Growth Committee		
Report of:	Executive Director Economy, Environment & Culture		
Contact Officer:	Name:	Martin Reid Sam Smith	Tel: 01273293321 01273291383
	Email:	martin.reid@brighton-hove.gov.uk sam.smith@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

- 1.1 Housing & New Homes Committee on 21 September 2016 considered a report requesting members recommend to Policy, Resources & Growth Committee delegation of authority to relevant Executive Directors to progress a wholly owned special purpose vehicle with reserved matters coming back to Committee for approval. Committee resolved: *That a decision be deferred to the next meeting of the Housing & New Homes Committee to ensure that members can feel fully supportive of the proposals.* Following September Committee further work has been undertaken seeking to address key concerns of councillors through additional briefings offered to Housing spokespersons and their lead members / political groups. Details of briefings are outlined in this report.
- 1.2 This report covers a wholly owned Special Purpose Vehicle or Housing Company. This proposal is informed by outcome of the Housing Market Intervention options study presented to Housing & New Homes Committee in March 2016 who approved the report and agreed to the procurement of legal and other specialist advisers to pursue this work. Following the deferral of the previous report at the September meeting Members requested that the proposal for a wholly owned Special Purpose Vehicle or Housing Company and a separate the proposal for a Joint Venture with Hyde Housing be presented in individual reports.
- 1.3 This report focuses solely on seeking approval to establish the wholly owned Housing Company. It details the kinds of projects that the company will deliver, but does not seek approval to progress each specific project. Specific projects will be the subject of future detailed business cases, with each reported to future Housing & New Homes and Policy Resources & Growth Committees for approval as required. The proposal is for the council to develop a wholly owned housing company to deliver additional homes in a range of ways: including intervening in the housing market as a potential purchaser / lessee of new accommodation being

brought forward on development sites in the city or sub-region in order to meet identified housing needs; and, the direct development of new homes.

- 1.4 The key aim of this project is the provision of lower cost rented housing. Supply of new lower cost rented homes is not keeping pace with demand and there is limited evidence of market appetite from developers and Registered Providers to deliver this product. There is also potential to generate a long term income for the council through funding returns and/or a margin through lending from the council.
- 1.5 The council has appointed Bevan Brittan LLP as its legal advisors for this project. This report provides an overview of the proposal to establish a wholly owned Special Purpose Vehicle to provide a range of options to increase the supply of homes. This report relates to the establishment of the company structure only; any projects to be delivered by the company and their funding will come to future committee meetings as separate decisions. Appendix 1 provides an overview of legal advice to date on the establishment of a wholly owned Special Purpose Vehicle or Housing Company.

2. RECOMMENDATIONS:

2.1 That Housing & New Homes Committee:

- i) Recommends the report to Policy, Resources & Growth Committee as out at paragraph 2.2

2.2 That Policy, Resources & Growth Committee:

- ii) Give delegated authority to the Executive Director of Economy, Environment & Culture in consultation with the Executive Lead Officer for Strategy Governance & Law and Executive Director of Finance & Resources to:
 - a. progress a wholly owned Special Purpose Vehicle or Housing Company to support the provision of additional homes in the city;
 - b. agree and authorise execution of documentation required to implement the model;
 - c. make the appointments to the management board;
- iii) Note that future projects will come back to committee for approval including any business plans and the disposal of land/sites.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Brighton & Hove is a growing city with high housing prices, low incomes, an ageing population and a significant proportion of households with support needs. There are over 23,000 households on the joint housing register, 1,800 households in temporary accommodation and rising homelessness. Social housing makes up only a small proportion of the overall housing in the city with 9.8% of homes owned by the local authority and 5.1% by Registered Providers (RPs).
- 3.2 Housing demand, growth in the private rented sector and rising rents has an adverse effect on affordability of housing in the city. This has contributed to a decline in owner occupation as those seeking to buy their own home are

increasingly unable to take advantage of housing for sale either through cost or as a result of sales of residential accommodation meeting demand from buy to let or other landlord investors rather than prospective home owners.

- 3.3 This increasing housing demand, reduced public subsidy for affordable homes (in particular no funding for lower cost general needs rented homes) and a shift away from development of rented and family homes remain key challenges identified by the council's Housing Strategy and Budget. This has an adverse impact upon the council's ability to respond to the needs of a growing more diverse population and the council's capacity to maintain mixed and balanced communities and retention of lower income working households and employment in the city.
- 3.4 For stock holding authorities such as Brighton & Hove, the Housing Revenue Account debt cap, reduction in rental income of 1% per annum over the next four years and the potential impact of Housing & Planning Act (in particular proposed High Value Void tariff) will restrict resources available for new build and regeneration.
- 3.5 The HRA medium term and 30 year financial forecast was reported to Housing & New Homes Committee (13 January 2016) which showed that the council is nearing its self-financing cap (or limit) on the amount of HRA borrowing permissible for capital investment. For Brighton & Hove this limit is currently set at £156.8 million and the outstanding debt reaches its peak in 2023/24 where the borrowing level is £147.4 million leaving headroom of only £9.4 million.
- 3.6 This position means that the council needs to look at alternative funding and delivery mechanisms if it is to deliver the new affordable homes the city needs. The council has also been looking at opportunities including those related to the structures researched in the proposed Joint Venture with Hyde Housing Association.
- 3.7 Options to mitigate reduced public subsidy for affordable rented homes and Registered Provider shift away from development of this type of accommodation have been subject to regular discussion and review at our Affordable Housing Delivery Partnership (RPs, Homes & Community Agency (HCA) and council) meetings. In particular, as addressing the acute shortage of affordable rented homes and in particular family housing has been identified as a key priority in our Housing Strategy.

Wholly owned Council Housing Company

- 3.8 The council would like to take forward the establishment of a wholly owned special purpose vehicle or housing company. This has become common practice amongst local authorities and will provide the council with flexibility to look at a wide range of housing delivery options including those identified in the previous Housing Market Intervention report and continuing to develop new homes directly through the New Homes for Neighbourhoods programme.
- 3.9 As reported to March 2016 Housing & New Homes and Policy & Resources Committees Savills and Trowers & Hamblins were procured by the council to review options for the council to intervene in the local housing market as a potential purchaser (or lessee) of new housing being brought forward on development sites in the city. The aim would be to meet housing needs, including delivery of homes

let at Local Housing Allowance (LHA) rates to households to whom the council owes a statutory duty to accommodate.

- 3.10 The principal assumption in the case studies is that the council would be able to use its position of influence and financial strength to acquire a number of properties off-plan, at a discount to full market value based on the property acquisition assumptions. The financial modelling then uses market information and reasonably standard assumptions in terms of rental yields and operating costs, to show if/how such a proposition could be financially deliverable. Case study financial modelling shows a proposition which could be viable from the perspective of the company and council.
- 3.11 The Housing Market Intervention report was commissioned from Savills and Trowers & Hamblins sets out the options which are likely to be available in funding and structuring a new council vehicle to support the objectives of this project and outlines the principal funding options. Whilst there is a wide range of options in terms of structuring (including third party involvement through a JV), and in funding (including third party or internal funding arrangements), the likelihood is that the objectives of this project could be most effectively delivered through a wholly owned and funded company. This is a relatively straightforward route which is being followed by a number of local authorities for similar projects.
- 3.12 The kinds of projects that could be undertaken through the company include:
- Purchasing properties off-plan to address a particular housing need
 - Continuing to deliver the New Homes for Neighbourhoods Programme through a new delivery mechanism
 - Delivery and management of new models of temporary accommodation
 - Buying street properties to provide a new supply of accommodation to address housing need
 - A vehicle for delivering new models of low cost housing through innovative modular and system build
 - Delivering new forms supported housing to address Health & Social Care budget pressures
 - Working with partners such as the Community Housing Network to deliver new housing community focused housing in response to the Fairness Commission recommendations
- 3.13 All projects proposals will be considered by the cross-party Estate Regeneration Board and Housing & New Homes Committee at the initiation stage, and any project with corporate or financial implications or that relates to our investment in land and/or property assets will be presented to Policy, Resources & Growth Committee for approval.
- 3.14 Bevan Brittan has advised that establishing a wholly owned company is now common and relatively straightforward to achieve. As well as exploring the opportunities to purchase 'off-plan', the company would give the council more flexibility in developing a range of ways of delivering additional housing in the city and managing properties. Bevan Brittan LLP advise that the company structure could be used for continuing the management and financing of homes built directly by the council through the New Homes for Neighbourhood Programme.

3.15 Should the council take forward a new council owned and funded company, in terms of funding, the Savills and Trowers & Hamlins report assumes that the council provides the company with finance to allow it to acquire the properties. The financial arrangements between the council and company are then set up so that:

- They are fully compliant with the regulatory environment (tax, state aid and other government regulation);
- The company can afford to meet its financial commitment (interest payment to the council) from the retained net rental income – i.e. it has a viable and deliverable Business Plan;
- The council receives sufficient payment from the company to allow it to cover the additional interest cost it will incur in raising the finance provided to the company.
- Take into consideration the risks identified in paragraph 4.1 in this report.

4. RISK AND OPPORTUNITIES

4.1 A number of risks have been identified by the project team and the council's legal advisors:

- **Consents and Best Consideration:** Failure to structure arrangements to meet general consents could mean needing to go to the Secretary of State which would create uncertainty over timing and ultimately whether or on what terms consent would be given. Legal advice has been taken to ensure regulations are met.
- **State Aid:** An issue if contribution of land for no consideration or additional rights. Legal advice is being taken to ensure that the project is compliant.
- **Site identification:** Not able to identify suitable. Sites are being reviewed and any council sites will be brought to future committees once identified.
- **Project financing:** Understanding of financial risks and mitigation. Due diligence analysis will be undertaken on specific proposals.
- **Governance:** The governance structure needs to be fit for purpose in managing delivery of development and does not cause inappropriate conflict issues. Bevan Brittan's legal team are working to develop a structure that best meets the council's interests.
- **Planning:** Changes to national and / or local Planning policy framework. Including potential impact of Housing & Planning Act, in particular in relation to Starter Homes. Not able to gain planning permission for specific schemes or maximise capacity of sites. Early planning advice will be taken on individual schemes.
- **Community opposition:** Potential opposition to schemes. Communities will be engaged in a similar way to they have been for the New Homes for Neighbourhoods programme, for example using Planning for Real techniques.

- **Tax:** Tax implication and liabilities such as SDLT and VAT need to be reviewed in relation to the proposed structure. Tax advice has been sought on the proposed suture and will be reviewed with any relevant changes.
- **Housing Market and construction costs:** Impact of any future economic uncertainty on the housing market and construction costs will be monitored.

5. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 5.1 The council has been investigating a number of delivery options in order to find a range of mechanisms to increase the supply of affordable housing in the city. This includes the work undertaken in the recent Housing Market Intervention report by Trowers & Hamlins and Savills, as well as recent JV proposals from Hyde Housing.
- 5.2 Alternative options that have been considered are provided in the list below. It is likely that a range of delivery options will be progressed in the longer term in order to maximise the delivery of new homes. Individual proposals would need to be agreed by relevant committees.
- Wholly owned council vehicle e.g. Housing Company
 - JV with a Registered Provider
 - A procured joint venture
 - Disposal of sites to private developers
 - Do nothing

6. COMMUNITY ENGAGEMENT & CONSULTATION

- 6.1 General consultation on our approach to stimulating new house building, making best use of our Housing Revenue Account (HRA) assets and estate regeneration through the New Homes for Neighbourhoods programme has been undertaken with councillors, council tenants and leaseholders through reports and presentations to Housing & New Homes Committee. The cross party Estate Regeneration Members Board oversees development and delivery of our estate regeneration activities.
- 6.2 Consultation with residents and ward councillors on specific schemes and sites will require a similar level of community engagement as with the existing New Homes for Neighbourhoods Programme, for example Planning for Real techniques. This has followed a comprehensive process with ward councillors, residents and other stakeholders engaged and consulted at all key stages of individual projects. Consultation will also be undertaken via the Planning process.
- 6.3 Housing & New Homes Committee on 21 September 2016 considered a report requesting members recommend to Policy, Resources & Growth Committee delegation of authority to relevant Executive Directors to progress a wholly owned special purpose vehicle with reserved matters coming back to Committee for approval. Committee resolved: *That a decision be deferred to the next*

meeting of the Housing & New Homes Committee to ensure that members can feel fully supportive of the proposals. In addition to briefings undertaken prior to the September Committee report, further briefings & updates for members have been undertaken since Committee.

7. CONCLUSION

- 7.1 The establishment of a wholly owned housing company will give the council the flexibility to provide additional housing in a range of ways including purchasing off plan as outlined in the Housing Market Intervention report and continuing to directly develop new homes through the New Homes for Neighbourhoods Programme. Establishing this type of Housing company is now 'tried and tested' by other local authorities and relatively straightforward way to increase options and opportunities for the council to deliver new homes.

8. FINANCIAL & OTHER IMPLICATIONS:

- 8.1 The recommendation in paragraph 2.2 is for delegated authority to progress and implement the establishment of a wholly owned Special Purpose Vehicle or Housing Company to support the provision of additional homes in the city. If this recommendation is approved, finance officers will assess the financial implications upon development of the proposals to ensure financial due diligence is followed, minimising financial risk to the council and achieve the benefits this proposal sets out to achieve. Future projects including any business plans to support them and the financial implications will be required to be reported back to the appropriate committee.
- 8.2 It is anticipated that the cost of the appointed legal consultants to provide expert legal advice will be met within the total capital budget allocation of £0.151 million for this Housing Delivery Options. If there are any significant variations to these costs, this would be reported and approval sought through the council's budget management process.

Finance Officer consulted: Susie Allen

Date: 07/11/16

Legal Implications:

- 8.3 As set out in the body of the report, the Council has appointed Bevan Brittan LLP as its legal advisor. The legal advice so far is set out in the body of the report as well as in Appendix 1 attached to this report.

Lawyer consulted: Jo Wylly

Date: 7/11/16

Equalities Implications:

- 8.4 An increase in housing supply will extend opportunities to provide new, well designed homes to accommodate households on the Housing Register who are in housing need.

Sustainability Implications:

- 8.5 Attaining high sustainability standards is an important in delivering homes that are energy efficient, minimise carbon emissions and reduce water usage. Addressing fuel poverty and reducing total costs of rental or ownership is also an important consideration.

SUPPORTING DOCUMENTATION

Appendices:

1. Bevan Brittan advice to BHCC on the establishment of a wholly owned Hosuing Company or Special Purpose Vehicle

Documents in Members' Rooms

None

Background Documents

1. Housing Delivery Options - Housing & New Homes Committee Report 2 March 16
2. Housing Delivery Options – Policy & Resources Committee Report 17 March 16
3. Housing Delivery Options - Housing & New Homes Committee Report 17 September 16

Crime & Disorder Implications:

- 9.1 The development of Special Purpose Vehicle and / or Joint Venture partnerships offers the opportunity to provide new, well-designed homes which link to the council's wider regeneration aspirations for the city, including the council's economic development and sustainability objectives. Well-designed urban housing has been shown to influence the rate of crime and disorder as well as the quality of life for future occupants.
- 9.2 Vacant sites can sometimes attract anti-social behaviour. With careful planning, the future development of these sites is likely to improve the safety of existing neighbourhoods by reducing crime and the fear of crime.

Public Health Implications:

- 9.3 There are strong links between improving housing, providing new affordable homes and reducing health inequalities. Energy efficient homes which are easier and cheaper to heat are likely to have a positive influence on the health of occupants of the new homes.

Corporate / Citywide Implications:

- 9.4 Increasing Housing Supply is a City Plan and Housing Strategy priority. In particular, meeting our housing target of 13,200 new homes in the City by 2030.
- 9.5 In addition, in our Housing Strategy (2015) priority of increasing housing supply to meet identified needs, we are committed work collaboratively with Adult Social Care, Children's Services and Health to reduce long term social care cost pressures and address issues arising with recruitment and retention of lower income staff in the City essential to the operation of these services.
- 9.6 In exploring Housing Delivery Options we are also working in support of the following Corporate priorities:
 - **Increasing Equality**- Coordinate services and spending better between public services to improve equality.
 - **Economy, Jobs and Homes** - Enable development of new, affordable homes, working with government, Registered Providers and other partners to maximize investment.
 - **Health & Wellbeing** - support for key worker housing to meet Health and Social Care employee requirements.
 - **Contributing to the Medium Term Financial Strategy** - Maximising New Homes Bonus and Council Tax revenue resources through improving housing supply; Ensuring Housing investment aligns with the Corporate Plan priorities.
 - **Greater Brighton** – Accelerating housing delivery through exploring housing market intervention / housing company models at a Greater Brighton level. Delivering activity alongside other initiatives and ensuring that the

strength of the housing market is captured to meet local needs including housing type and tenure

9.7 Housing Delivery Options proposals will bring a number of benefits to the city and council including:

- New affordable homes
- Potential long term revenue income from surpluses
- Regeneration of key sites and public realm improvements
- Each new home has potential to generate new Council Tax and New Homes Bonus
- Any business and retail units will generate additional Business Rates
- Potential £3 of economic output for every £1 of public investment based on national calculations
- Apprenticeships and training
- Potential regeneration of existing council stock that is in need of investment or coming to the end of its life

BRIGHTON & HOVE CITY COUNCIL

ADVICE ON HOUSING PROJECTS

1 OVERVIEW

- 1.1 Brighton & Hove City Council (**Council**) is considering establishing a vehicle wholly owned and funded by the Council to fund and provide housing in a range of ways including acquiring developed housing off-plan for rent at local housing allowance levels (**Housing Market Intervention (HMI Proposal)**).
- 1.2 The HMI Proposal follows a reasonably established legal model for local authorities wanting to provide housing outside of the traditional social housing framework. The Council has the power to implement the proposal as envisaged in the HMI Proposal. The structure would provide the Council with the legal framework to fund and provide housing in a range of ways and would provide commercial flexibility for future operation, ownership and funding.
- 1.3 This is a summary paper providing headline advice on the legal viability of the proposal highlighting key areas that will require further advice if either proposal is developed further. This is an updated version of an initial draft issued 3rd June.

2 HMI MODEL

- 2.1 The Council is also considering a proposal for a wholly owned vehicle to fund and provide housing in a range of ways including purchasing new developed properties from the market to provide tenancies at local housing allowance (**LHA**) levels, to households to whom the Council owes a duty to accommodate. This is a reasonably common model. The outline proposal is:
 - 2.1.1 a company limited by shares wholly owned by the Council;
 - 2.1.2 funded by the Council through a mix of debt and equity;
 - 2.1.3 potential for housing to be funded and provided by a range of ways, including the vehicle using the funds to directly purchase the properties off-plan and letting to tenants at LHA rent levels;
 - 2.1.4 the vehicle would contract out management to either the Council or an agent on the market.
- 2.2 It would be possible for the Council to carry out the proposed activity directly without use of a vehicle – i.e. purchase the properties directly and provide tenancies to households to whom it owes a duty to accommodate. Such activity would be outside of the HRA.
- 2.3 The use of a vehicle would provide greater flexibility around future funding / investment, would be required if there was an element of providing housing for commercial purposes, would provide more options around tenancies including ability to enter into assured shorthold tenancies and would provide greater clarity that the housing is not being held within the HRA.

3 CORPORATE STRUCTURE

- 3.1 The Council has the power to establish the proposed structure and fund the company. It is expected that the funding to the vehicle would be on market terms to mitigate state aid risk.
- 3.2 It is likely that given the function of the vehicle is facilitating the Council meeting its statutory duties that the vehicle would be subject to the procurement legislation in the same way that the Council is. The vehicle could be structured to comply with the Teckal exemption, meaning the Council and the company could contract with each other without any need for competitive procurement processes.

- 3.3 There is flexibility as to the exact level of control that the Council would have over the company's operation. The framework and typical levers for authority control are through the governance arrangements (see section 4 below) and the funding and associated security documentation.
- 3.4 The company will be subject to corporation tax on profits earned from its activities. The company is to be partly funded by debt from the Council. Interest payment on the debt should be deductible for corporation tax purposes provided that the interest paid (and the level of debt) is market rate, on an arm's length basis.
- 3.5 The supplies to be made by the company are all supplies of residential property, which is generally exempt from VAT. As such, the company is unlikely to be able to recover VAT incurred on costs, particularly any VAT charged by the Council or agent for management services and ongoing costs of maintenance etc. The acquisition of the properties is likely to be either zero-rated or exempt from VAT, so that there should not be substantial VAT involved in acquiring the housing stock. The company will be subject to SDLT on property purchases from the market.

4 FLEXIBILITY OF MODEL

- 4.1 The proposed model would have flexibility to be used for a range of purposes including other housing activity, for example development of new units, as well as non-housing activity such as owning other general fund property / assets.
- 4.2 The vehicle would be established with unrestricted objects meaning from the company's perspective it could undertake any lawful activity. The shareholder agreement with the Council would restrict the company's activity to what was approved by the Council in the business plan. Therefore it would be for the Council to set the remit of the company's activity and the Council could set this as broadly or narrowly as it would like and would be able to change the approved remit over time as it wished. It would be normal for any substantive alteration of the company's business to be referred back to councillors either through the business plan or, if in year, as a reserved matter (see paragraph 5.2 and 5.3).
- 4.3 Whilst the company would be capable of taking on a very wide range of activity the Council will need to consider in respect of each new activity whether the company would be the most appropriate vehicle. For example, if the Council was looking at bringing in third party investment the Council may want to limit the third party's security to specific assets rather than subjecting a broader range of assets to the security.
- 4.4 Where the vehicle is to be used the most effective way of using it will vary depending on the particular circumstances of activity being considered. For example, on new developments of residential property it is often more VAT efficient for the Council to undertake the development and to then transfer or lease the property to the vehicle. It will therefore be important that the Council retains a flexible view as to how the vehicle could be used and assess that on a case by case basis.
- 4.5 Appendix 1 provides some examples of the different ways in which local authorities are using wholly owned housing / property development vehicles.

5 GOVERNANCE

- 5.1 The governance of the vehicle will be based around the two roles of shareholders and directors.
- 5.2 The Council would be the sole shareholder, and retain overall control over the company through:
 - 5.2.1 its statutory rights as shareholder;
 - 5.2.2 right to appoint and remove the board of directors;
 - 5.2.3 rights created under the shareholders' agreement, importantly the right to approve a business plan and the requirement that certain listed decisions, referred to as "reserved matters", must be referred back to the Council.

- 5.3 The shareholder function is normally undertaken by members. The board of directors then have the remit and discretion to implement the business plan subject to the reserved matters. The level of discretion given to the board depends on the framing of the business case – i.e. how prescriptive or flexible it is – and what the reserved matters are.
- 5.4 It is generally easier to manage conflicts of interests issues for an "officer board member" than for an elected member as the Council can agree to the officer continuing to act as an officer despite potential conflicts and agree not to take action against the individual where the individual is required to act contrary to the interests of the Council due to the person's role as a board member.
- 5.5 Where a board member is a councillor, the person must disclose any potential conflicts of interests and observe the requirements of the Code of Conduct of the Council. The board member must also be careful (when undertaking their Council role) to behave in ways which avoids suggestions of bias or predetermination.
- 5.6 Whilst the Council could grant a dispensation under the Code of Conduct to allow a councillor to continue to take decisions relating to the company within the Council, it is not possible for the Council to avoid accusations of bias or predetermination, especially if the councillor is particularly senior. Participation on the board of the vehicle could therefore preclude a councillor from being involved in decisions within the Council relating to the joint venture.
- 5.7 The risks around conflicts for officer board members are hard to manage where officer directors are responsible within the Council for decisions materially affecting the vehicle. This risk is best mitigated by not putting Council officers who are directors of Council vehicles or joint ventures in roles where they have to make decisions relating to those vehicles. For this reason we would advise against statutory officers (monitoring officer, s.151 officer and the head of paid service) being appointed as board members as they may be required to undertake their statutory roles in relation to the vehicle at some point which would raise difficult conflicts. If this is a requirement we advise careful thought and further advice is taken on how to mitigate the impacts.
- 5.8 For these reasons the Council's proposal is that the board of directors are officers of the Council. This reflects the proposed position on the corporate joint venture with Hyde for the Living Wage project.

6 IMPLEMENTATION

- 6.1 The steps for establishing the HMI vehicle as a company limited by shares are quite straightforward. The following documentation would be required.

Document	Summary
Articles of association and shareholder's agreement	Governance documentation setting out the governance arrangements for the company and the control of the Council as well as terms of equity investment. Areas covered include board composition, basis of funding, reporting obligations, business plan process and reserved matters
Resourcing contract	Contract for the provision of support services and resources to the vehicle in order for it to operate, for example, secondment of staff, assets (including premises from which to operate) and back office services (HR and ICT);
Capital funding agreement including security	Loan for capital required to make purchases / developments as well as security over the vehicle and its assets. Likely to be on a draw-down basis.
Working capital funding	Facility to provide cash flow resource for the vehicle.

- 6.2 Key issues that will need to be worked through in order to feed into these documents include:
 - 6.2.1 level of independence for the vehicle / level of control by the Council;
 - 6.2.2 governance arrangements for the vehicle's board;
 - 6.2.3 basis of funding, including mix of debt and equity;
 - 6.2.4 approach to security for funding documents;
 - 6.2.5 resourcing of the vehicle.
- 6.3 The above documents would establish the vehicle as an entity capable of operating. The more substantive task is determining and agreeing the business plan for the vehicle and the detail of what activity it will undertake. In relation to specific activity, there will be a further phase of documents and considerations, including:
 - 6.3.1 property documentation – e.g. leases and / or transfers;
 - 6.3.2 tax advice on most appropriate approach.
- 6.4 In practice these two phases can be progressed in parallel. To take forward the establishment of the vehicle we could prepare draft documentation for the vehicle together with key issues papers to provide a platform for more detailed consideration of the structure and discussion within the Council. This could then form the basis of a workshop or meeting with the Council to work through the issues and develop an agreed approach to the structure and finalising the documentation. We can of course be flexible as to how the Council would like to take this forward.

[draft] August 2016

APPENDIX 1 – EXAMPLES OF LOCAL AUTHORITY WHOLLY OWNED HOUSING / PROPERTY VEHICLES

Local Authority	Activity / Purpose of Vehicles	Governance Arrangements
London Borough of Harrow	<ul style="list-style-type: none"> • Flexible remit • Purchase of Properties from market for rent to meet temporary accommodation demand. • Ownership of newly developed affordable housing • Ownership of newly developed units for private rent as investment activity 	Board of three, all officers
Runnymede Council	<ul style="list-style-type: none"> • Ownership of private rent stock as investment activity 	Board of three, all officers
Portsmouth City Council	<ul style="list-style-type: none"> • Ownership of general fund assets for development • Ownership of units for private rent 	To be determined
Bournemouth Council	<ul style="list-style-type: none"> • Purchase of units from the market for rent to meet temporary accommodation demand • Purchase of units for private rent to generate return to general fund • Potential for development 	One councillor with remaining officers
London Borough of Hounslow	<ul style="list-style-type: none"> • Ownership of units for private rent for return to general fund • Wide range of broader commercial activity for purpose of generating return to Council 	Two officers and executive director (i.e. chief executive of company)
Teignbridge Council	<ul style="list-style-type: none"> • Direct development of new sites • Route for facilitating self-build • Potential for private rent units 	To be determined

Subject:	Draft Housing Allocations Policy		
Date of Meeting:	16 November 2016 8 December 2016 (Policy Resources and Growth Committee) 15 December 2016 (Full Council)		
Report of:	Executive Director, Economy, Environment & Culture		
Contact Officer:	Name:	James Crane	Tel: 29-3316
	Email:	James.crane@brighton.hove.gcsx.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Last September the Housing & New Homes Committee approved a review and consultation of the council's Housing Allocations scheme, with a new Allocation policy to be brought back to committee for approval. We have now completed this work as follows:
- City wide consultation was carried out from 1st December 2015 to 29th February 2016.
 - Based on all the feedback we developed the new draft Allocation Policy.
- 1.2 Over the past 5 years the Housing Register has continued to grow and now stands at over 24,000 applicants. In the last financial year just over 800 properties were let to people on the Housing Register. Figures of the growth over the last 10 years are contained in table 1 below. The number of applications remained static for the period April 2007 to April 2010. From this point on there is an increase year on year to the end of the last financial year to 23,419.
- 1.3 In table 2 the data is shown by the current allocation bands. Bands A & B show that the numbers in these bands are relatively static over the period. This would be expected as these bands have a higher priority over others on the housing register. The increase in numbers is within Bands C & D on the register. This will reflect the lower priority given.

Table 1

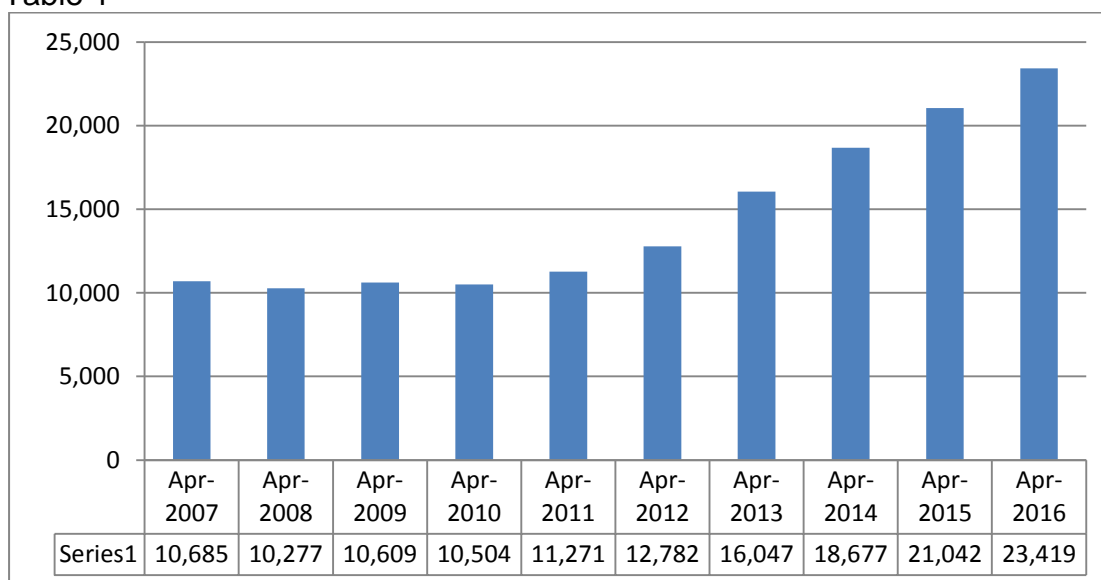
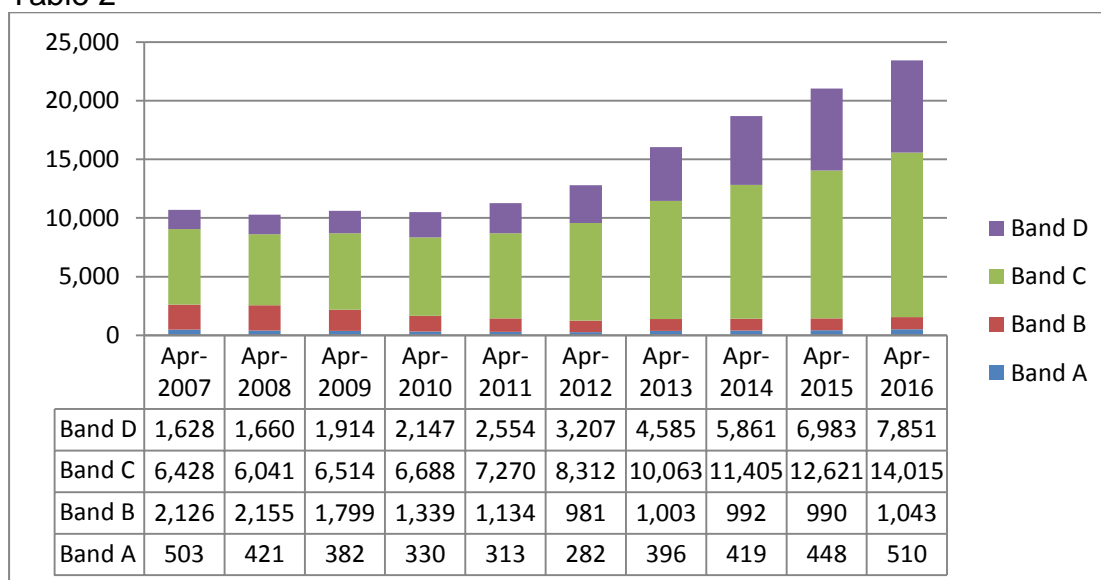


Table 2



- 1.4 This means that there are a significant number of people that the council will never be in a position to assist with social housing and therefore it is not a realistic housing option for many people in the city. In addition, as the majority of households will not obtain housing, the amount of staff needed to manage such a large Housing register is not the best use of resources.
- 1.5 The Council is obliged to have an allocations scheme to determine who it will allocate social housing to (allocations to council tenancies and nominations to its registered housing partners).
- 1.6 In framing the allocations scheme the Council has to take account of the Housing Act 1996 Part VI (as amended by the Homelessness Act 2002) and the accompanying Code of Guidance which sets out who is eligible for social

housing and which groups should be given “reasonable or additional preference” . In addition There are freedoms and flexibilities set out in the Localism Act 2011 to determine who is a qualifying person, which have been taken into account along with statutory instruments regarding housing for forces and ex-forces personnel, which grant reasonable preference to ex-forces personnel who have left military service for longer than five year and additional preference for those that have left within the last years.

- 1.7 The draft allocations scheme also takes account of new provisions of the rights of social tenants who have the right to move from another local authority area under the right to move scheme introduce in 2015.
- 1.8 The Housing Allocation Policy is to be referred to PR&G as there are significant financial implications which are set out in points 7.10 and 7.11.

2. RECOMMENDATIONS:

That the Housing & New Homes Committee:

- 2.1 Notes and comments upon the policy and agree to refer the policy to Policy Resources & Growth Committee (PR&G).

That the Policy, Resources & Growth Committee:

- 2.2 Notes the comments of Housing & New Homes Committee and agrees the policy.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Councils are legally obliged, under the Housing Act 1996 Part 6, to have a policy that must be followed when they allocate social housing both within its own stock or where they nominate to a housing association. In 2011 the Government introduced further legislation that, subject to certain groups having a “reasonable preference” in any allocations policy, the council would be free to make local decisions on how best to allocate housing resources that meets the need of local people.
- 3.2 The Government issued a Code of Guidance to which the council must have due regard to when formulating its Allocation Policy. A Code of Guidance was issued by the Secretary of State for Communities and Local Government in June 2012. This guidance was updated in December 2013 and 2015 to give further guidance on residency and local connection.
- 3.3 The Allocation scheme must also have procedures that include details of who makes decisions under the policy.
- 3.4 Members agreed in September 2015 that there was a need to carry out a fundamental review of the current Allocations Policy. It is recognised that the current scheme at it stands is not necessarily housing our residents in the greatest housing need. It is also important to note that as demand far out weighs supply in this area that by including vast numbers of applicants onto the housing register the council are building up unrealistic expectation that the council is

unlikely to be able to assist most households unless they are in very high need. The growth in the numbers of applicants leads to an increase in administration as people seek to increase their banding on the system. This in turn leads to higher levels of complaints, enquires and bureaucracy that does not lead to any higher number of households being offered housing solutions.

- 3.5 The draft Allocations Policy looks to reduce the numbers of people on the housing register and in doing so looks to exclude those with resources that can therefore resolve their own housing situation. It is also based on assisting those that the council has a statutory duty to provide accommodation such as the homeless, care leavers and other applicants with high housing needs
- 3.6 Although the council has some control over the allocation of accommodation there are a number of factors that the council has to include in order for the allocations scheme to be considered lawful, i.e. the legislation sets out who we have to give reasonable preference and additional preference to. For anyone to be allocated accommodation they will have to be considered eligible under the Act.
- 3.7 The current allocations policy was written at a time when housing in the city was in lower demand and supply was also higher. Over time the housing stock has reduced and the council as landlords; have increasing success in supporting existing tenants to sustain their tenancies and therefore the number of properties that have become available for letting have reduced.
- 3.8 This policy will be applied immediately following approval at Full Council. All new applications to join the housing register will be assessed against the new policy in addition to all allocations (or offers) of accommodation immediately after approval of the policy. Running concurrently there will be a reassessment process carried out on all current applications that is expected to take until March 2017
- 3.9 The anticipated result of this process is that the Housing Register will reduce in size from the current 24,000 applications to a more manageable register where those who are included will have a more realistic chance of being offered accommodation. Those that have very low or no housing need will not be able to join the housing register but will be offered housing options advice on alternative options that can help them resolve their housing situation
- 3.10 The housing register currently contains very high numbers of applicants that have applied to join the register and then have not gone on to make any bids for accommodation or have failed to make any bids within the past twelve months. There are also a high proportion of applicants who have not made any bids for over five years or more. The proposed policy will remove those households unless there are extenuating circumstances
- 3.11 The new draft allocations policy has made a number of key changes that were consulted on widely with residents, community group, service providers and applicants. The key changes are:
 - Change to local connection : increased to five years residency from the current two, with a number of exemptions required
 - Exclude people with no housing need under the allocations policy

- Exclude home owners
- Introduce an income cap based on bedroom size
- Exclude people with rent arrears or other related debt to the council, with some exceptions?
- Exclude people who have disposed of a property purchased from the council under the right to buy
- Remove applicants if they have not made a bid within 12 months
- Remove applicants who refuse one offer of suitable accommodation
- Remove band C Minor Medical and Band C sharing facilities & Minor disrepair
- Introduce anti fraud checks prior to offering a tenancy
- Introduce a digital service for applications and other processes
- Introduce an allocation plan *
- Introduce reciprocal agreements with other local authorities to allow increase social mobility.
- Removal of working positive contribution due to a recent judicial review against another local authority.

3.12 An allocation plan* will be drawn up annually to make best use of the social housing stock so as to have regard to the council budget and seek to drive down those costs. The initial plan which will be in place from implementation until the end of 17/18 is as follows:

- | | |
|--|--------------------|
| • Homeless households in temporary accommodation | 40% |
| • Transfers | 30% |
| • General homeseekers | 20% |
| • Council Interest
(Children's and ASC) | 10% plus Brookmead |

There needs to be a 55 tolerance in either direction to enable officers to respond to changing demands and also a degree of flexibility is required if the right size/mix of properties do not become available.

We have initially proposed a high percentage of properties be allocated to homeless in temporary accommodation to enable us to manage the changes to the Temporary Accommodation management funding. These changes will have significant budget implications if no changes are made to reduce the number of households in temporary accommodation. In addition it will enable people to move on from temporary accommodation and become settled.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The draft policy has taken account of new provisions introduced such as the right to move scheme for people needing to move to undertake a permanent job and has also taken account of recent court judgements that have ruled that other local authority scheme were unlawful as they were breaching the Equality Act 2010 and section 11 Children's Act 2004.

- 4.2 Alternative options to reduce the number of applicants are limited due to the need for the council to have a lawful policy that includes those with a reasonable preference under the Housing Act. The policy does however take advantage of the flexibilities in the Localism Act 2011 to ensure that homes are allocated to those with a strong local residential connection and at the same time allow potential working arrangements with other local authorities to ensure that we maximise the potential to help people to move.
- 4.3 We have considered a range of alternative approaches to allocation such as a points based system or mixture of point points and band but these were disregarded because of the need to introduce a scheme that would be simple and transparent and easily understood. . We have also explored how other comparable local authorities are allocating their social housing and compared the different approaches.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The Allocations Policy was developed following a consultation process on the major changes. The council conducted a three month consultation from 1st December 2015 to 29th February 2016. A total of 443 responses were received using the council's on-line consultation portal. A total of 88% of respondents live in the city with 11% responding from elsewhere in the country. The consultation responses were not just from individual respondents but a number of statutory and community & voluntary group's views were captured.
- 5.2 The consultation was widely publicised using the on-line Sussex Homemove website to inform applicants of the consultation. The Council also used it's own partnership contacts to promote the consultation with stakeholder across the statutory, voluntary & community sectors. A list of organisational respondents can be found in the consultation report.
- 5.3 A consultation report has been produced. This report shows that the changes that have been proposed are supported by residents, non residents, organisations, applicants and service providers.
- 5.4 Briefing sessions have taken place across the three main political parties both at the consultation phase and the development of the draft policy. Member of the Housing and New Homes Committee have also held a briefing on the draft policy to assist them with the process.
- 5.5 The Housing & New Homes Committee deferred agreement of the draft allocations policy at its meeting on the 21st September 2016, requesting that the draft allocations policy and consultation report was circulated to the Area Panel of tenant's representatives. A special Area Panel was convened on the 20th October 2016 at Leech Court. The meeting was well attended by 21 tenant and leaseholder representatives.
- 5.6 The representatives were very interested in the new proposed policy and asked lots of questions on the proposals. There was a good understanding of the issues facing the city and the impact of the changes. Comment on the policy included

“it’s long overdue” “we have been working on this for years” and “This is a great piece of work”.

- 5.7 There was one minor concern about applicants who refuse one offer being removed from the list, but everyone agreed to overcome this it will be important to educate people and it could be something tenant representatives could help with. This could include informing people not to bid on properties that they did not want to live in, encouraging applicants to visit the area before placing bids, advising people that they do not have to use all their bids each issue. It was also understood that costs associated with wasted viewing could be better used elsewhere.
- 5.8 At the end of the meeting the tenant representatives were asked to indicate their support of the draft policy and this was accepted by 100% of the representatives present who also thanked officer for their hard work.

6. CONCLUSION

- 6.1 The council has a statutory obligation to have a scheme in order to allocate social housing in the city. The draft Housing Allocation Scheme has been reviewed in order to make the housing register into a manageable number of applicants who have a realistic chance of being offered social housing in the city and to ensure we make the best use of the available social housing. This policy needs to acknowledge the high levels of needs within certain groups and to offer better housing options to those that do not qualify for social housing in the City.
- 6.2 The proposed draft Housing Allocation Policy balances housing those most in need with the Councils statutory duties to provide accommodation for certain categories of household in the city and hence seeks to make best use of the available Housing stock.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The Allocations Policy includes an Allocation Plan which will be agreed on an annual basis with targets for allocations to four client groups namely: transfers, home seekers, homeless households and those where the council has an interest (which includes Adult Social Care and Children’s Services clients). The draft policy states that targets will be set taking into account the council’s statutory obligations, financial considerations and the housing situation across the city. This should reduce costs for these services, thereby alleviating some of the existing budget pressures for 2017/18 and beyond. For the year to August 2016, 18.8% of social housing was let to homeless households. Were the Allocations Plan to include a higher percentage allocated to homeless households, for example 35%, this could make significant cost reductions for the general fund estimated at £0.450m (but up to a maximum of £0.650m) for the year 2017/18 across Housing, Adult Social Care and Children’s services. The month 5 2016/17 Housing General Fund temporary accommodation forecast reported to Policy, Resources and Growth Committee was a projected overspend of £0.820m which is being managed and reduced by a number of measures

within the financial recovery plan resulting in a forecast net overspend of £0.277m (before offsetting against other underspends in Housing) If the new policy is agreed by this committee and implemented swiftly, it could also reduce costs in 2016/17 by up to £0.070m..

- 7.2 The Housing Allocations Policy is operated within the Neighbourhoods, Communities and Housing Directorate by the Homemove Team and is joint-funded by the Housing Revenue Account (HRA) and the general fund. The new policy proposes to reduce the number of people on the housing register thereby reducing the administration required to operate it. This will lead to efficiencies in this service. Also, the proposed changes to the bidding process should reduce the time that council properties are empty and therefore should increase rent collection for the HRA. The Council is required to make budget savings for 2017/18 and beyond and these efficiencies will be included in the integrated service and financial plans for Housing as budget savings in 2018/19 both for the HRA and the general fund.

Finance Officer Consulted: Monica Brooks

Date: 21/10/16

Legal Implications:

- 7.3 The Housing Act 1996 as amended by the Homelessness Act 2002 requires Local Authorities' to have a Housing Allocation Scheme. Subject to reasonable preference criteria, and the ability to designate qualifying groups Local Authorities 's can set up their own local policies to recognise the different types of need for an allocation. They must have regard to the statutory guidance in making these decisions. The Localism Act 2011 introduced a significant amount of flexibility in to the decision making. I am satisfied that the proposals in the report are lawful in this regard.
- 7.4 This includes the qualifying person criteria for admission on to the scheme. This is subject as always to questions of reasonableness and proportionality is at the discretion of the local authority and can take in to account a range of factors in its formulation. This covers matters such as determining what constitutes a local connection and any associated timeframes. It is of note that the current formulation of Brighton and Hove is substantially more generous than schemes in many other local authorities.
- 7.5 It may also be of assistance to note that there is in existence the Housing and Planning Act 2016. The regulations relating to this are far from complete and so there is a lack of clarity around the impact it will have, but it will have to be taken into account with regards to some part of the scheme. The pay to stay financial thresholds are reflected within the scheme in relation to eligibility criteria.
- 7.6 Before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, a local housing authority in England must send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements and afford those persons a reasonable opportunity to comment on the proposals. Whilst there is no statutory requirement to consult more widely, it is good practice to do so. In preparing a new scheme the council must have regard to their current homelessness strategy

and their current tenancy strategy. Consultation has been more widespread than the statutory requirement. If further changes to the scheme are proposed then there would need to be a period of further consultation. The policy was subject to consultation with relevant partners from 1 December 2015 until 29 February 2016 in respect of the suggested changes put forward by the Council. The Council has taken into account the results of this consultation and has made some amendments to reflect the comments made.

- 7.7 A concern which has prompted the review and this proposed document was the potential unlawfulness of elements of the previous scheme and the ever changing legislative and judicial interpretation of obligations on the local authority in regards to its housing provision. Recently in the “Ealing Case” a comparable “working positive contribution” preference element was deemed to be unlawful for discrimination. The view of Legal then and now is that while Brighton and Hove would not breach equalities issues in terms of disability sexual orientation etc, there is a strong likelihood that without change that the scheme would be a breach of the equalities duty in relation to gender and specifically single parent women. There may also be an issue in relation to age based on information just obtained. The rationale in the case highlighted this group (single parent women and others which we do not believe apply) as being disadvantaged and therefore discriminated against because there was less chance of a proportion of that group being able to find work due to child care responsibilities. In order to avoid the current policy falling foul of this ruling, significant changes would be required to introduce exemptions.
- 7.8 It is noted that there is a proposal to reduce the number of offers to certain groups from 3 to 1. This would then bring more consistency to the policy as certain groups are already limited to 1 offer. Again the amount of offers is at the discretion of the authority. It is a legitimate purpose to reduce administrative cost and burden on the authority as long as it is reasonable and does not breach equalities issues. Care should be taken with vulnerable groups to ensure that they understand that they will have one offer and the consequences of refusal.
- 7.9 Financial limits are introduced for eligibility. This is a legitimate inclusion and the figures are approximately similar to those indicated to be applicable in the pay to say legislation. There must as in all cases be the ability to vary this in exceptional circumstances.
- 7.10 The Council’s constitution gives the Housing & New Homes Committee delegated powers to deal with Housing matters, including homelessness and allocations. However, that power has to be exercised having regard to the general rules in the introduction to the scheme of delegations to Committees. One of these rules, contained in paragraph 2 (a) provides that : “A Committee or Sub-Committee dealing with a matter that has corporate policy or corporate budgetary implications (e.g. committing the Council to expenditure that has serious impact on the overall finances of the authority) will refer the matter to the Policy, Resources and Growth Committee with recommendations. The Chief Executive may issue practical guidance as to the application of this paragraph. Where the position is not clear, the Chief Executive (in relation to policy matters) or the Executive Director Finance and Resources (in relation to budgetary matters) will make the final determination

- 7.11 The Executive Director Finance and Resources is of the view that a decision to agree or not to agree the proposed changes will have significant enough financial/budgetary implications, given the current overspend which will be exacerbated by any failure or delay to agree the changes. This is therefore a matter that has corporate financial implications. It is for this reason that the report is to be referred to Policy, Resources and Growth Committee

Lawyer Consulted: Simon Court and Liz Woodley Date: 08.09.16 and 31.10.16

Equalities Implications:

- 7.12 The Council is obliged to have full regard to the Equalities Act 2010 is exercising its functions and has to have special regard to s149 the Public Sector Equality Duty. This policy has been developed to take account of Equalities and has specifically designed the policy when considering when people have a need to move based on social welfare consideration such as health and disability. The policy has specific regard to ensure that properties that are designed for people with mobility issues are those that will be allocated accommodation that meets their needs. A full Equalities Impact Assessment of the policy has been completed. Members are referred to the full text of s149 of the Equality Act 2010 – included at the end of this document as appendix X – which must be considered when making a decision on the matters set out in this report. A full Equality Impact Assessment has been completed and will be available in the Members' rooms prior to Housing & New Homes Committee.

Sustainability Implications:

- 7.13 Having a housing register with over 24,000 is not sustainable. The Council allocates approximately 800 units of accommodation each year and although there is a new house building programme this will not meet the current demand for all of those on the housing register. There is a structural deficient in the number of people who approach the council for accommodation under the Homelessness provisions of the Housing Act 1996 Part VII Applicants have many reasons to apply to the housing register for social housing. Any allocations policy needs to have regard to a person's ability to be ready to hold and maintain a social tenancy. The impact on granting someone a tenancy if they are not ready to do so can be felt by the individual who may face rent arrears and eviction proceeding. Communities can also be majorly affected if people are not ready to hold a tenancy and cause anti social behaviour that can blight people lives.

Any Other Significant Implications:

- 7.14 None

SUPPORTING DOCUMENTATION

Appendices:

1. Consultation Report

2. Draft Allocations Policy

Documents in Members' Rooms

1. Draft Equality Impact Assessment
2. Allocations Policy Equality Impact Assessment Supporting Document

Background Documents

1. None

APPENDIX 1

149 Public sector equality duty

(1) A public authority must, in the exercise of its functions, have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—

- (a) tackle prejudice, and
- (b) promote understanding.

(6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

(7) The relevant protected characteristics are—

- age;
- disability;
- gender reassignment;
- pregnancy and maternity;
- race;
- religion or belief;
- sex;

- sexual orientation.

(8) A reference to conduct that is prohibited by or under this Act includes a reference to—

(a) a breach of an equality clause or rule;

(b) a breach of a non-discrimination rule.

(9) Schedule 18 (exceptions) has effect.

Housing Allocation Review & Consultation
April 2016

Consultation Report:

Review of the Allocations Policy 2015-16



Brighton & Hove
City Council

Contents

Contents page will be added when agreed by Full Council

1. About this Consultation Report

This report outlines the out come of the consultation that was held between 1st December 2015 and 29th February 2016.

This policy was developed in 3 key stages. The first stage was to obtain permission to consult on changes to the allocations policy. This was agreed by the Housing & New Homes Committee in September 2015. The second stage was to produce a consultation paper and hold a three month public consultation. This paper included our priorities and what we are proposing to change. The consultation lasted for three months.

- Stage 1: Permission from Member to review the current policy
September 2015
- Stage 2: Consultation with the community and stakeholders November
2015 – February 2016
- Consultation report and Draft Strategy to Members for Approval
September 2016

This report is made up of two parts. Part one looks at who responded to the consultation including where people live and how long they have lived their, if they were responding as an individual or organisation, type of accommodation occupied, whether on the current housing register or not and equalities information.

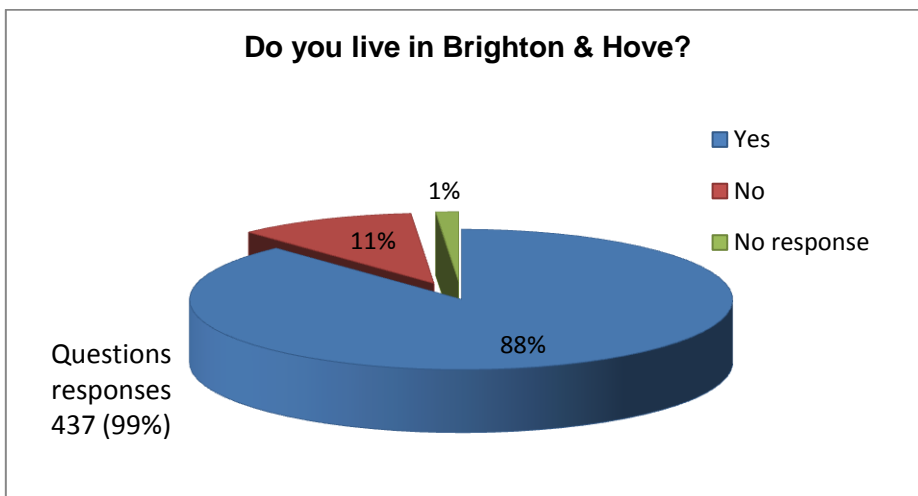
The second part of this report then looks at the actual consultation questions that were asked. In order to inform the decision making process the report will look at the responses received as a whole and for some questions these will be broken down in to sub sets of information such as people who are actually on the housing register or respondents who do not live in the city.

Each of the questions allowed respondents to make specific comments against the question being asked. This report does not contain every single comment but groups them around topics both

positive and negative. The reason not to include every comment in this report is that to do so would make the report extremely long and difficult to digest.

2. Part One

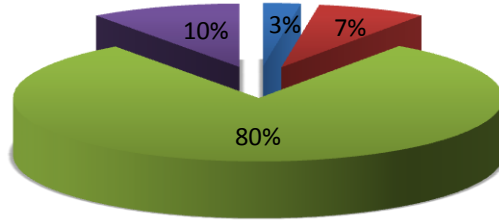
The council carried out a three month consultation on the proposal to comprehensively review the way that it allocates social housing in the city. In part one of this report we will look at who responded to this consultation in terms of where they live and some other personal attributes.



Yes	390
No	47
No response	6

A high percentage of respondents to the questionnaire live in Brighton and Hove with just under 11% of respondents living outside of the city.

How long have you lived in Brighton & Hove?



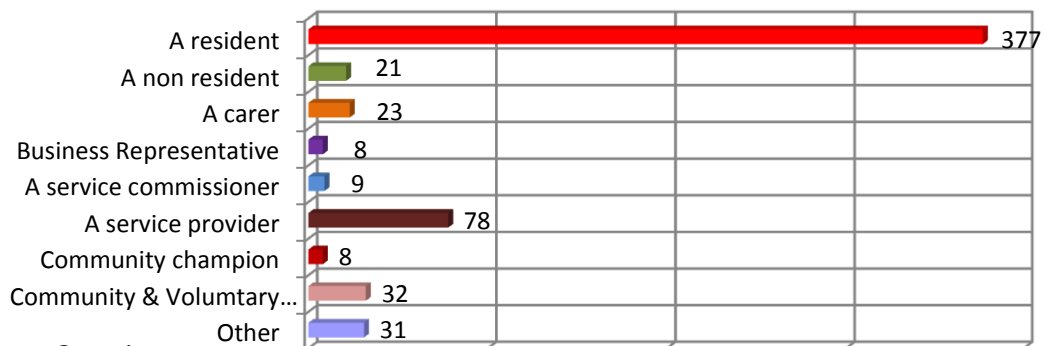
Questions responses
339 (90%)



Under 2 years	11
Two to five years	32
Over five years	356
No response	44

The highest proportions of respondents have lived in the city for a minimum period of five years with 7% having lived here for between two and five years and 3% of respondents having lived in the city less than two years.

Are you replying as?

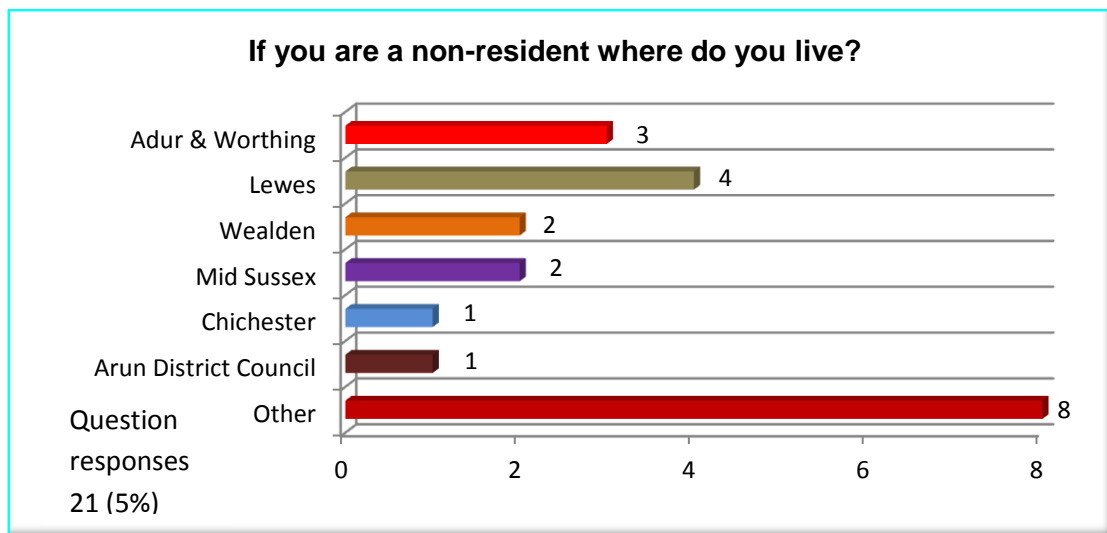


Question responses
440 (99%)

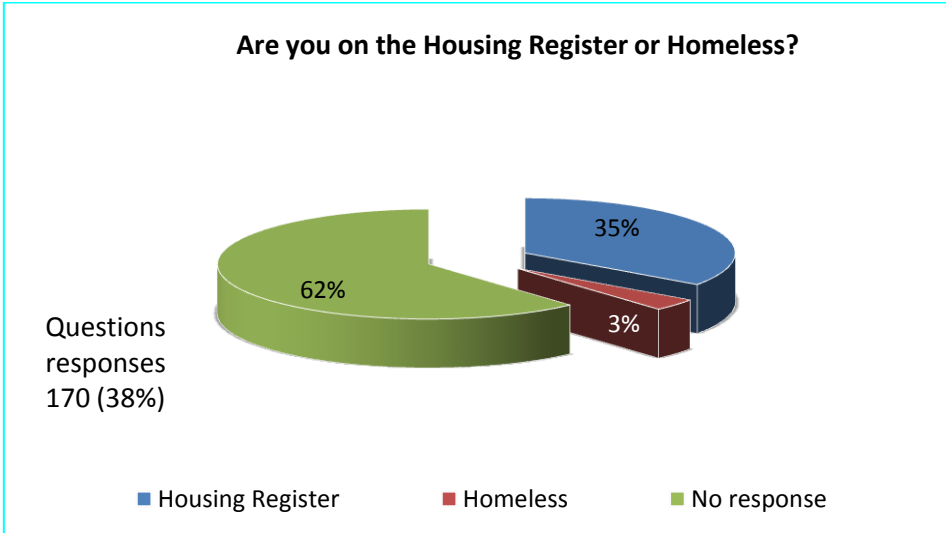
A resident	377
A non resident	21
A carer	23

Business Representative	8
A service commissioner	9
A service provider	78
Community champion	8
Community & Voluntary Sector Org	32
Other	31

The table above looks if the respondents are resident or have responded from an alternative view point such as service providers in the community and voluntary sector or a community champion. The highest proportion of respondents were residents of the city and there was also a good return from organisations that work with people facing housing difficulties.

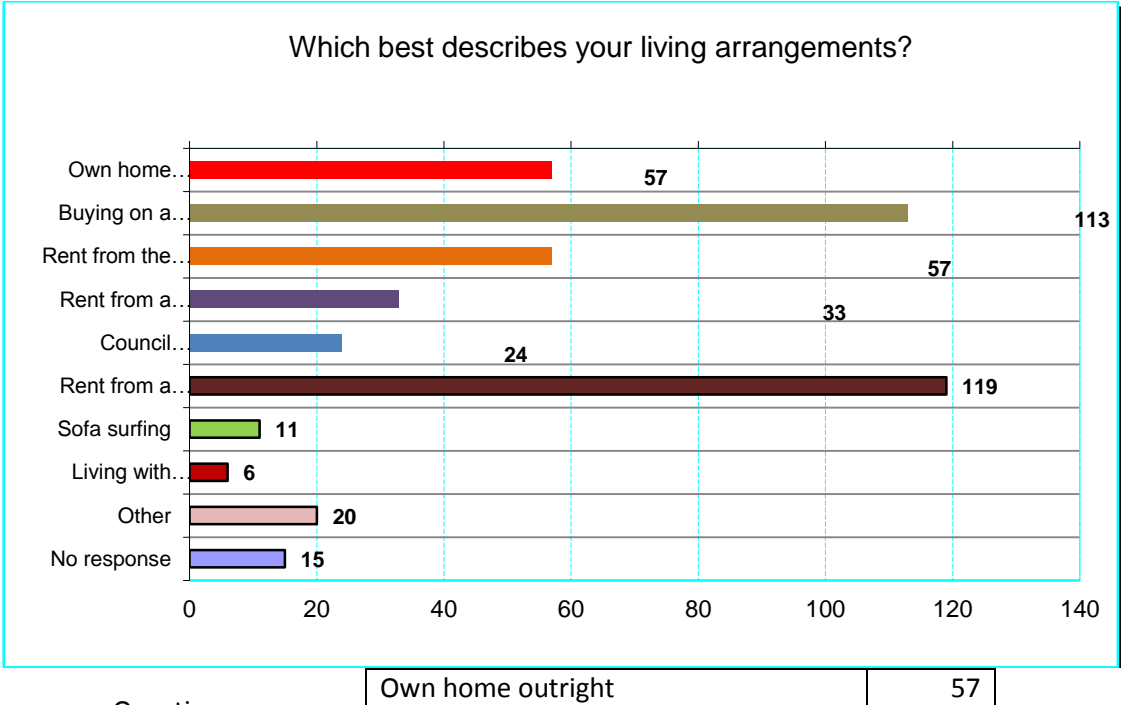


Adur & Worthing	3
Lewes	4
Wealden	2
Mid Sussex	2
Chichester	1
Arun District Council	1
Other	8



Housing Register	154
Homeless	16
No response	273

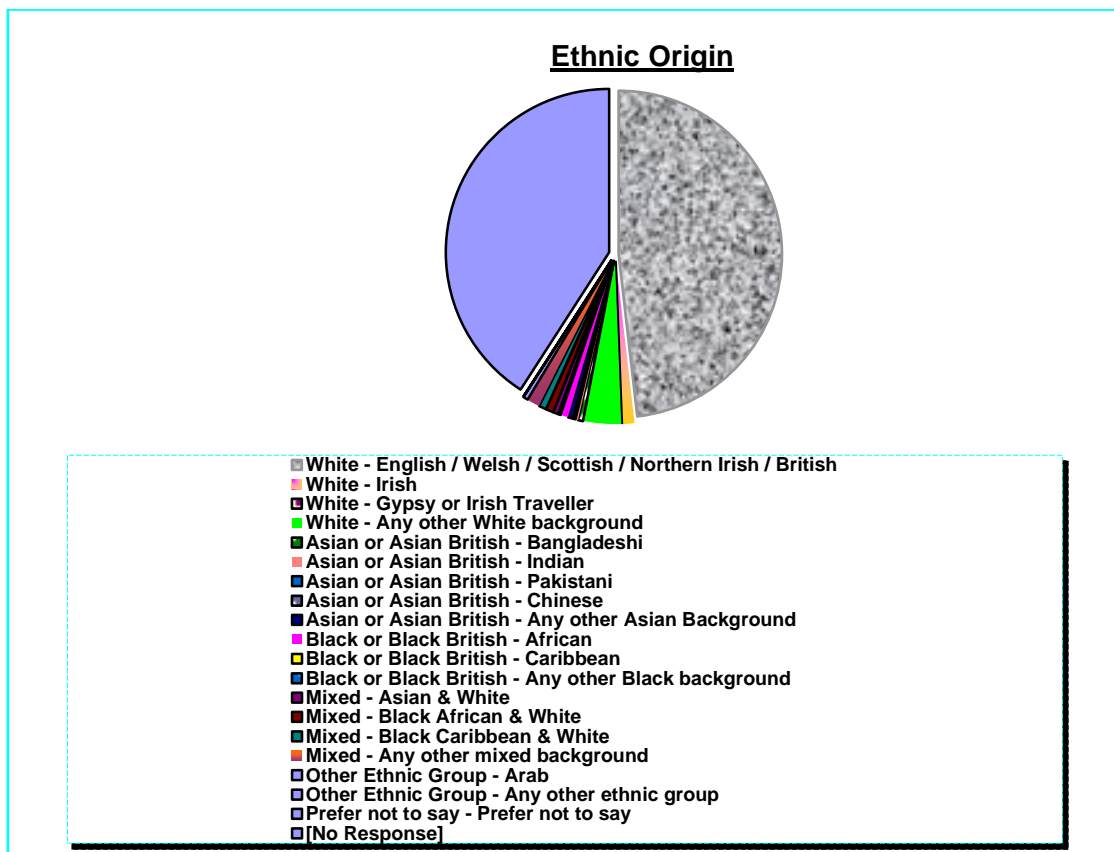
35% of respondents were from people who are on the housing register. The consultation was advertised on the Sussex Homemove system where people have to log onto to place their bids. The consultation was open for 3 months and therefore covered 13 bidding cycles. There was a 3% response from people that stated that they were homeless, although some people that responded as being on the housing register may also be homeless at the same time.



Question responses
428 (97%)

Buying on a mortgage	113
Rent from the Council	57
Rent from a Housing Association or trust	33
Council provided temporary accommodation	24
Rent from a private landlord or agent	119
Sofa surfing	11
Living with relatives	6
Other	20
No response	15

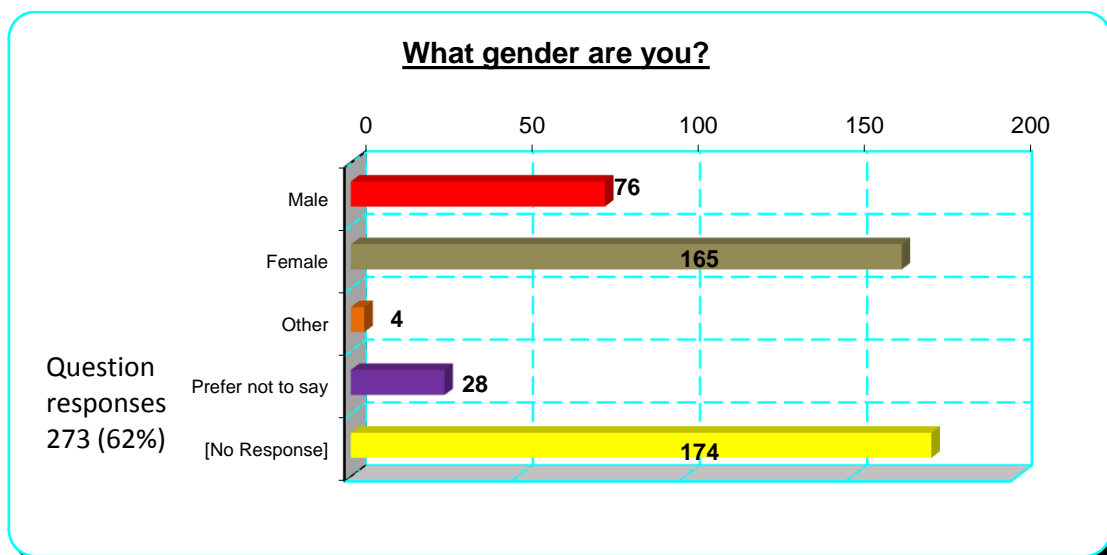
The council carried out an open consultation and table above indicates a respondents current living arrangements. The highest response rate was from people living in the private rented sector followed by people who own their own home with a mortgage on the property.



White - English / Welsh / Scottish / Northern Irish / British	198
White - Irish	5
White - Gypsy or Irish Traveller	0
White - Any other White background	15
Asian or Asian British - Bangladeshi	2

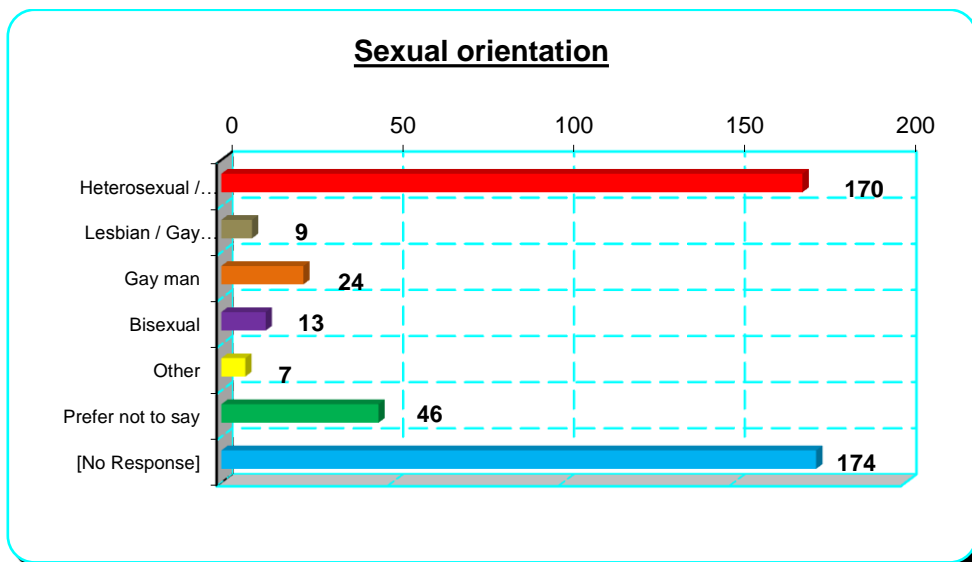
Asian or Asian British - Indian	1
Asian or Asian British - Pakistani	1
Asian or Asian British - Chinese	0
Asian or Asian British - Any other Asian Background	2
Black or Black British - African	3
Black or Black British - Caribbean	1
Black or Black British - Any other Black background	0
Mixed - Asian & White	2
Mixed - Black African & White	3
Mixed - Black Caribbean & White	3
Mixed - Any other mixed background	5
Other Ethnic Group - Arab	2
Other Ethnic Group - Any other ethnic group	0
Prefer not to say - Prefer not to say	0
[No Response]	168

The table above looks at the respondent's ethnicity. The highest response rate received was from white British respondents. There were low or no responses from a number of BME groups. There was also a very high percentage of people who preferred not to answer this question. This could be in part due to the fact that respondents from organisations did not reply to this question as they were providing a community response and not an individual response.



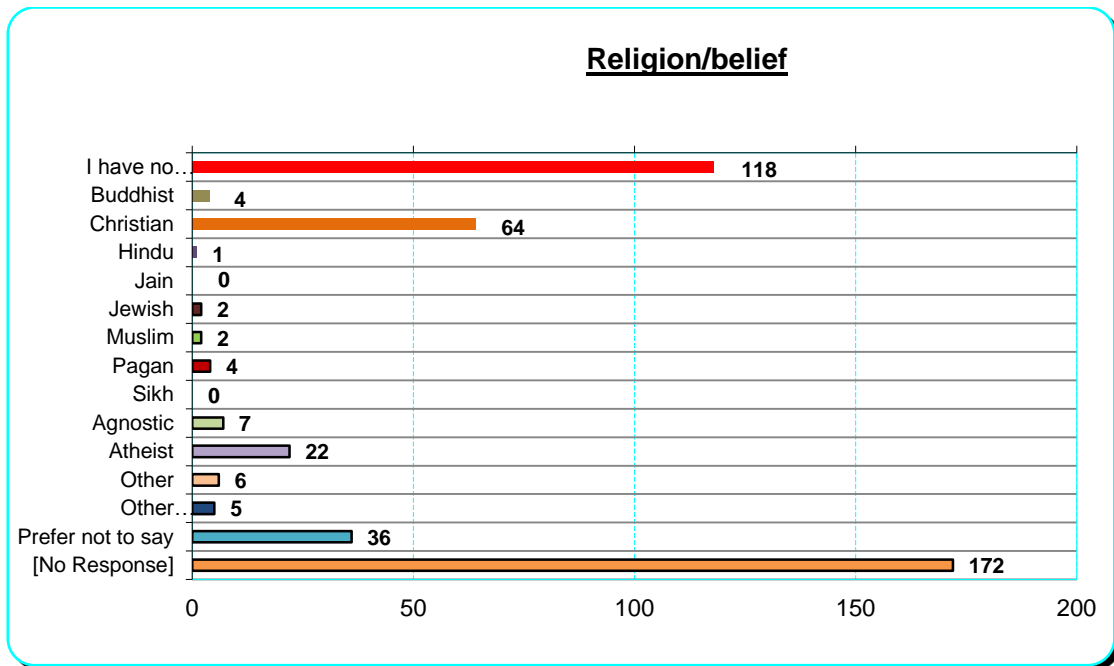
Male	76
Female	165
Other	4
Prefer not to say	28
[No Response]	174

There was a high response rate from Women to the consultation and again a high rate of respondents not answering this question.



Heterosexual / Straight	170
Lesbian / Gay woman	9
Gay man	24
Bisexual	13
Other	7
Prefer not to say	46
[No Response]	174

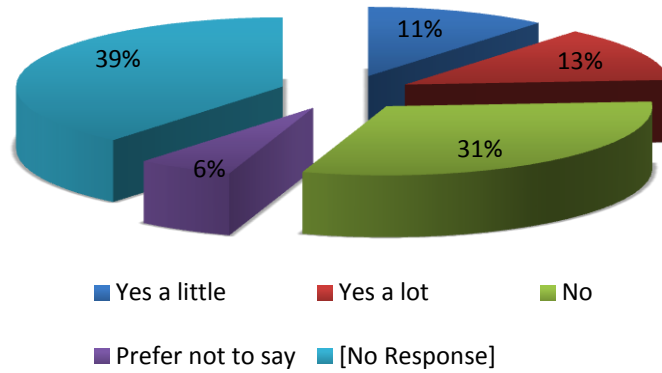
There was a high rate of responses from people who identify as being Heterosexual but a lower than could be expected rate from people who identify as being from the LGB community. We do know however that there were a number of group response from LGBT community & voluntary groups.



A high number of respondents did not have any religious belief and did not respond to the question at all.

I have no particular religion	118
Buddhist	4
Christian	64
Hindu	1
Jain	0
Jewish	2
Muslim	2
Pagan	4
Sikh	0
Agnostic	7
Atheist	22
Other	6
Other philosophical belief	5
Prefer not to say	36
[No Response]	172

Are your day-to-day activities limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months?

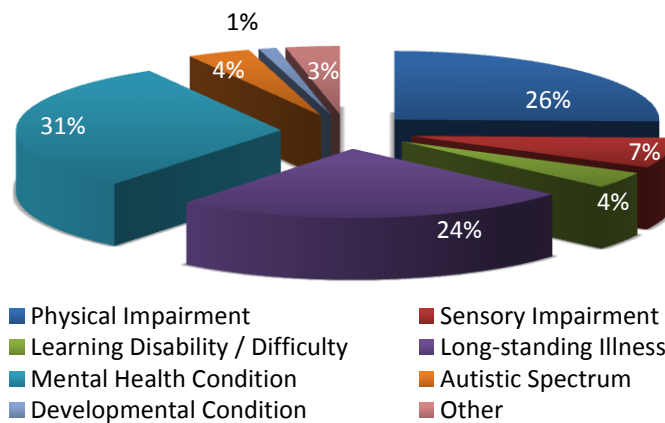


Questions responses
270 (61%)

Yes a little	49
Yes a lot	57
No	138
Prefer not to say	26
[No Response]	173

24% of respondents had a health or disability issue with 31% not having any issues and 39% not answering the question.

Type of impairment?



Questions responses
104 (23%)

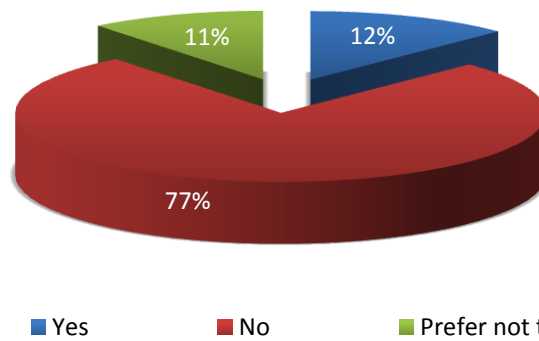
The Table above looks at the type of health or impairments that the respondent reported. The highest response rate was from those with a physical impairment, mental health or long standing illness and the lowest response rate was from people with a learning disability or those on the Autistic Spectrum.

Physical Impairment	46
Sensory Impairment	13

Learning Disability / Difficulty	7
Long-standing Illness	44
Mental Health Condition	56
Autistic Spectrum	7
Developmental Condition	2
Other	6
[No Response]	339

Are you a carer - a carer provides unpaid support to family or friends who are ill, frail, disabled or have mental health or substance misuse problems

Questions responses
271 (61%)

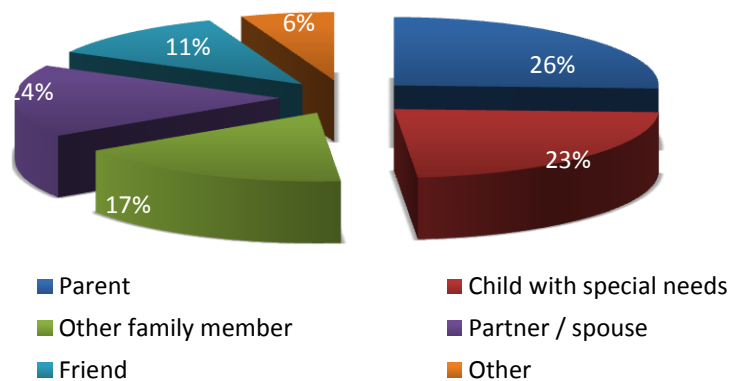


Yes	34
No	208
Prefer not to say	29
[No Response]	172

There was a 12% response from those who care for someone else, either a family member or friend across a range of issues. 77% of respondents do not have any caring responsibility.

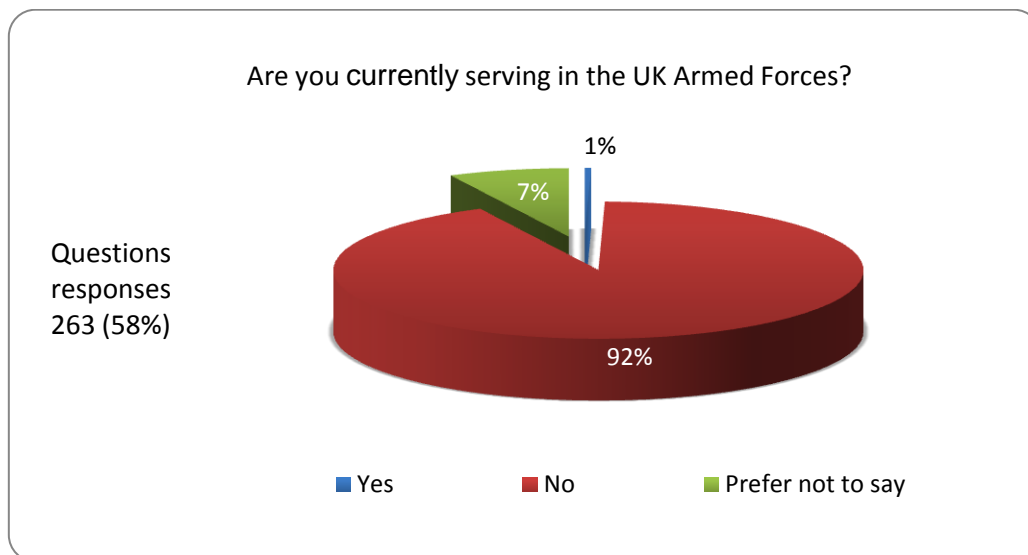
Who do you care for?

Questions responses
34 (8%)



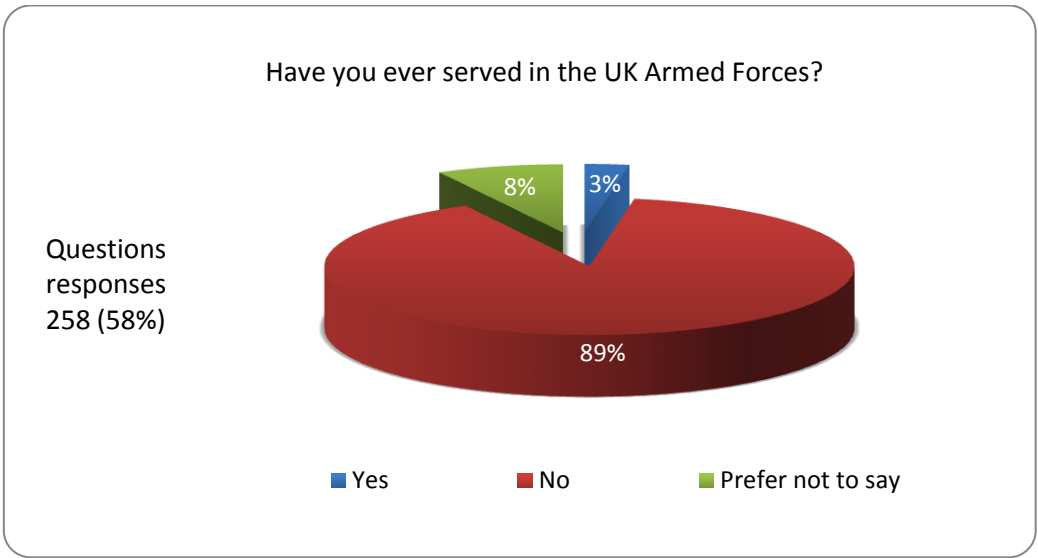
For those with a caring responsibility the highest response rate was from those looking after a child with special needs or those looking after a parent.

Parent	9
Child with special needs	8
Other family member	6
Partner / spouse	6
Friend	4
Other	2
[No Response]	409



	1
No	238
Prefer not to say	19
[No Response]	185

There was a 1% response rate from those currently serving in the UK armed Services. The consultation was advertised through the council's Military Covenant Partnership board to organisations including the Royal British Legion. 7% of respondents preferred not to say if they were currently serving personnel. It is not uncommon for serving personnel not to answer this question.



Yes	7
No	231
Prefer not to say	20
[No Response]	185

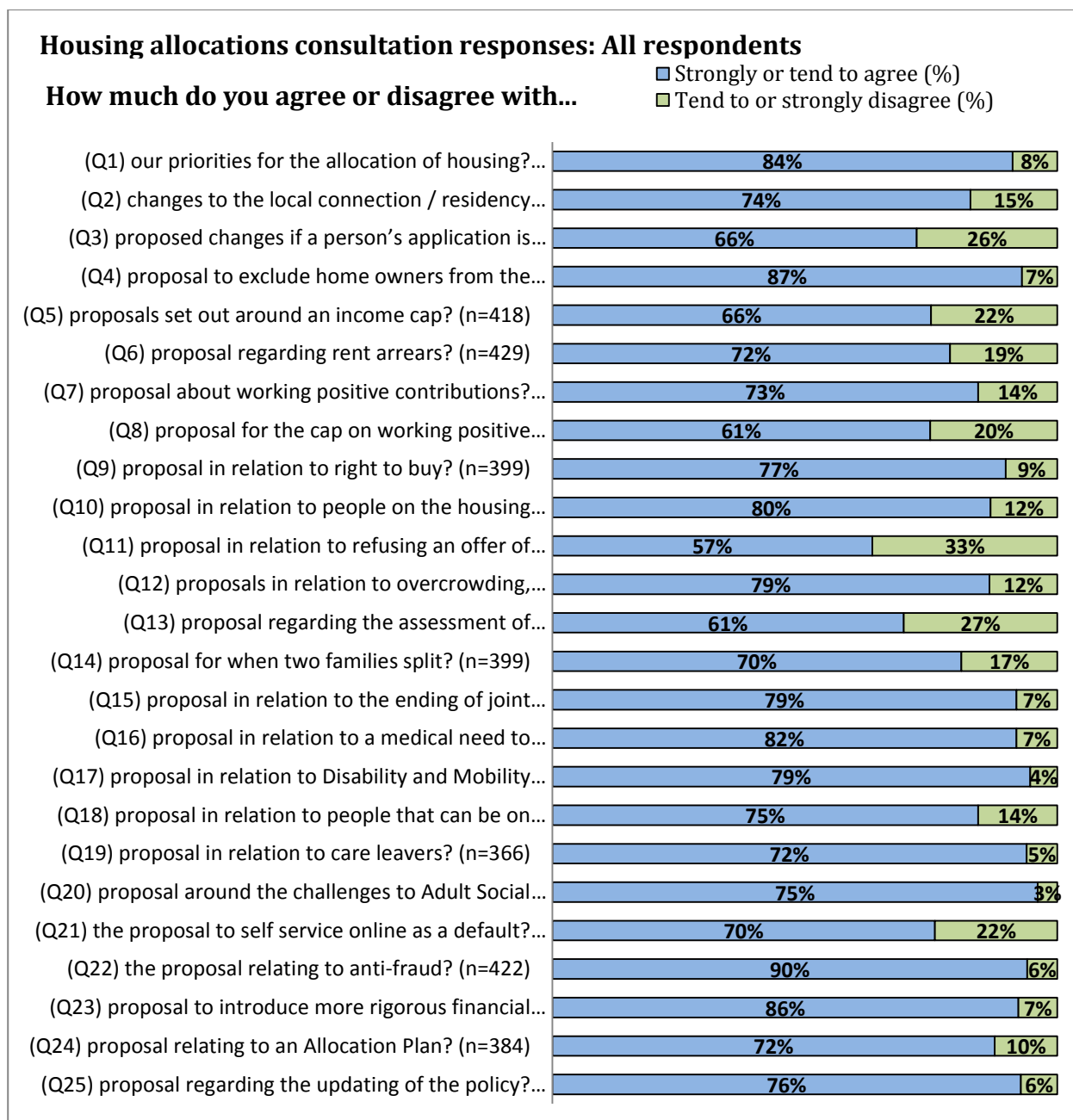
There were also a higher response rate from former serving members of the armed forces (3%) and again an 8% of respondents not responding to this question.

3. Part 2

This part of the consultation report looks at the response to the questions that were asked in relation to changes to the allocations policy. The tables show the number of respondent who with agree or strongly agree to a proposal (in blue or to the left of graph) and those that disagree or strongly disagree (in green or to the right of graph). Respondents that neither agreed of disagreed and those that did not respond to a particular question were removed. This gives an overall picture for those and against a proposed measure.

The data was also broken down to show how particular classes of respondent replied to the questions asked. This is to ensure that there is an analysis on particular areas of the policy that will affect a particular group. The breakdown includes people on the Housing Register as they are more likely to be affected than any other group but it also includes the responses of residents and non resident who may be affected.

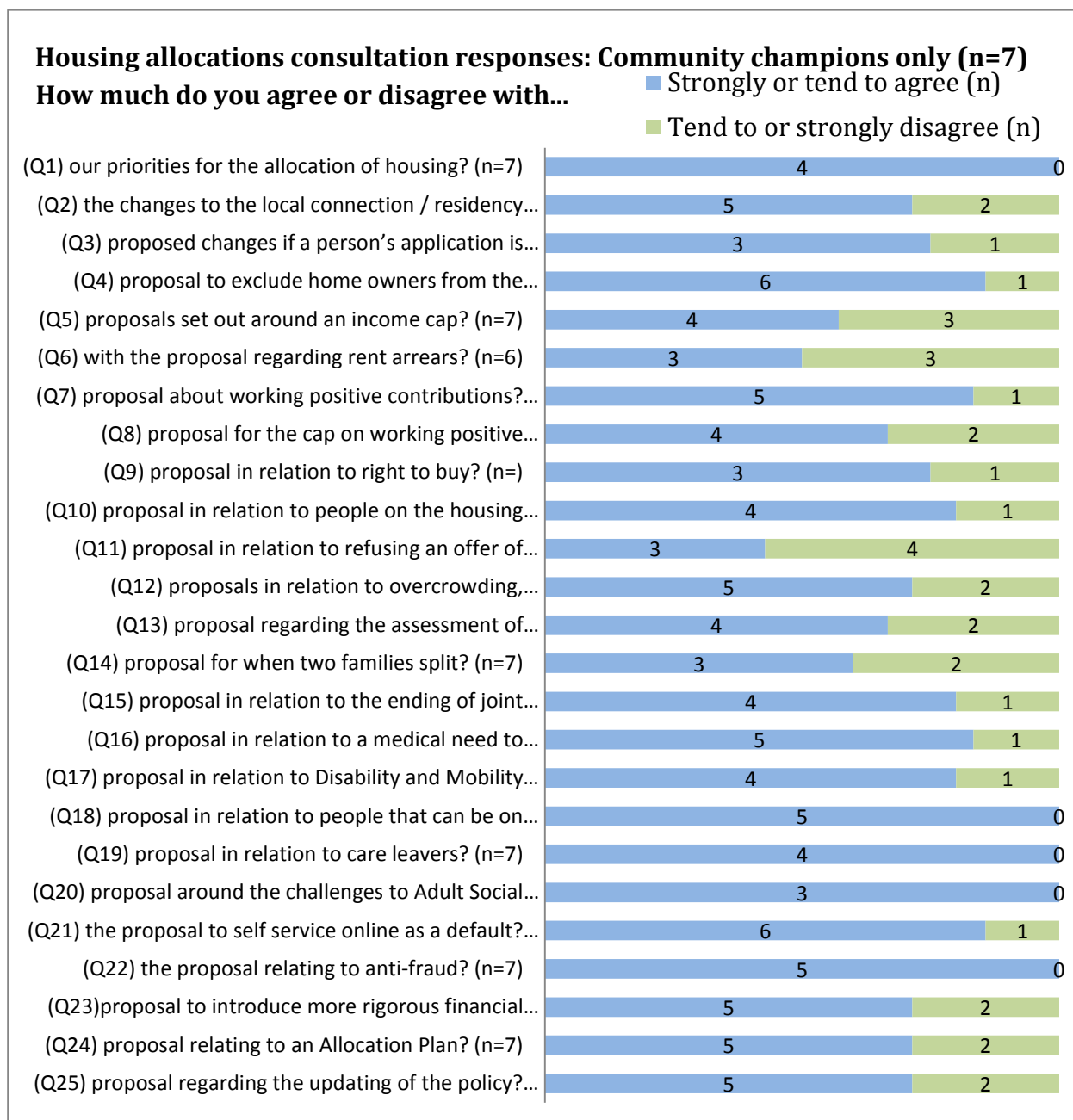
Housing allocations consultation responses: All respondents



The table above contains responses to the consultation questions asked during the three month consultation period on the council's consultation portal. The total number of respondents was 439. In general there was a high level of support for the proposals with many proposals obtaining 70% in favour of the proposals.

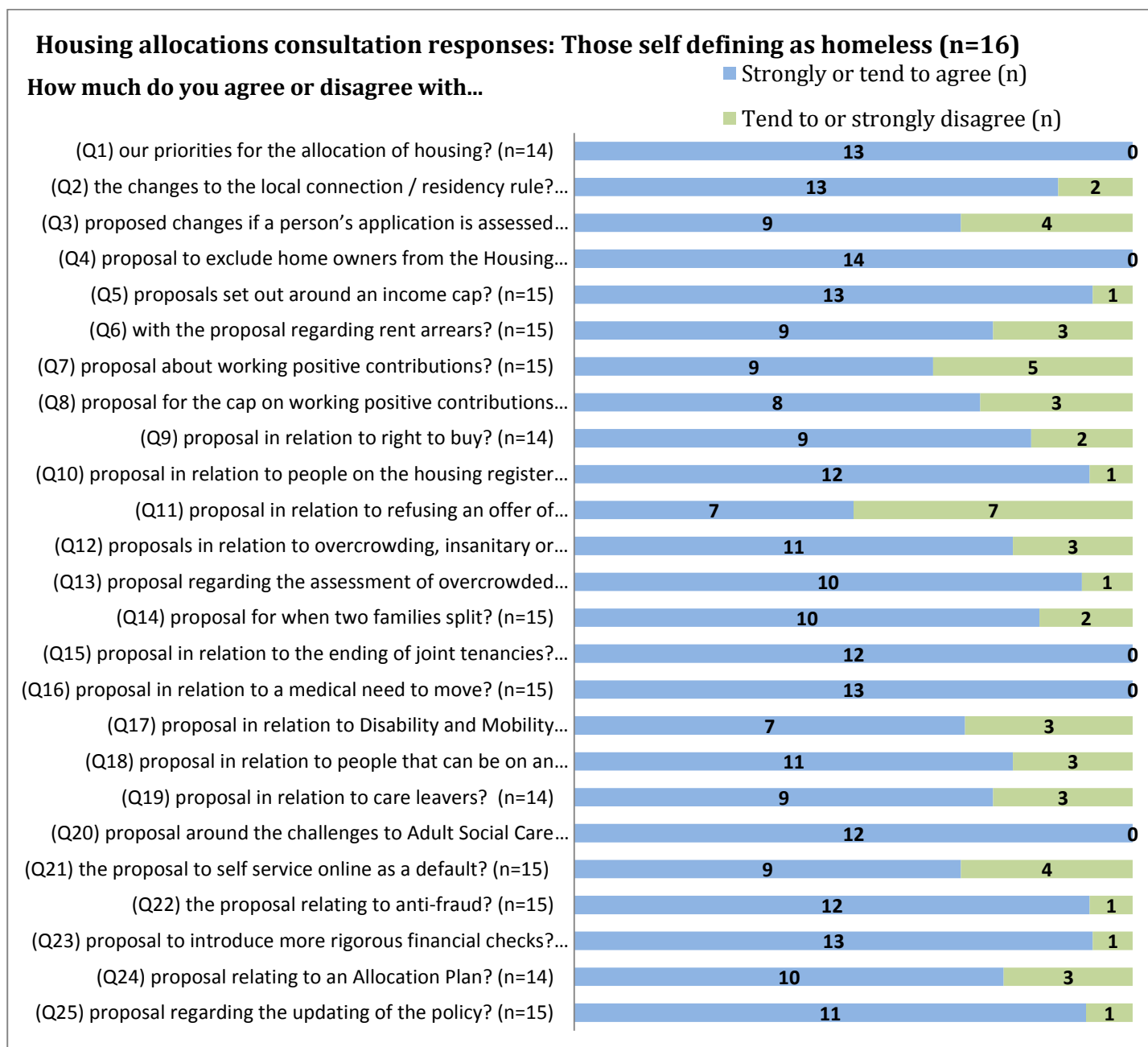
The lowest favourable responses were in relation to offering applicants one offer of suitable accommodation which received 57% in favour and 33% not in favour.

Housing allocations consultation responses: Community champions



Respondents who replied as community champions shared many of the same views as other groups. Statistically this is a very small group. Community champions have a significant amount of contact with resident with housing issues and they showed strong support for the council's priorities, fraud initiatives, local connections criteria, self service on-line and excluding homeowners but showed less support for refusal of offers and exclusion for rent arrears.

Those self defining as homeless

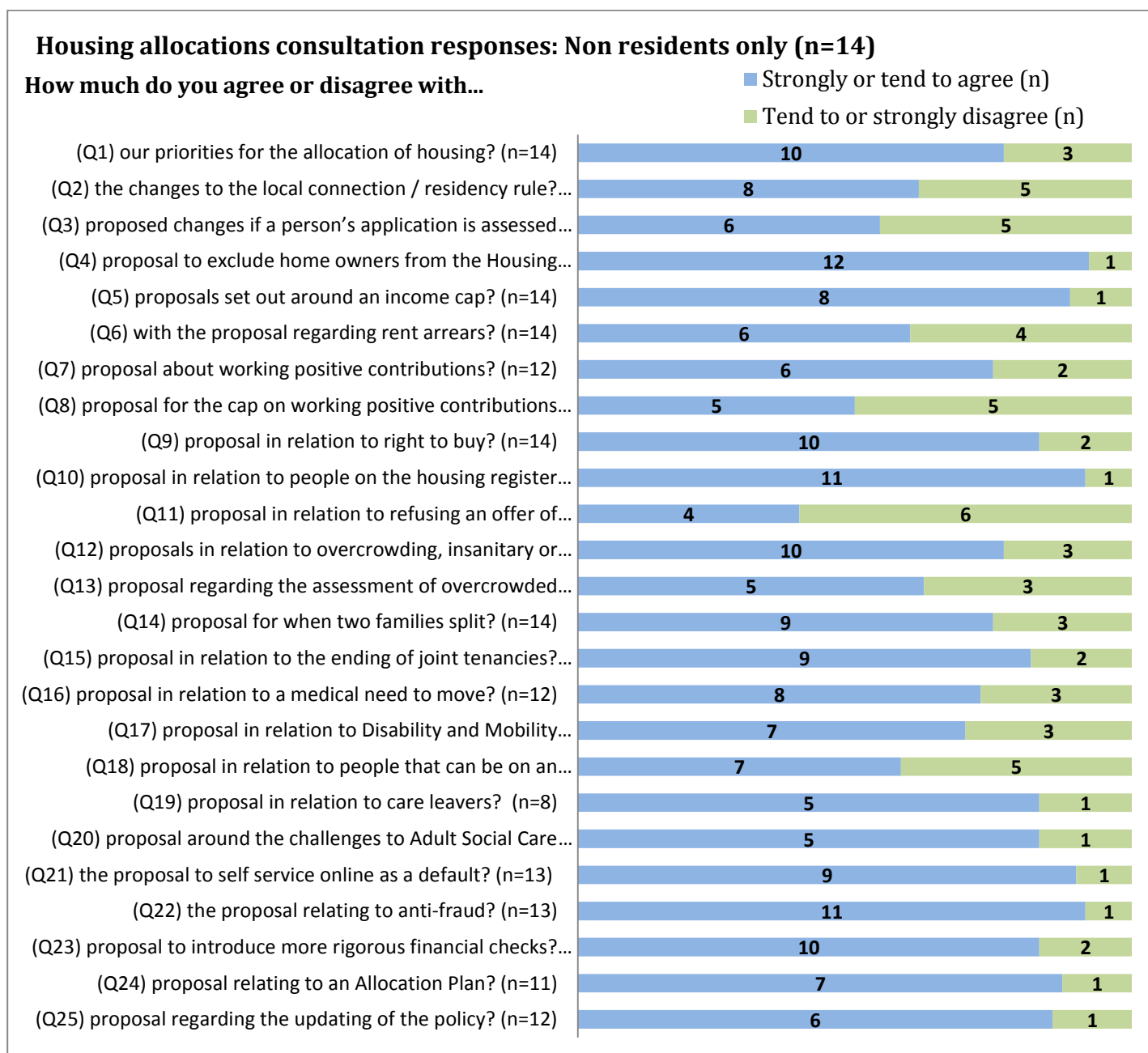


A small number of respondents identified that they were current homeless. It is not known if the respondents were accepted homeless by the council or identified as homeless but not accepted. It is possible that people who are homeless may have only identified as a respondent being on the housing register or both.

Statistically the number of people in the category is small and therefore the data cannot be relied on say that this generally is what homeless household would

agree with. It is however noted that although small in number there is still general agreement with the proposals in the category.

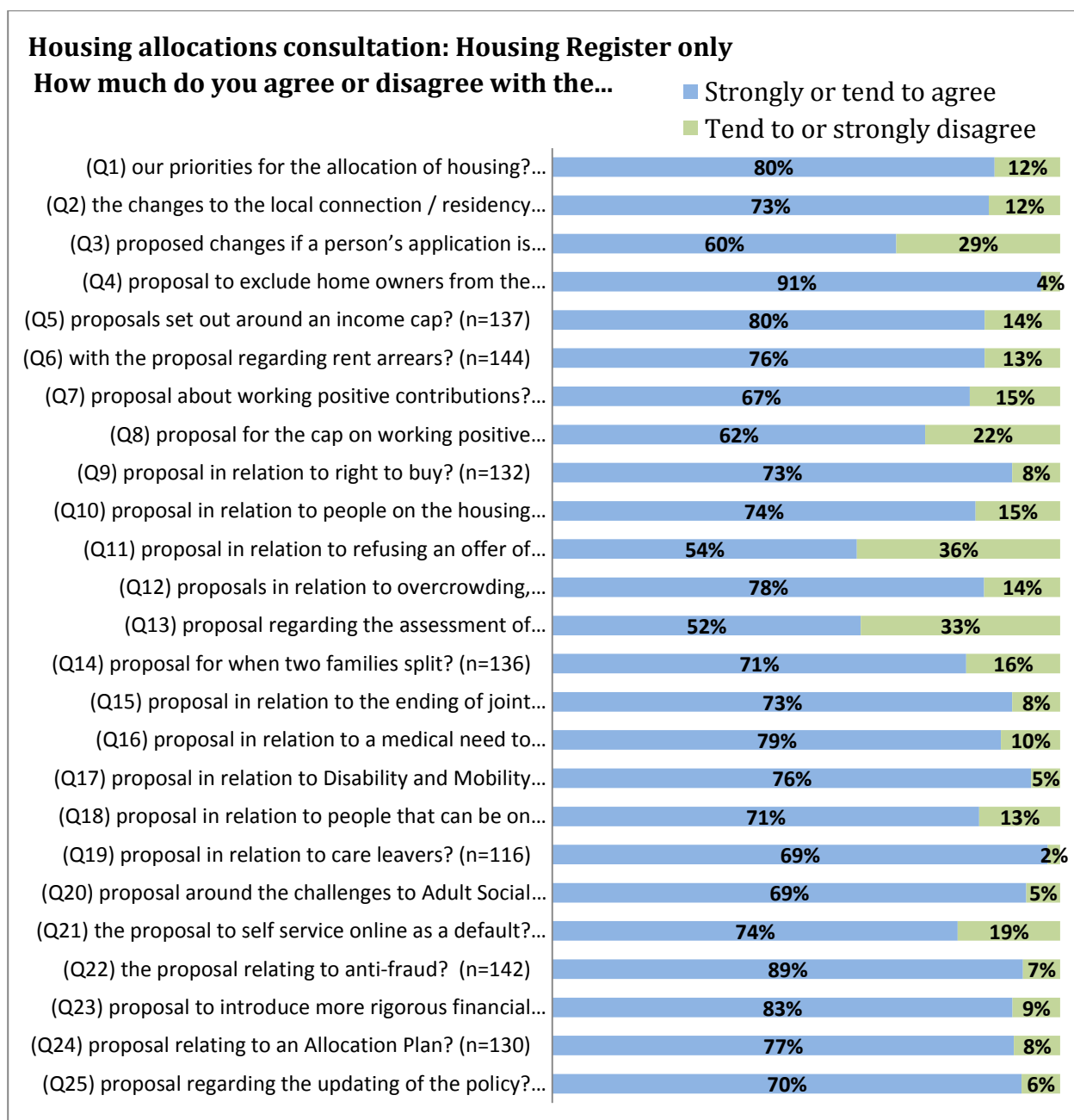
Non residents only



This category of respondents identified as not currently being resident in Brighton & Hove. The numbers are statistically small but have been included as there are

proposals to make changes to the local connection criteria that would directly affect this group. Generally there is agreement with the overall proposals in the consultation and even the local connection changes are supported albeit by a small margin.

Housing Register only



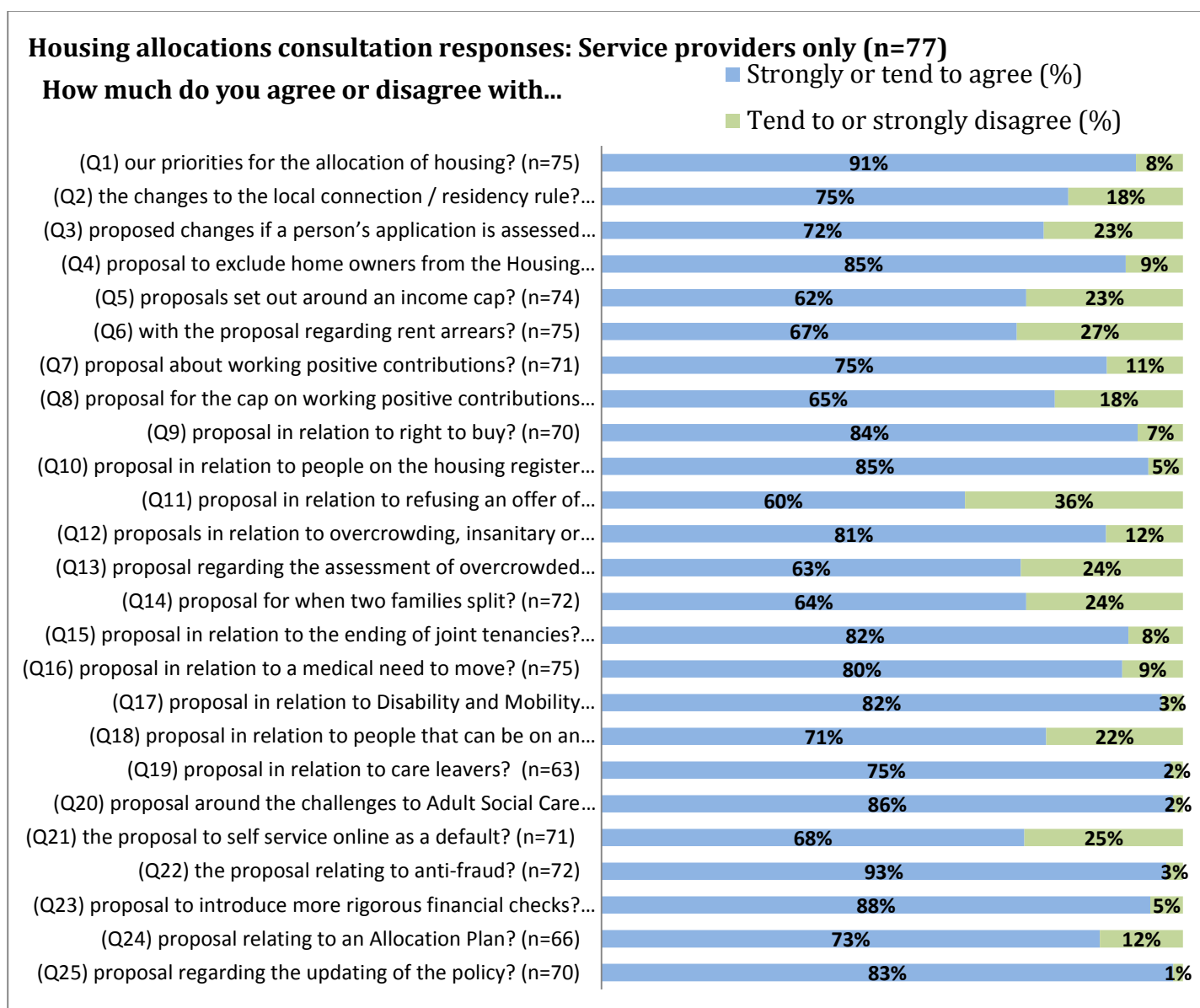
A higher proportion of respondents indicated that they were currently on the council's housing register and therefore are the most affected by the changes that are being proposed.

Some respondents in this group did not answer all of the questions and the results are shown as a percentage of those approving and disapproving the proposals.

The graph above indicated a strong approval rating with the majority of the proposals. There was a high approval rating for the local connection criteria of 73% and 80% of respondents approving the priorities within the proposals.

Two areas with lower approval ratings are in the proposed one suitable offer category and in the ability to lower priority for people who intentionally overcrowd properties. Even with this lower approval rating there are more in favour of the proposals than against with a 20% having no view on these proposals.

Service providers only



There is a large community and voluntary sector in the city and we also know that a high number of City Council employees also responded to the consultation. There are some very high approval ratings within this group who deal with applicants' in housing need.

4. Raw data sheets

Raw data information also showing those that neither agreed or disagreed with a proposal.

Q1. Do you agree or disagree with our priorities for the allocation of housing?									
		Are you replying as:							responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		309	17	8	68	4	27	28	359
		83.7%	77.3%	88.9%	90.7%	57.1%	93.1%	90.3%	84.1%
Neither agree nor disagree		30	2	1	1	3	1	1	33
		8.1%	9.1%	11.1%	1.3%	42.9%	3.4%	3.2%	7.7%
Tend to or strongly disagree		30	3	0	6	0	1	2	35
		8.1%	13.6%	0.0%	8.0%	0.0%	3.4%	6.5%	8.2%
Total		369	22	9	75	7	29	31	427

Percentages and totals are based on respondents.

Q2. Do you agree or disagree with the changes to the local connection / residency rule?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		277	12	5	57	5	19	26	317
		74.9%	52.2%	55.6%	75.0%	71.4%	63.3%	81.3%	73.7%
Neither agree nor disagree		41	2	1	5	0	3	4	47
		11.1%	8.7%	11.1%	6.6%	0.0%	10.0%	12.5%	10.9%
Tend to		52	9	3	14	2	8	2	66

or strongly disagree	14.1%	39.1%	33.3%	18.4%	28.6%	26.7%	6.3%	15.3%
Total	370	23	9	76	7	30	32	430

Percentages and totals are based on respondents.

Q3. Do you agree or disagree with the proposed changes if a person's application is assessed as not having a housing need?

		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		241	11	7	54	3	18	24	280
		66.0%	47.8%	87.5%	72.0%	50.0%	62.1%	75.0%	66.2%
Neither agree nor disagree		31	3	1	4	2	2	1	35
		8.5%	13.0%	12.5%	5.3%	33.3%	6.9%	3.1%	8.3%
Tend to or strongly disagree		93	9	0	17	1	9	7	108
		25.5%	39.1%	0.0%	22.7%	16.7%	31.0%	21.9%	25.5%
Total		365	23	8	75	6	29	32	423

Percentages and totals are based on respondents.

Q4. Do you agree or disagree with the proposal to exclude home owners from the Housing Register?

		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		322	19	8	64	6	23	28	372
		87.3%	82.6%	100.0%	85.3%	85.7%	76.7%	90.3%	87.3%
Neither agree nor disagree		22	1	0	4	0	4	3	26
		6.0%	4.3%	0.0%	5.3%	0.0%	13.3%	9.7%	6.1%
Tend to or strongly disagree		25	3	0	7	1	3	0	28
		6.8%	13.0%	0.0%	9.3%	14.3%	10.0%	0.0%	6.6%
Total		369	23	8	75	7	30	31	426

Percentages and totals are based on respondents.

Q5. Do you agree or disagree with the proposals set out around an income cap?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		235	16	4	46	4	20	21	276
		64.9%	76.2%	50.0%	62.2%	57.1%	66.7%	72.4%	66.0%
Neither agree nor disagree		40	4	3	11	0	2	7	50
		11.0%	19.0%	37.5%	14.9%	0.0%	6.7%	24.1%	12.0%
Tend to or strongly disagree		87	1	1	17	3	8	1	92
		24.0%	4.8%	12.5%	23.0%	42.9%	26.7%	3.4%	22.0%
Total		362	21	8	74	7	30	29	418

Percentages and totals are based on respondents.

Q6. Do you agree or disagree with the proposal regarding rent arrears?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		277	10	2	50	3	13	22	308
		74.5%	45.5%	25.0%	66.7%	50.0%	44.8%	71.0%	71.8%
Neither agree nor disagree		31	5	1	5	0	1	5	38
		8.3%	22.7%	12.5%	6.7%	0.0%	3.4%	16.1%	8.9%
Tend to or strongly disagree		64	7	5	20	3	15	4	83
		17.2%	31.8%	62.5%	26.7%	50.0%	51.7%	12.9%	19.3%
Total		372	22	8	75	6	29	31	429

Percentages and totals are based on respondents.

Q7. Do you agree or disagree with proposal about working positive contributions?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		254	10	2	53	5	24	24	290
		73.4%	50.0%	33.3%	74.6%	83.3%	80.0%	80.0%	72.5%
Neither agree nor disagree		47	5	2	10	0	4	3	56
		13.6%	25.0%	33.3%	14.1%	0.0%	13.3%	10.0%	14.0%
Tend to or strongly disagree		45	5	2	8	1	2	3	54
		13.0%	25.0%	33.3%	11.3%	16.7%	6.7%	10.0%	13.5%
Total		346	20	6	71	6	30	30	400

Percentages and totals are based on respondents.

Q8. Do you agree or disagree with the proposal for the cap on working positive contributions should remain at the current levels?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		206	12	4	46	4	19	19	241
		60.4%	54.5%	57.1%	64.8%	57.1%	65.5%	61.3%	60.7%
Neither agree nor disagree		64	4	3	12	1	5	7	75
		18.8%	18.2%	42.9%	16.9%	14.3%	17.2%	22.6%	18.9%
Tend to or strongly disagree		71	6	0	13	2	5	5	81
		20.8%	27.3%	0.0%	18.3%	28.6%	17.2%	16.1%	20.4%
Total		341	22	7	71	7	29	31	397

Percentages and totals are based on respondents.

Q9. Do you agree or disagree with the proposal in relation to right to buy?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		264	18	7	59	3	21	21	308
		77.0%	81.8%	87.5%	84.3%	60.0%	77.8%	67.7%	77.2%
Neither agree nor disagree		50	2	1	6	1	5	4	56
		14.6%	9.1%	12.5%	8.6%	20.0%	18.5%	12.9%	14.0%
Tend to or strongly disagree		29	2	0	5	1	1	6	35
		8.5%	9.1%	0.0%	7.1%	20.0%	3.7%	19.4%	8.8%
Total		343	22	8	70	5	27	31	399

Percentages and totals are based on respondents.

Q10. Do you agree or disagree with the proposal in relation to people on the housing register who have not made a bid for 12 months?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		289	19	7	63	4	21	29	341
		79.0%	86.4%	87.5%	85.1%	57.1%	72.4%	93.5%	80.4%
Neither agree nor disagree		29	2	0	7	2	4	0	31
		7.9%	9.1%	0.0%	9.5%	28.6%	13.8%	0.0%	7.3%
Tend to or strongly disagree		48	1	1	4	1	4	2	52
		13.1%	4.5%	12.5%	5.4%	14.3%	13.8%	6.5%	12.3%
Total		366	22	8	74	7	29	31	424

Percentages and totals are based on respondents.

Q11. Do you agree or disagree with the proposal in relation to refusing an offer of accommodation?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		211	7	4	45	3	11	20	239
		58.6%	30.4%	57.1%	60.0%	42.9%	36.7%	64.5%	57.2%
Neither agree nor disagree		34	6	1	3	0	3	1	41
		9.4%	26.1%	14.3%	4.0%	0.0%	10.0%	3.2%	9.8%
Tend to or strongly disagree		115	10	2	27	4	16	10	138
		31.9%	43.5%	28.6%	36.0%	57.1%	53.3%	32.3%	33.0%
Total		360	23	7	75	7	30	31	418

Percentages and totals are based on respondents.

Q12. Do you agree or disagree with the proposals in relation to overcrowding, insanitary or unsatisfactory housing conditions?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		286	16	6	59	5	19	27	328
		79.7%	69.6%	75.0%	80.8%	71.4%	65.5%	87.1%	78.7%
Neither agree nor disagree		33	1	1	5	0	4	0	38
		9.2%	4.3%	12.5%	6.8%	0.0%	13.8%	0.0%	9.1%
Tend to or strongly disagree		40	6	1	9	2	6	4	51
		11.1%	26.1%	12.5%	12.3%	28.6%	20.7%	12.9%	12.2%

Total	359	23	8	73	7	29	31	417
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Percentages and totals are based on respondents.

Q13. Do you agree or disagree with the proposal regarding the assessment of overcrowded households?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		209	11	5	44	4	11	21	240
		61.3%	52.4%	71.4%	62.9%	57.1%	42.3%	75.0%	60.6%
Neither agree nor disagree		42	5	2	9	1	2	1	51
		12.3%	23.8%	28.6%	12.9%	14.3%	7.7%	3.6%	12.9%
Tend to or strongly disagree		90	5	0	17	2	13	6	105
		26.4%	23.8%	0.0%	24.3%	28.6%	50.0%	21.4%	26.5%
Total		341	21	7	70	7	26	28	396

Percentages and totals are based on respondents.

Q14. Do you agree or disagree with the proposal for when two families split?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		241	14	6	46	3	17	21	281
		70.3%	60.9%	75.0%	63.9%	42.9%	60.7%	75.0%	70.4%
Neither agree nor disagree		46	3	1	9	2	6	1	52
		13.4%	13.0%	12.5%	12.5%	28.6%	21.4%	3.6%	13.0%
Tend to or strongly disagree		56	6	1	17	2	5	6	66
		16.3%	26.1%	12.5%	23.6%	28.6%	17.9%	21.4%	16.5%

Total	343	23	8	72	7	28	28	399
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Percentages and totals are based on respondents.

Q15. Do you agree or disagree with the proposal in relation to the ending of joint tenancies?									
		Are you replying as:							
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	All responses
Strongly or tend to agree		271	15	6	58	4	19	26	317
		77.9%	68.2%	85.7%	81.7%	57.1%	73.1%	86.7%	78.9%
Neither agree nor disagree		53	3	1	7	2	4	3	57
		15.2%	13.6%	14.3%	9.9%	28.6%	15.4%	10.0%	14.2%
Tend to or strongly disagree		24	4	0	6	1	3	1	28
		6.9%	18.2%	0.0%	8.5%	14.3%	11.5%	3.3%	7.0%
Total		348	22	7	71	7	26	30	402

Percentages and totals are based on respondents.

Q16. Do you agree or disagree with the proposal in relation to a medical need to move?									
		Are you replying as:							
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	All responses
Strongly or tend to agree		304	15	6	60	5	25	27	351
		81.9%	71.4%	75.0%	80.0%	71.4%	86.2%	84.4%	81.8%
Neither agree nor disagree		42	3	1	8	1	1	4	47
		11.3%	14.3%	12.5%	10.7%	14.3%	3.4%	12.5%	11.0%
Tend to or strongly disagree		25	3	1	7	1	3	1	31
		6.7%	14.3%	12.5%	9.3%	14.3%	10.3%	3.1%	7.2%

Total	371	21	8	75	7	29	32	429
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Percentages and totals are based on respondents.

Q17. Do you agree or disagree with the proposal in relation to Disability and Mobility categorisation?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		259	13	7	53	4	22	24	300
		79.2%	65.0%	87.5%	81.5%	66.7%	88.0%	82.8%	78.9%
Neither agree nor disagree		55	4	1	10	1	2	4	63
		16.8%	20.0%	12.5%	15.4%	16.7%	8.0%	13.8%	16.6%
Tend to or strongly disagree		13	3	0	2	1	1	1	17
		4.0%	15.0%	0.0%	3.1%	16.7%	4.0%	3.4%	4.5%
Total		327	20	8	65	6	25	29	380

Percentages and totals are based on respondents.

Q18. Do you agree or disagree with the proposal in relation to people that can be on an application?									
		Are you replying as:						All responses	
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation		Other
Strongly or tend to agree		267	12	6	52	5	18	25	307
		76.1%	54.5%	75.0%	71.2%	83.3%	62.1%	80.6%	75.1%
Neither agree nor disagree		41	1	0	5	1	5	4	45
		11.7%	4.5%	0.0%	6.8%	16.7%	17.2%	12.9%	11.0%
Tend to or strongly disagree		43	9	2	16	0	6	2	57
		12.3%	40.9%	25.0%	21.9%	0.0%	20.7%	6.5%	13.9%

Total	351	22	8	73	6	29	31	409
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Percentages and totals are based on respondents.

Q19. Do you agree or disagree with the proposal in relation to care leavers?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		231	9	6	47	4	22	22	263
		72.9%	60.0%	66.7%	74.6%	57.1%	88.0%	75.9%	71.9%
Neither agree nor disagree		72	5	3	15	3	3	6	86
		22.7%	33.3%	33.3%	23.8%	42.9%	12.0%	20.7%	23.5%
Tend to or strongly disagree		14	1	0	1	0	0	1	17
		4.4%	6.7%	0.0%	1.6%	0.0%	0.0%	3.4%	4.6%
Total		317	15	9	63	7	25	29	366

Percentages and totals are based on respondents.

Q20. Do you agree or disagree with the proposal around the challenges to Adult Social Care and Children's services?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		237	13	8	57	3	23	21	271
		76.5%	68.4%	88.9%	86.4%	60.0%	95.8%	75.0%	75.1%
Neither agree nor disagree		65	5	1	8	2	1	6	79
		21.0%	26.3%	11.1%	12.1%	40.0%	4.2%	21.4%	21.9%
Tend to or strongly disagree		8	1	0	1	0	0	1	11
		2.6%	5.3%	0.0%	1.5%	0.0%	0.0%	3.6%	3.0%

Total	310	19	9	66	5	24	28	361
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Percentages and totals are based on respondents.

Q21. Do you agree or disagree with the proposal to self service online as a default?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		248	15	6	48	6	14	26	291
		68.7%	68.2%	75.0%	67.6%	85.7%	50.0%	86.7%	70.0%
Neither agree nor disagree		27	4	1	5	0	6	2	32
		7.5%	18.2%	12.5%	7.0%	0.0%	21.4%	6.7%	7.7%
Tend to or strongly disagree		86	3	1	18	1	8	2	93
		23.8%	13.6%	12.5%	25.4%	14.3%	28.6%	6.7%	22.4%
Total		361	22	8	71	7	28	30	416

Percentages and totals are based on respondents.

Q22. Do you agree or disagree with the proposal relating to anti-fraud?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		334	17	7	67	5	23	29	380
		91.3%	81.0%	100.0%	93.1%	71.4%	85.2%	93.5%	90.0%
Neither agree nor disagree		14	2	0	3	2	1	1	18
		3.8%	9.5%	0.0%	4.2%	28.6%	3.7%	3.2%	4.3%
Tend to or strongly disagree		18	2	0	2	0	3	1	24
		4.9%	9.5%	0.0%	2.8%	0.0%	11.1%	3.2%	5.7%

Total	366	21	7	72	7	27	31	422
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Percentages and totals are based on respondents.

Q23. Do you agree or disagree with the proposal to introduce more rigorous financial checks?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		310	16	8	67	5	25	27	359
		85.6%	72.7%	100.0%	88.2%	71.4%	86.2%	90.0%	85.7%
Neither agree nor disagree		26	2	0	5	0	2	2	30
		7.2%	9.1%	0.0%	6.6%	0.0%	6.9%	6.7%	7.2%
Tend to or strongly disagree		26	4	0	4	2	2	1	30
		7.2%	18.2%	0.0%	5.3%	28.6%	6.9%	3.3%	7.2%
Total		362	22	8	76	7	29	30	419

Percentages and totals are based on respondents.

Q24. Do you agree or disagree with the proposal relating to an Allocation Plan?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		239	12	6	48	5	20	21	276
		72.2%	63.2%	75.0%	72.7%	71.4%	83.3%	75.0%	71.9%
Neither agree nor disagree		59	5	0	10	0	3	5	69
		17.8%	26.3%	0.0%	15.2%	0.0%	12.5%	17.9%	18.0%
Tend to or strongly disagree		33	2	2	8	2	1	2	39
		10.0%	10.5%	25.0%	12.1%	28.6%	4.2%	7.1%	10.2%
Total		331	19	8	66	7	24	28	384

Percentages and totals are based on respondents.

Q25. Do you agree or disagree with the proposal regarding the updating of the policy?									
		Are you replying as:							All responses
		A resident	A non resident	A service commissioner	A service provider	Community champion	Community & Voluntary Sector Organisation	Other	
Strongly or tend to agree		255	12	7	58	5	17	28	296
		76.8%	60.0%	87.5%	82.9%	71.4%	68.0%	96.6%	76.5%
Neither agree nor disagree		56	7	1	11	0	6	1	68
		16.9%	35.0%	12.5%	15.7%	0.0%	24.0%	3.4%	17.6%
Tend to or strongly disagree		21	1	0	1	2	2	0	23
		6.3%	5.0%	0.0%	1.4%	28.6%	8.0%	0.0%	5.9%
Total		332	20	8	70	7	25	29	387

5. Below is a full list of questions that were asked in the consultation.

Please note the questions are not numbered the same as the questions on the on-line consultation portal.

Q1. Do you agree or disagree with our priorities for the allocation of housing?

Q2. Do you agree or disagree with the changes to the local connection / residency rule?

Q3. Do you agree or disagree with the proposed changes if a person's application is assessed as not having a housing need?

Q4. Do you agree or disagree with the proposal to exclude home owners from the Housing Register?

Q5. Do you agree or disagree with the proposals set out around an income cap?

- Q06. Do you agree or disagree with the proposal regarding rent arrears?
- Q07. Do you agree or disagree with proposal about working positive contributions?
- Q08. Do you agree or disagree with the proposal for the cap on working positive contributions should remain at the current levels?
- Q09. Do you agree or disagree with the proposal in relation to right to buy?
- Q10. Do you agree or disagree with the proposal in relation to people on the housing register who have not made a bid for 12 months?
- Q11. Do you agree or disagree with the proposal in relation to refusing an offer of accommodation?
- Q12. Do you agree or disagree with the proposals in relation to overcrowding, insanitary or unsatisfactory housing conditions?
- Q13. Do you agree or disagree with the proposal regarding the assessment of overcrowded households?
- Q14. Do you agree or disagree with the proposal for when two families split?
- Q15. Do you agree or disagree with the proposal in relation to the ending of joint tenancies?
- Q16. Do you agree or disagree with the proposal in relation to a medical need to move?
- Q17. Do you agree or disagree with the proposal in relation to Disability and Mobility categorisation?
- Q18. Do you agree or disagree with the proposal in relation to people that can be on an application?
- Q19. Do you agree or disagree with the proposal in relation to care leavers?
- Q20. Do you agree or disagree with the proposal around the challenges to Adult Social Care and Children's services?
- Q21. Do you agree or disagree with the proposal to self service online as a default?
- Q22. Do you agree or disagree with the proposal relating to anti-fraud?

Q23. Do you agree or disagree with the proposal to introduce more rigorous financial checks?

Q24. Do you agree or disagree with the proposal relating to an Allocation Plan?

Q25. Do you agree or disagree with the proposal regarding the updating of the policy?

6. Organisational responses

The following is a list of organisations who submitted a response to the Council's consultation on the Portal.

Brighton & Hove City Council respondents

Executive Director Adult Social Care
BHCC Housing
Children & Families Worker dealing with homeless families
Housing Adaptations
Local government officer – Housing Service Adviser
Housing Options
Technical
Adult Social Care assessment service
Tenancy Enforcement, Housing
Senior Housing
Brighton & Hove Council, Re-housing
Re-Housing Administrator
New Steine Mews Hostel
Housing and Customer First In A Digital Age
Neighbourhood Team Leader
Housing Income Management

Non Brighton and Hove City Council respondents

Rough Sleeper / Single Homeless
Project Worker BHT
BHT AFW and Move on Project manager
Community (Hostel) Manager
MOSAIC,
Brighton & Hove Black History,

B&H BHM
Brighton Homeless Service St John Ambulance
Mind out LGBT mental health advocate
COMMUNITY ACTIVIST AND ADVOCATE
Mind Out
Kent, Surrey and Sussex Community Rehabilitation Company
Chairman SHRA
Director
Engagement officer and fundraiser
Youth Advocacy Project
Drug & Alcohol Outreach Worker
Leaving Care Personal Adviser
Housing Support Worker
Children Centre
Senior Practitioner - Long Term Condition Management Team
Social care coordinator
Advice & Support Worker
First Aid trainer
BHT Fulfilling Lives
Brighton Housing Trust
Head of Commissioning
Careers Practitioner
MH Nurse – NHS
Wellbeing Service
Community Links
Case worker First base
B&H Police (Sussex Police)
Community Links Advisor from Southdown
Volunteer for the Clinical Commissioning Group
Mental health worker SPFT
Rise
Senior social worker adult social care
Secretary of North Moulsecoomb TRA
Money Advice Plus
The Trans Alliance
Healthcare assistant
BSUH NHS Trust
Nightstop Host
Regional Operations Manager

Community Mental Health Nurse
Young Carer

The list above shows that the consultation reached a wide variety of organisations both within the council and with other statutory services and a cross section of the community and voluntary sector. It is also noted that responses were received from different levels within each of the sectors from Executive directors to administrators and volunteers.

8. List of Registered Social Landlords in Brighton and Hove sent the link to the consultation.

A2 Dominion Spelthorne House, Thames Street, Staines, TW18 4TA info@a2dominion.co.uk
Abbeyfield Brighton & Hove Society Ltd 19 Aymer Road Hove, BN3 4GB
Affinity Sutton Group Maple House 157-159 Masons Hill Bromley Kent, BR2 9HY
AmicusHorizon Ltd PO Box 322 Sittingbourne Kent, ME9 8PQ contactus@amicushorizon.org.uk
Anchor Retirement Housing Milestone Place 100 Bolton Road Bradford, BD1 4DH
Brighton & Hove Almshouse Charity Lanes End House c/o Woolley Bevis & Diplock LLP 15 Prince Albert Street Brighton, BN1 1HY
Brighton & Hove Jewish H.A. Ltd 61 Furze Croft Furze Hill Hove, BN3 1PD
Brighton Lions Housing Society Ltd Lions Gate 95 Rowan Avenue, Hove, BN3 7JZ
Sussex Central YMCA Sussex Central YMCA, Reed House, 47 Church Road, Hove, BN3 2BE email: reed.house@sussexcentralymca.org.uk
Carr-Gomm (Sanctuary)
Chisel Ltd 188a Brockley Rd London, SE4 2RN email cto@chisel.org.uk
Hanover Housing Association Hanover House 1 Bridge Close Staines, TW18 4TB

Email general.enquiries@hanover.org.uk
Home Group 3 Cantelupe Mews Cantelupe Road East Grinstead, RH19 3BG
Hyde Group 113-119 Davigdor Road Hove, BN3 1RE Email: info@hydemarket.co.uk
Moat Sevenoaks District Council Offices, Argyle Road, Sevenoaks, TN13 1ZW Email: customer@moat.co.uk
Orbit South 1-3 The Oaks Little Ridge Avenue St Leonards on Sea, TN37 7UW
Pilgrim Homes 35-36 Egremont Place, Brighton, BN2 0GB
Places for People 3rd Floor, Ivy House, 3 Ivy Terrace, Eastbourne, BN21 4QU Email: contactcentre@placesforpeople.co.uk
Porthove Housing Association Ltd c/o Austin Rees Ltd 135-137 Dyke Road Hove, BN3 1TJ Email: Contact Porthove Housing Association Ltd.
Raglan Housing Association Ground Floor, Imperial Buildings 68 Victoria Road Horley RH6 7PZ Email: hsc@raglan.org
Rotary Club of Hove Housing Society 135 Dyke Road Hove, BN3 1TJ
Sanctuary Housing Association 45 Church Road Hove, BN3 2BE Email: contactus@sanctuary-housing.co.uk
Saxon Weald Saxon Weald House 38-42 Worthing Road Horsham, RH12 1DT Email: info@saxonweald.com
Southdown Housing Association 18 Preston Park Avenue Brighton East Sussex BN1 6HL Email: info@southdownhousing.org
Southern Housing Group

2nd Floor, Cornelius House, 178-180 Church Road, Hove, BN3 2D
Sussex Housing and Care Ronald Simson House, 24 Sutton Avenue, Seaford, BN25 4LG
Sussex Overseas Housing Society Limited Bishop Hannington Church Office Nevill Avenue Hove, BN3 7NH
Teachers' Housing Association Rugby Chambers, 2 Rugby Road, London, WC1N 3QN email: enquiries@teachershousing.org.uk
Guinness South 3rd Floor, Beluah Court, Albert Road, Horley, RH6 7HP Email: gs.mail@guinness.org.uk
Two Piers Housing Co-operative Limited 14 Oriental Place Brighton BN1 2LJ
Worthing Homes Limited Davison House North Street Worthing, BN11 1ER

Housing Allocation Scheme 2016



Brighton & Hove
City Council

Brighton & Hove City Council Housing Allocations Scheme and Guidance

If you try to obtain accommodation by making a false or misleading statement, by withholding information or by failing to inform us of a change in your circumstances, it is likely that your application will be cancelled. You may also be prosecuted. If you have moved into a council or housing association home, legal action may be taken against you to recover possession of the property. You may also be guilty of a criminal offence and be fined.

This authority is under a duty to protect the public funds it administers, and to this end may use the information you provide for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes.

Brighton & Hove City Council
Choice Based Lettings Scheme

Table of contents will be inserted here

Introduction

This document is the housing allocation scheme used by the council with effect from XX September 2016. The Council is required by section 166A(1) of the Housing Act 1996 to have an allocation scheme for determining priorities and for defining the procedures to be followed in allocating housing accommodation. It is Brighton & Hove City Council's policy to operate a Choice Based Lettings scheme except in certain circumstances laid out within the policy below.

For the purposes of Part 6 of the Housing Act 1996, a housing authority allocates accommodation when it selects a person to be

- a secure (including flexible) or introductory tenant of accommodation held by that authority or
- nominates a person to be an assured (including assured shorthold) tenant of accommodation held by a private registered provider of social housing (PRP) or a registered social landlord.

The nominations to PRPs are made using the same priorities as for allocations to council dwellings where they are made under an obligation of a nominations agreement. However, where nominations are made to properties that fall out side of nominations agreement quotas the council respects the integrity of the lettings policy of the PRPs concerned. The scheme only covers allocations made by the council exercising its housing authority functions. The scheme also applies to existing council and housing association tenants who request an application for a transfer and the council has reason to believe that they have a reasonable preference under s166a.¹

This scheme meets the requirements set out in Part VI Housing Act 1996 (as amended by the Homeless Act 2002). It also contains flexibilities introduced under the Localism Act 2011. In developing this scheme the council has had due regard to guidance issued by the Secretary of State Communities & Local Government (June 2012),² giving reasonable and additional preference to applicants in the greatest need. It incorporates the council's key objectives outlined in the following strategies:

- Housing Strategy 2015
- Homelessness Strategy 2014- 2019
- Tenancy Strategy 2013

Housing Strategy 2015

The Housing Strategy has some key aims that are directly related to the council's allocations policy. These include

- Develop Access to Settled Homes for homeless households
- Support people to 'downsize' from social housing when they choose.
- Supports our Corporate Parenting commitment to care leavers
- Work with occupational therapists and social workers to ensure that

¹ Housing Act 1996 s159 (4B)

² Allocation of accommodation: guidance for local housing authorities in England (June 2012)

family properties are allocated in a co-ordinated manner.

Homelessness Strategy 2014 – 2019

The Homelessness Strategy is a sub strategy of the Housing Strategy which includes the priorities of homelessness prevention and access to settled homes. There are key priority groups within the homelessness strategy that are afforded reasonable and additional preference these include

- Military Veterans & Serving Personnel
- People with Learning Disabilities & Autism
- People with Physical and Sensory Disability
- People with Mental Health
- People living in Temporary Accommodation:

Tenancy Strategy 2013

The Tenancy strategy has a number of areas that have a direct impact on the council's Allocations Policy that include:

- All Affordable Rent and fixed/flexible tenancies to be advertised through our Homemove choice based lettings system. We also expect that
- All new tenancies will be allocated in accordance with the priorities in our adopted Allocation Policy
- Fixed or flexible tenancies must be for a period of at least five years (or two years in exceptional circumstances)
- The Council would not expect any person to be able to succeed to a tenancy where this would result in a property to be under occupied.

Demand for social housing far exceeds the supply of accommodation that becomes available. Whilst the council remains committed to offering choice³ to those seeking housing the scheme is also framed to take into account the limited availability of social housing in the city and the need for partner landlords to have an efficient lettings process to reduce letting times and rent loss on vacant properties. This scheme applies across the city and it also compliments the objectives of the Housing & New Homes Committee's New Homes Programme which aims to build new affordable homes across the city. These new homes will be subject to local lettings plans, on first letting, that will be developed to meet demand.

Under the Choice based lettings Scheme, called Homemove, applicants are placed into one of four Bands that will take account of their housing need according to circumstances of the household. All applicant will become members of Homemove and actively search for available homes. Vacant properties⁴ are advertised on Homemove, which is an internet based application. Members are able to bid for properties in their assessed need. Adapted, sheltered

³ Housing Act 1996 s166(2)(a)

⁴ Housing Act 1996 s166a(2)(b)

and extra care properties will be classified and offered to applicants with an assessed matching need for these properties.

The council is expecting to face a difficult financial environment over the lifetime of this scheme and therefore the scheme incorporates an allocations plan. This allocations plan will distinguish between transfers, homeseekers, homeless households and those where the council has an interest. The allocations plan will be agreed by the Head of Housing with targets for allocations to each of these groups. Targets will be set taking into account the council's statutory obligations, financial considerations and the housing situation across the city, including past performance and projected supply and demand.. Targets will be set and agreed in advance and will remain in place until they are reviewed and agreed by the Head of Housing up to a maximum of two years.

Equalities & Diversity

The council choice based lettings scheme aims to ensure that our services are fair and equitable for our customers. We want our services to be accessible and useful to everyone regardless of age, disability, gender, race, colour, national origin, sexual orientation or any other factor that may cause disadvantage. This policy is however subject to eligibility and qualifying persons under the Housing Act 1996⁵. Eligibility is prescribed under the act and it is unlawful for the council to allocate to a person who is prescribed as ineligible under the Act. The council has the power to classify if a person is a qualifying person. The council has taken into account its equality duties in framing those that may not qualify to join the Housing Register. This policy has been drafted with reference to the Equality Act 2010 in particular to the council's Public Sector Equalities Duty⁶. The Council has adopted the Commission for Racial Equality's Statutory Code of Practice on Racial Equality in Housing.

Brighton & Hove City Council is committed to dealing with applications in an efficient and timely manner. In order to achieve this aim the council is looking to use self service options on-line. The City Council remains committed to help those who will need assistance to access social housing in the City. We will work closely with agencies and supported housing providers to try and assist customers to access this scheme and ensure that information meets the requirements of people with a disability or sensory impairment. The council has reviewed its Housing Vulnerable Person strategy for meeting the needs of vulnerable people. This will include access points where on-line facilities are available across the city.

This policy has been developed following a city wide consultation and an equalities impact assessment.

Joint Housing Register Partners

Hyde Martlet – www.hydemartlet.co.uk

Affinity Sutton – www.affinitysutton.com

Home Group – www.homegroup.org.uk

A2Dominion- www.a2dominion.co.uk

Moat Homes Ltd – www.moat.co.uk

Orbit South Housing Association – www.orbit.org.uk

Places For People – www.placesforpeople.co.uk

Sanctuary Housing – www.sanctuary-housing.co.uk

Servite Houses – www.servitehouses.org.uk

⁵ Housing Act s160ZA

⁶ The essential guide to the public sector equality duty January 2012

Southern Housing Group _ including James Butcher HA) www.shgroup.org.uk
The Guinness Trust – www.guinnesspartnership.com

Our Priorities

Looking to the future the council has to make some difficult choices as resources reduce. This means that there will be an expected fall in the number of available lettings and the council will therefore have to prioritise how we allocate scarce housing resources within the law and using flexibilities in the Localism Act 2011.

- Those who have a local residence connection with the city
- People that are owed a statutory duty under The Housing Acts, Children’s Act, Children Leaving Care Act and the Care Act.
- Households who have a Need to move for welfare or medical reasons that is significantly impacted by their current housing
- Households who occupy accommodation that is overcrowded or lacks facilities
- Households needing sheltered or extra care accommodation
- Households where there is substantial disrepair that cannot be remedied

Housing Options

As you may be aware, there is a shortage of social housing in Brighton & Hove and a huge demand for accommodation. This means that council and housing association properties are not widely available and usually only go to those who are in the most need. Here are some other housing options you may wish to consider

Help and Advice: The Housing Options Team is centred on preventing homelessness by offering housing options tailored to individual needs. They can offer specialist housing advice to help you keep your current home, advice for people who need support to live independently and advice on alternative housing options. Phone (01273) 294400 or e-mail housing.advice@brighton-hove.gov.uk for more information.

Private Renting: You can apply to the private rental agencies in the area for suitable accommodation. You may be eligible for help with paying your rent by claiming for housing benefit. Contact Housing Benefits on (01273) 292000 for more information.

Mutual Exchanges: The council operates a mutual exchange system for council or housing association tenants who wish to swap their homes. Go to www.homemove.org.uk. Or speak to your Housing Officer.

Low Cost Home Ownership - if you are interested in Low Cost Home Ownership then register at <https://www.helptobuyese.org.uk/> or call the bpha Help to Buy Team on 03333 214044 to be considered for new schemes in the city

Who can apply?

Who may apply; eligibility for allocation

Any person may apply to the council for allocation of housing. However, housing will only be allocated to applicants who are registered on the council's housing register for social housing and to be registered an applicant must be:

- eligible for social housing in England (that is, not ineligible due to their immigration status); and
- a qualifying person for social housing in Brighton & Hove (as determined by the following provisions below of the allocation scheme).

Who is eligible for social housing in England

All applicants will be eligible unless they are persons prescribed within the Housing Act 1996 S.160ZA(1) or by regulations made by the Secretary of State. This generally applies to persons from abroad without settled immigration status in the UK, apart from a limited number of exceptions.

A person will be considered to be ineligible for an allocation of under s160ZA if they are

- (i) A person subject to immigration control – such a person is not eligible for an allocation of accommodation unless they come within a class prescribed in regulations made by the Secretary of State⁷ and
- (ii) A person from abroad other than a person subject to immigration control⁸

The Secretary of State has issued regulations in regard to the above and they can be found in Annex 1 of this policy⁹

Where a duty is owed to an applicant who is found to be homeless only by reliance on a household member who is a “restricted person” within the meaning of S184 of the Housing Act 1996, the applicant will not be given any preference under the scheme for an allocation of accommodation. The council will, so far as practicable, bring the duty to secure accommodation to an end by ensuring that an offer of accommodation, in the private sector for a period of at least 12 months, is made to the applicant. A restricted person is defined as someone who requires leave to enter or remain in the UK and does not have it, or a person who does have the required leave but that leave was granted on the condition that the person may not have recourse to public funds.

Joint Tenancies, Household Members & Eligibility

Under s160ZA (1)(b) the council can not grant a joint tenancy to two or more people if any one of them is a person from abroad who is ineligible. Where two or more people apply and one of them is eligible, the council may grant a tenancy to the person who is eligible. In addition, whilst ineligible family members must not be granted a tenancy they may be taken into account in determining the size of accommodation which is to be allocated.

⁷ Housing Act 160ZA(2)

⁸ Housing Act 160ZA(4)

⁹ Allocation of Housing and Homeless(Eligibility) (England) Regulations 2006 (SI No.1294) (the eligibility regulations)

Changes to eligibility criteria

The Secretary of State may issue regulations at any time under the Housing Act 1996. Local Authorities are notified of any such changes by way of statutory instruments, approved by Parliament. Eligibility criteria changed by primary or secondary legislation will form part of this scheme from the date any such changes come into force with out the need to refer any changes to committee.

Existing Tenants & Eligibility

The eligibility provisions do not apply to applicants who are existing tenants who are already secure or introductory tenants or assured tenants of a Private Registered Provider¹⁰

Not Eligible decision.

If an applicant is not eligible to register under s160ZA Housing Act 1996, the homemove team will notify the applicant in writing giving the reasons for the decision. The decision will contain the right of review that must be requested within 21 days of the notification. The council will not accept requests for a review after 21 days except in exceptional circumstances. For further information please see reviews.

Who qualifies for social housing in Brighton & Hove?:

Criteria for being a qualifying person

This section sets out the criteria that must be met for applicants to qualify for social housing in Brighton & Hove. Decisions made on whether a person is a qualifying person are made by the assessment officer. Any such decision as to whether a person is a qualifying person has a statutory right of review. Any such review shall be carried out by a person with higher seniority than the decision maker in line with the Statutory Reviews procedure (see below). Any request for a review must be made within 21 days of the decision.

Applicants are able to apply for social housing within Brighton & Hove if they are eligible and “qualifying person” Brighton & Hove is a high demand area where demand for social housing is in excess of supply.

To be a qualifying person for an allocation of social housing in Brighton & Hove and be (or remain) registered on the council’s housing register for social housing, an applicant, or one of joint applicants, must:

- (a) Be eligible for an allocation of housing accommodation (as determined by law and set out above, that is, not ineligible due to immigration status); and
- (b) Be 18 years old or over unless they are subject to statutory homeless duty, a statutory successor (no age restrictions apply), a non statutory successor under the relevant policy in place at the time or referred by the council’s social care services (in which case they must be over the age of 16). Applicants under the age of 16 will only be offered accommodation in certain circumstances (see below).

¹⁰ Housing Act 1997 s160ZA(5)

- (c) Have a household income that is no greater than the household income threshold set by the Housing & New Homes Committee and in place at the time the decision on qualification is made; and
- (d) Live in the Brighton & Hove City Area¹¹ and have lived in the area continuously for the five years immediately preceding the date they make their application for housing and continue to reside in the Brighton and Hove City Area unless any of the following circumstances apply:
- (i) They are homeless and the council has accepted a full duty to them under the Housing Act 1996 S193(2) that has not yet ceased;
 - (ii) The housing department has accepted a nomination for the applicant from the council's children's services or adult social care department or other approved partner support agency in line with inter-agency agreements, to the Council's Interest queue who has been placed outside of Brighton & Hove under a statutory duty and need to return to the city.
 - (iii) They are serving in the regular forces^{12*13};
 - (iv) They have served in the regular forces* where the application is made within five years of discharge.
 - (v) They are serving or have served in the reserve forces**¹⁴ and are suffering from a serious injury, illness or disability, which is attributable (wholly or partly) to that service;
 - (vi) They have recently ceased, or will cease, to be entitled to reside in accommodation provided by the Ministry of Defence following the death of their spouse or civil partner where their spouse or civil partner has served in the regular forces
 - (vii) The council has agreed to rehouse them under a reciprocal agreement with their current landlord or local authority where their current landlord or local authority has agreed that, if Brighton & Hove houses them, they will house an applicant nominated by Brighton & Hove Council;
 - (viii) The Council has accepted an application for an existing Secure or Assured tenant seeking to transfer under the right to move scheme¹⁵
 - (ix) Rehousing/relocation into Brighton & Hove is accepted by the council as being essential in the furtherance of the National Witness Protection Scheme.

¹¹ Providing social housing for local people Statutory guidance on social housing allocations for local authorities in England

¹² Definitions (S374 Armed Forces Act 2006):

¹³ * The 'regular forces' means the Royal Navy, the Royal Marines, the regular army or the Royal Air Force.

¹⁴ ** The 'reserve forces' means the Royal Fleet Reserve, the Royal Navy Reserve, the Royal Marines Reserve, the Army Reserve, the Territorial Army, the Royal Air Force Reserve or the Royal Auxiliary Air Force.

¹⁵ Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015 (SI 2015/967) ('the qualification regulations 2015')

- (x) Applicant accepted under a reciprocal arrangement with another local authority or registered social landlords where there is an agreement to house or nominate an applicant referred by Brighton & Hove City Council.

Exemptions for temporary absence from the local authority area.

A person may cease to reside in the Brighton & Hove City council area for a temporary period in the following circumstances and not lose their local connection for the purposes of the allocations scheme.

- A. An applicant receiving hospital or other treatment outside of the city area in a treatment centre who is required to vacate their accommodation or is evicted from accommodation and is ready to return to the area.
- B. A person who is required to move to give care to another person, outside of the city, for a temporary period not exceeding 6 months.
- C. A person who loses their accommodation and is unable to find alternative accommodation in the city immediately but then returns to the city within a six week period. This will apply to applicants who have obtained local connection or who are building up their local connection with the city.
- D. Applicants who are placed on remand by the courts will not have any time placed outside of the city whilst on remand. If a person is released without conviction the time spent on remand will be discounted. If a person is convicted following a period of remand the sentence will be used to determine if local connection is removed. If a person is convicted for a period of over 13 weeks then local connection will be lost

A person who has obtained accommodation outside of the city under a contract, either written or verbal will not be considered to have maintained continuous residence in the city area for the purpose of the local connection criteria.

For avoidance of doubt Local Connection for the purpose of the allocations scheme does not include the wider definitions of Local Connection contained in Housing Act 1996 Part VII s199.

For the purposes of determining local connection, living in Brighton & Hove will not include the following:

- Occupation of a mobile home, caravan or motor home which is not placed on an official council approved site or other council approval obtained (toleration on unauthorised sites is not included)
- Occupation of a holiday letting which includes a permanent building, hotel or bed and breakfast accommodation for the purposes of a holiday
- Resident in a bail hostel or other such accommodation
- In-patients of hospitals/specialist centres
- Rough sleeping/squatting

Who is not a qualifying person

This section sets out the circumstances in which applicants who meet the criteria set out above will nevertheless not be qualifying persons for an allocation of social housing in Brighton & Hove. The criteria below will apply to all applications but may, in exceptional circumstances, be waived at the discretion of the Homemove Manager or more senior officer in the housing department. Where an assessing officer considers that exceptional circumstances may apply, they will refer the application to the Homemove Manager or more senior officer to decide whether the criteria in this section should be waived.

Persons who do not qualify on grounds of behaviour

Applicants will not qualify for social housing in Brighton & Hove and be (or remain) registered on the council's housing queues if any of the following circumstances apply:

- (a) The council is satisfied that they have, within the preceding 10 years, obtained or attempted to obtain housing or other housing related services/welfare benefits /public funds, from any public body in the UK, by making a false or misleading statement or withholding information, or encouraging someone else to do so on their behalf;
- (b) The council is satisfied that the applicant is unlikely to satisfactorily manage the tenancy and /or pay their rent because, for example:
 - (i) they have been evicted due to anti-social behaviour (including, but not limited to domestic violence and abuse, homophobic, transphobic abuse and/or noise nuisance) or rent arrears;
 - (ii) they have been served, within the last year, with a notice for breach of their tenancy conditions;
 - (iii) another person who shared a property occupied by them left because of the applicant's violence/abuse or threats of violence/abuse against them or a person associated with them;
 - (iv) they or a member of their household have a history of anti-social behaviour (including domestic violence/abuse and noise nuisance);
 - (v) they have a record of failure to pay rent¹⁶;
 - (vi) they have outstanding debt liabilities to the council and are not making satisfactory arrangements to repay those debts¹⁷.
 - (vii) they are a person who has been removed from a premises subject to a closure order under the Closure of Premises (Anti-Social Behaviour, Crime and Policing Act 2014)
- (c) Where an applicant or member of the household has been found guilty of a criminal offence including theft, assault, criminal damage, robbery, possession or supply of drugs, burglary and fraud, sexual assault or other criminal behaviour a person may not be eligible, or may be removed, for a period no longer than the period that an offence becomes spent under the Rehabilitation of Offenders Act 1974. Each case will be considered on its merits¹⁸.

¹⁶ Rent arrears will not include any payment of Housing Benefit paid in arrears

¹⁷ Debt repayment plans are in place and have been kept for at least 6 months and continue to be kept until cleared or at the point of offer.

¹⁸ R (YA) v Hammersmith and Fulham LBC [2016] EWHC 1850 considered

Persons who do not qualify on grounds of home ownership etc

Under s160ZA Housing Act 1996 the council is only allowed to allocate to an eligible and qualifying person. The Code of Guidance recommends that local authorities should avoid allocating social housing to people who already own their own homes. If the council were to allocate social housing this should only be in exceptional circumstances.

Applicants who own their own homes will be provided advice and guidance on other housing options. Decisions will be made on a case by case basis and medical, disability, community care and other relevant needs will be taken into account

Applicants will not qualify for social housing in Brighton & Hove and be (or remain) registered on the council's housing register if:

- (a) they own or jointly own accommodation (including shared ownership accommodation) in the UK or elsewhere¹⁹, or have a legal right to occupy accommodation in the UK or elsewhere (other than as a tenant or licensee) unless they satisfy the council that it would not be possible and reasonable for them to:
 - (i) occupy the accommodation; or
 - (ii) sell or let the accommodation in order to obtain suitable accommodation; or
- (b) the council is satisfied that they have equity and/or savings that it would be possible and reasonable for them to use in order to obtain suitable accommodation.
- (c) Where there are medical, disability, community care or other relevant needs applications will be considered under the following circumstances:
 - a. Where it is not possible to adapt the current accommodation to meet the needs of the owner occupier's medical/disability or
 - b. Where it is too expensive to adapt the existing accommodation to meet the needs of the owner occupier's medical/disability and they cannot afford to buy or rent suitable alternative housing, including shared ownership or private retirement housing and
 - c. The sale of the property would not enable the owner occupier to purchase or rent an alternative property suitable to meet their needs. This would include shared ownership. purchase or renting outside of Brighton and Hove all will be a factors in reaching the decision.

Where a person or member of the household disposes of a property the equity received at the point of sale will be taken into account for the purposes of a financial assessment (see below). Equity that is received will be counted as income/savings in line with the policy below.

¹⁹ Follows Housing Act 1996 s175

Person who does not qualify following disposal of property, purchased under the Right to Buy, Council and Registered Providers.

Where an applicant or member of the household has purchased a property under the right to buy and has disposed of this asset by way of sale or gift to any other person the applicant will not qualify to join the housing register for a period of five years following the disposal of the property. Following this period the household's income will be taken into account in line with financial limits contained in this policy below.

Persons who do not qualify on the grounds of sufficient resources to accommodate themselves

The council is permitted to take into account the financial resources available to an applicant to meet their own housing need. The following will not qualify to join the housing register.

An income financial assessment will be carried out. If a household's income exceeds the following amounts they will not qualify to join the housing register

Studio/One Bedroom	£30,000
Two Bedroom	£55,000
Three Bedroom or above	£60,000

Income will be calculated taking account of all adults on the application and include income from working and any other income regardless of its source.

In addition to the cap on income, account will be taken of any savings or investments that the household has to enable them to source accommodation. The level set will be

Studio/One Bedroom	£3,000
Two Bedroom	£5,000
Three Bedroom and above	£7,500

Where income/savings is derived from the sale of any assets such as a house then the council will assume that this sum is available as part of the financial assessment. If an applicant deliberately deprives themselves of capital or income in order to qualify for housing, they will be treated as still having it for the purpose of the financial assessment. Where a person is treated as having "notional" capital this amount may be reduced on a monthly basis to take into account living costs such as rent, council tax and other general outgoings until the notional capital is less than the financial caps under this policy. Deliberate deprivation includes gifted money to relatives and friends and payments to third parties that do not form part of authorised loans that are regulated by the financial services authority.

Increase in income and savings levels

The above financial limits will be increased on an annual basis using the increase in the consumer price index each year that is used by central government for increases in welfare benefits. Any increased levels will be approved by the Head of Housing. This increase will not be subject to ratification by the relevant council committee.

Carrying out financial checks

The council will carry out checks, including credit checks, on any member of the household, who are included, on the application with the applicant in order to determine household income and savings levels. Financial checks may apply to any part of this policy, which requires such an assessment, including at the offer of accommodation stage. Income is derived regardless of source and will include income from earning, savings and welfare benefits.

The council will not take into account the following in assessment of savings or income:

Any members of the armed forces recently discharged from the forces with a payment due to injury or disability, unless there is an award towards resolving their housing costs.

Disability Living Allowance or personal independence payments or any other replacement benefit for the above.

Persons who do not qualify on grounds of refusing a suitable and reasonable offer

Applicants will not qualify for social housing in Brighton & Hove and be (or remain) registered on the council's housing register if they have refused any offer of suitable accommodation within the last two years made or arranged by the council and there has been no material change in their circumstances so as to make the earlier offer clearly unsuitable in the light of the applicant's changed circumstances.

Persons who do not qualify on grounds of being an applicant with no recognised housing need

Applicants will not qualify for social housing in Brighton & Hove and be (or remain) registered on the council's housing register if the council is satisfied, once the application has been assessed, that they are suitably housed, that is, they have no recognised housing need under the Council's Housing Allocation Scheme.

Exceptional Circumstances

There may be occasions not predicted by this allocations scheme where the applicant is deemed not to be a qualifying person and accordingly following a person having requested a review of the decision (see reviews) not to include an applicant on the basis of not being a qualifying person, the reviewer may exercise discretion not to invoke the policy in exceptional circumstances. Each case will be considered on its merits. Applicants will have to demonstrate why the case is exceptional in each case.

In circumstances not predicted by the allocations scheme where, the applicant is not deemed to be a qualifying person and has not requested a review, the council may look to exercise discretion not to invoke the policy if the applicant can demonstrate that there are exceptional circumstances. Each case will be considered on its own merits

Non Qualifying application decision.

If an applicant is not a qualifying person under this policy, the homemove team will notify the applicant in writing giving the reasons for the decision. The decision will contain the right of review that must be requested within 21 days of the notification. The council will not accept requests for a review after 21 days except in exceptional circumstances. For further information please see reviews.

Data Protection and rights to information

We aim to provide excellent customer service to applicants using or seeking to use the Housing Register. This includes a right to confidentiality and right to certain information.

Right to confidentiality

We will not divulge (without their consent) information about a housing applicant. This includes the fact that they are an applicant²⁰.

Right to Information

An applicant has the right to see information²¹ held about them on the Housing Register. This is known as a subject access request (SAR) We will provide this information within 40 days of a written request of the applicant a charge of £10 will be payable for a copy of this information.

After we have completed a full assessment, we will inform an applicant about their priority on the Housing Register.

We will provide information, through the Homeseeker guide and Sussex Homemove website, about property types they are eligible for.

We will provide, through Sussex Homemove website (<http://www.homemove.org.uk/>), feedback information²² about the lettings undertaken so that the applicant can estimate the length of time they are likely to have to wait before being rehoused. This will be provided when the result of a letting is known by the council.

We will inform an applicant if they have been given any priority status on the Housing Register²³.

An applicant has the right to request that we inform them of any decision about the facts of their case which is likely to be, or has been, taken into account in considering whether to allocate housing accommodation to them²⁴.

The applicant has a right of review against any decision we make about their application. Their right to review is set out below in this policy²⁵.

We will publish a summary of the Allocations Policy on the Council's Website and provide a copy of this summary free of charge to any member of the public that requests it.²⁶

We will publish the full copy of this Allocations Policy on the Council's website and make it freely available for any person to inspect at Bartholomew House, Bartholomew

²⁰ 166(4) of the Housing Act 1996 as amended by the Homelessness Act 2002

²¹ 166A (9) of the Housing Act 1996 as amended by the Homelessness Act 2002

²² 166A (9)(ii) of the Housing Act 1996, as amended by the Homelessness Act 2002.

²³ section 166A(a)(i) of the Housing Act 1996

²⁴ Housing Act 1996 section 166A (9)(b) as amended by Section 16 of the Homelessness Act 2002

²⁵ Housing Act 1996 section 166(9)(c) as amended by Section 16 of the Homelessness Act 2002.

²⁶ Section 168 (1)

Square, Brighton. A person may request a copy of the full policy. A reasonable fee will be payable for this service²⁷.

Who can apply?

The housing register is open to people who are eligible and qualify under this policy and are 16 years old or over although applicants under the age of 18 will only be offered accommodation in certain circumstances (see below).

Existing Social Housing Tenants & Joint Tenants

Existing Social Housing Tenants

Any secure council tenant or any assured tenant of any of the council's partners in the joint housing register living in the city may join the housing register if they are a qualifying person.

The council will not normally make an offer of accommodation to a transfer applicant where the tenant is in breach of their tenancy resulting in

- A valid Notice of Seeking Possession or suspended order for rent arrears.
- Housing Act Injunction, Anti Social behaviour order, Notice of seeking possession for other breaches to the tenancy.

Tenants will also be asked to join the council's mutual exchange register. This register contains the details of tenants who are looking to swap their home with someone else. Mutual exchanges can be found in the city and elsewhere if people are looking to relocate to other parts of the country. There are restrictions for mutual exchanges such as size criteria or for those in rent arrears. For further information please contact **XXXX**

Joint tenants

Applications for transfers can only be considered from joint tenants where both tenants are moving. If one of a joint tenant is requesting a transfer then the existing joint tenancy issues must be resolved before the application can proceed. Applications will be suspended until the tenancy issues are resolved and then any banding will be backdated to the date of the application. Joint tenants will be required to obtain independent legal advice on determining the joint tenancy.

How to apply

All Homeseekers requesting rehousing and tenants requesting transfers **MUST** complete an application to be put onto the housing register. Applications can be made on-line at <http://www.homemove.org.uk/> . Information is available on this scheme in a number of different languages <http://www.homemove.org.uk/otherlanguages.aspx> . If you are unable to complete an on-line application because you do not have access to the internet you can get on-line free of charge at the following venues in the City

Customer Service Centre Bartholomew House
Customer Service Centre Hove Town Hall

²⁷ Section 168 (2)

Coldean Library
Hangleton Library
Hollingbury Library
Hove Library
Jubilee Library
Mile Oak Library
Moulsecoomb Library
Patcham Library
Portslade Library
Rottingdean Library
Saltdean Library
Whitehawk Library
Woodingdean Library

Brighton & Hove has a digital inclusion project called Digital Brighton & Hove that has a list of all free access points across the city. Digital on-line can also offer free places in Brighton and Hove to get online or improve your skills like searching, security, email, social media, form-filling, finding jobs, shopping and paying bills.

<http://digitalbrightonandhove.org.uk/>

Digital Brighton & Hove can also assist those with no knowledge how to begin to get on line.

If you need help completing an on-line application you can contact the Customer Assessment and Advice Team on 01273 294400 Option 1

If you are housebound you may request that a member of staff assists you to make a telephone application or in exceptional circumstances you may request a home visit for someone to help you. For further information please see our vulnerable person strategy.

Who can be included on the application?

Applications for General Needs Accommodation.

Demand for social housing in Brighton & Hove is extremely high. As a result the city has to ensure that it makes best use of accommodation and that it is allocated to those in need.

The following may be included on a person's application

- Applicant who is an eligible and qualifying person.
- Applicants Husband, Wife, Civil Partner or someone with whom they cohabit.
- All dependent children under the age of 18, children of the applicant, husband, wife civil partner who are currently living with the applicant or could reasonably be expected to live within the household and residence is 100% of the time.

- This can apply to households that are split households who are not able to live together because they do not have accommodation.
- Normally other people who can be included on the application must be members of the applicant's immediate family who usually reside and have done so for a period of six months prior to the application. Any other person or persons will only be accepted as part of the applicants household in circumstance in which is reasonable for the person or person to reside with the applicant.
- A carer where the applicant can prove that a 24 hour is essential and currently lives with the applicant or there is an identified person not currently living with the person and there is a risk that the applicant may have to go into residential care if the carer is not living with the applicant.

People who cannot be included on the application

People that cannot be included on a person's application include

- Lodgers
- anyone subletting from the applicant.
- People flat sharing not in a relationship (joint tenants)
- An adult applicant may not appear on more than one application for the allocation of housing simultaneously²⁸.
- Children who do not reside with the applicant and who have accommodation with another parent, guardian, foster carer. This includes households with shared custody where there is available accommodation for the child/ren

Under 18s & Under 21s

Under 18s

Applicants who are eligible and qualify under the allocation scheme who are under 18 may register under the allocations policy. Although we will not usually offer them a property until they are over 18. In the event that there is an urgent housing need, a further assessment will be carried out and we will work with the individual to find the most suitable accommodation to meet their need. An offer of permanent accommodation will only be made if the council is satisfied that: the young person is able to live independently; able to sustain a tenancy; and has an identified package of support available to them.

Exemptions

An applicant who is entitled to succeed to a tenancy by virtue of Housing Act 1985 s87 (as amended) will be granted a tenancy by way of succession.

²⁸ Someone with own application cannot also be on a transfer application.

Under 21s

The Government has proposed to withdraw automatic housing cost for people under the age of 21. The introduction of the Youth Obligation, with its tougher conditionality, and the removal of “automatic entitlement” to housing support for 18-21 year olds It is expected that the provisions will include an element of working or learning in order to qualify for Housing Benefit (or housing element of universal credit). The policy will be updated to comply with any statutory scheme introduced by government without the need to refer to committee..

Considerations for assessment.

Assessment of Needs

Officers will assess applications in line with this policy taking account of all available information provided by the applicant together with any information that is available to the assessor from any other source, such as Housing Benefit, Council Tax, Electoral Register, Land Registry searches and any credit checks used to confirm residence or income.

Best use of accommodation

Assessment of accommodation will be carried out using “best use” of accommodation that is available based on the number of occupants in a property and the number of rooms. The assessment will use the overcrowding standard when assessing on this criteria.

False or misleading information

Section 171 Housing Act 1996 makes it an offence:

- To knowingly or recklessly make a statement which is false in a material particular; or
- To knowingly withhold information which the authority has reasonably required an applicant to give the council in connection with dealing with their application.

The council may request supporting documentation in relation to any application from any member of the household to determine if a person is an eligible or qualifying person. It may request details in order to assess the application. This may include information including financial, medical, employment or voluntary contribution, property ownership or disposal of a property or any other material that may be required from time to time to allow the council to reach a decision under the policy.

Failure to provide the requested information may lead to the application being suspended for a period. Failure to continue to provide any information will lead to the applications being cancelled. Any applicant or third party person submitting information under this policy may be liable to prosecution.

Any person found to have supplied false or misleading information will have their application cancelled.

Application and assessment process

Applications from Homeseekers, transfers and the Council's interest queue will be required to complete a housing registration form on-line at www.brighton-hove.gov.uk/homemove

Applications from accepted homeless applicants will be copied over from their homeless application and will not be required to complete an application form. For the purposes of fraud or misleading information any information contained on the homelessness form will be considered under this policy.

The council will have four queues contained within this policy. These will be:

- Homeseekers - general waiting list applicants
- Homeless Accepted Homeless under full housing duty s193(2)
- Transfer applicants – existing tenants of Brighton & Hove City Council or registered housing provider with a nomination agreement with the Council
- Council's interest queue – Quota arrangement with Council or other statutory services

Application Process

Applicant(s) will be required to provide a passport size photograph of each applicant(s) and each member of the household over the age of 18.

Any applicant applying on-line will receive a letter that gives a **provisional band** automatically. This will allow the applicant to bid on properties while their application is being verified. Any provisional band may be changed once information has been received and the applicant will be given a band on their assessed need.

Once applications are received and a person is deemed an eligible and qualifying applicant the homemove team carry out an initial housing needs assessment based on the information contained on the application form and other information available. The homemove team will have access to other data contained in other council departments such as Housing and Council Tax Benefit. Should the homemove team be unable to carry out a full assessment due to the lack of available evidence the highest band that the application can achieve is Band C. The homemove team will write to the applicant to request additional information required to fully assess an application.²⁹

Information that is required is stated on the on-line application form on each screen. This information will be summarised at the end of the on-line application. A full and final assessment can only be carried out once the requested information is provided. Should a request for information not be complied with a second request³⁰ for information will be sent. If this second request is not complied with the application will be cancelled. If an application is cancelled the applicant will be notified in writing. The notification will give the applicant the right to a review not to be included on the housing register. This right

²⁹ FINO

³⁰ FINO reminder

of review must be requested within 21 days of the notification. The council will not accept requests for a review after 21 days except in exceptional circumstances. For further information please see reviews.

Any application that is received on a paper form will be assessed in the same manner as those received on-line. This however may take longer to process than those received on-line.

Following the applicant submitting an application this application will firstly be assessed to see if a person is:

- Eligible
- A qualifying person

Applicants will need to provide information to prove that they are an eligible person. This proof will be in the form a passport or other acceptable form of identification for all persons on the application.

If a person proves that they are eligible then the council will look to see if they are a qualifying person in line with the policy above. Information may be required to ascertain if a person qualifies under the allocations policy to be included as a qualifying person. This will include proof of residence or any other consideration contained in the policy.

If the person is eligible and a qualifying person the application will be assessed taking account of the relevant information supplied by the applicant. Checks will be made where necessary to verify any information that is received. This may include, but not limited to, housing benefit, council tax records, electoral registration and household financial checks.

Bedroom size assessment

Each application will be assessed to determine what size of property an applicant is entitled to. The assessment will be based on the following unless there is a medical requirement for an extra bedroom on the basis of medical or disability related factors.

Size	Minimum People	Maximum People	Example Types of Household
Studio	1	1	Single Person
One Bed	1	2	Single Person or childless couple
Two Bed	2	4	One to two child family or single person with live in carer
2 bed Sheltered	2	3	A single person/couple and live in carer
3 Bed	3	6+ depending on Size	Two or more children (different sex over the age of 10)
Four Bed	4	8+ depending on Size	Five or more children

Applicant with children following a family breakdown.

As the Council has a very limited supply of social housing the council is not able to offer an applicant additional bedrooms where the children have accommodation with the other parent. A person in this situation who is eligible and a qualifying person may be offered a one bedroom property to allow occasional access arrangement. This aligns the allocations policy with Housing Act 1996 Part VII³¹

Medical Assessment

Medical priority is assessed by the Homemove Team and is based on the information supplied on the on-line or a self assessment medical form. Medical priority is not awarded solely on a person's medical condition. There is a need to show that there is an impact of the person's current housing circumstances along with the medical condition. If there is insufficient details on the on-line application or self assessment medical form, applicants may be requested to provide additional details before a full assessment can be undertaken.

Assessments are made on the effect of present housing considering the health condition of the member or anyone in the household (who is/are moving) and not on the medical condition alone. In reaching the decision we will consider whether the overall effect on the household (who is/are moving) or any member of the household (who is/are moving) is sufficient to warrant one of the medical priority bands.

The Homemove assessment officers have access to the council's medical advisor who can advise on the medical conditions and the impact of on the person's housing conditions to assist them in their decision making of when to award medical priority. The medical advisor must be requested to provide advice on the need for an extra bedroom over and above that an application is entitled to under this policy. The medical advisor may also make recommendations in relation to any mobility classification.

A medical assessment may be requested by applicants where a medical conditions occurs after they have made an application. This will be assessed as above where the medial condition is having an impact based on their current housing conditions.

Medical awards can be made as follows:

Band A

Overriding (severe and immediate) medical priority awarded by the assessor where there is a **need to move** - where the housing conditions are having a severe and immediate adverse effect on the medical condition of the applicant or member of the current household as to warrant emergency priority.

Band B

³¹ Holmes-Moorhouse v London Borough of Richmond Upon Thames considered

High (major) medical priority awarded by the Medical Advisor –where there is a **need to move** where the housing conditions are having a major adverse effect on the medical condition of the applicant or member of the current household as to warrant extra priority.

No award

Where a person does not meet the criteria to be awarded band A or B then no award will be made under this policy. There must be an identified **need to move** in order to justify this priority.

Medical Assessment Accepted Homeless Case

Where the council receives a request for a medical assessment for a person who the council has placed into temporary accommodation under s188³² or s193³³ the request will be referred to the Housing Options Team³⁴ for a suitability assessment. If the Housing Options team find that the accommodation is either suitable or that an alternative accommodation can be found within a reasonable time then there will be no medical priority awarded. The applicant will be notified of the decision by the Housing Options Team. The applicant will have the right to request a review of the suitability assessment under Part VII. If the Housing options team find that the accommodation is not suitable and no other accommodation can be found then the case may be passed to the Homemove Manger to agree the case to be placed into Band A.

Assessment for accommodation in Mobility Groups.

All properties adapted for disabled people will be advertised across all bands. Properties will have a mobility classification as below and priority will be given to those with a matching need for a property that is advertised.

Properties will also be advertised with notes where the potential for adaptations or further adaptations exists and any further restrictions applicable.

Mobility Groups

Irrespective of the band assessment, where a member, or one of the household, has a substantial and permanent physical disability which may place them in mobility groups 1,2 and 3 (see below) the Homemove team work with the Occupational Therapist team, A report on their housing needs may be requested before any award is made. Taking into account the recommendations of the report the Homemove team will place the member in one of the following mobility groups:

Mobility Group 1 – Typically suitable for a person who uses a wheelchair full time, i.e. indoors and outdoors. The property will provide full wheelchair access throughout.

Mobility Group 2 – Typically suitable for a person with restricted walking ability and for those that may need to use a wheelchair some of the time. The property will have

³² Housing Act 1996 Part VII

³³ Housing Act 1996 Part VII

³⁴ This is to ensure that there is consistent assessment of our statutory duty under Housing Act 1996 s210

internal and external level or ramped access, but some parts of the property may not be fully wheelchair accessible.

Mobility Group 3 – Typically suitable for a person able to manage two or three steps, may use wheelchair but not full time, or may be unable to manage steep gradients. The property may have adaptations to assist people with limited mobility.

Where a disabled applicant applied for accommodation which does not meet his or her access needs, the council will take into account whether it is reasonable and practicable to adapt that property when assessing the offer consistent with our duties under Equalities Act 2010 and the Housing Grants, Construction and Regeneration Act 1996 and also whether it would meet the housing need. On occasion accommodation offers may be withdrawn from a case where the housing need would not be met.

Mobility cases will be banded under the medical awards above unless there is a minor need to move in which case the case may be awarded Minor Need to Move Band C (mobility).

Unsatisfactory housing conditions and overcrowding. (Homeseekers only)

Unsatisfactory housing conditions

The Homemove team may refer an application to the council's private sector housing team where there are major issues with regards to the condition of the property. A case will only be referred if the person agrees to work with the private sector housing team and any recommendations that are made. These referrals will require the private sector team to make contact with the relevant landlord or managing agent who is responsible for the property. Any applicant who withholds consent for the private sector housing team to contact the Landlord or Agent will not be eligible for a banding assessment under this policy. Following any inspection of the applicant's property if there is any required intervention and there is no prospect of this being completed within 6 months the following banding awards will apply:

Unsatisfactory housing conditions as confirmed after a visit from the Private Sector Housing Team and classed as a category 1 hazard(s) that cannot be rectified within 6 months (as assessed by the Private Sector Housing Team using the HHSRS (Housing Health and Safety Rating System (part 1 HA 2004)) will be awarded Band B.

If the works required are completed before an offer of accommodation is made then these priority award will be removed. Awards in this category will be reduced by up to one band if it is considered that the applicant has moved into accommodation that is not suitable to meet their needs or if the applicant refuses to cooperate with any works required.

Overcrowding

Where the property is deemed to be 'statutorily overcrowded' by the Private Sector Housing Team under Part X of the 1985 Housing Act and there are no practicable means to make the property suitable for the number of occupants within a reasonable time period the applicant will be placed in band A. Applicants will be placed in band B if they lack two or more bedrooms and band C if they lack one bedroom below these minimum provisions

An independent adult (18 years+)	1 bedroom, including a bedsit or studio
Co-habiting couples	1 bedroom, including a s/c studio
A dependent child	1 bedroom
Two children of opposite gender where one is aged over 10 years	2 bedroom
Two children of the same gender (any age)	1 bedroom

Please note that if there is a second reception room it will generally be deemed to be available for use as a bedroom and box room, which can reasonably be used by a child, will count as a single bedroom.

Assessment for full time carers (only given when caring from someone out side of your household)

If a person who is eligible and a qualifying person and the prime applicant(s) provide care in an area of the city, the priority may be applied for in the area in which they provide the care (bids will only be considered within one square mile surrounding the household your are caring for. Carers must have been providing care to a named person for a continuous period of at least six months up to the point of application and the same at the point of offer. Care in this context is not the provision of child care. Care must be related to a physical, mental or learning disability.

Proof required for full time care priority

The prime applicant(s) must provide proof that full time care is required (this will be in the form of a care assessment from Adult Social Care or Children’s Services). A copy of the person welfare benefits DLA with care or mobility component or PIP and Carers allowance that is being paid. We will also require a letter for the person/people receiving care. If the care status changes whilst on the Housing register or at the point of offer it is up to the prime applicant(s) to inform the homeless team immediately of the changes.

Assessment for person with carer not required to live in full time.

Someone that has an occasional need for a carer will not automatically be awarded an additional bedroom. If a person is currently occupying a one bedroom property then this will be assessed as being suitable as the occasional carer can be expected to sleep in the living room on an occasional basis.

Other cases will be considered on their merits and based on the facts of each case. There is however a severe shortage of social housing and the council and its partners have to ensure that this is used to its maximum potential. Any need for an occasional carer will need to be assessed as required and evidenced as part of a care plan before it can be considered in line with the assessment for a live in carer.

Accepted Homeless Applicants

Accepted Homeless households owed the main duty by Brighton & Hove City Council under s193 of the 1996 Act or s.65 of the 1985 Act will be placed in the following bands **only**

Band A

- Accepted Homeless households owed the main duty by B&HCC, placed in temporary accommodation where the landlord requires the property back or the property is unsuitable³⁵ to meet the applicant's or a member of the household's needs, and where the household have been assessed as ready to manage independent accommodation and no other temporary accommodation can be sought.

Band C

- Accepted Homeless households owed the main duty by Brighton & Hove City Council placed in B&B or short term temporary accommodation.
- Accepted Homeless households owed the main duty by B&HCC making their own temporary arrangements or suffering family split due to a genuine lack of accommodation.
- Accepted Homeless households occupying temporary accommodation on an assured short hold or non-secure

Care Leavers & Care Leavers leaving supported accommodation

Priority will be awarded to care leavers where Brighton & Hove City Council has a Corporate Parenting role. Care leavers will be given priority under this scheme under the care leaver protocol into Band A if they are deemed to be tenancy ready.

If the young person is not deemed to be ready to manage an independent tenancy and are offered a supported housing placement then they will awarded Band A once there is an agreement from Housing and Children's services that the young person is tenancy ready. There will be a six months bidding time and at the end of this time the homemove team will start to bid for the applicant until a suitable offer is made. No Band A will be given without a full support package in place and the applicant is ready for social housing.

Leaving Supported Accommodation

In some case where a household is living in support accommodation funded by Brighton and Hove City Council , an assessment of housing need will take place. If the outcome of the assessment is that the household is not ready for independent general needs accommodation, as they are deemed not to be ready to mange an independent tenancy but need supported accommodation, then they will not be able to access general needs housing.

Households are supported in this accommodation and their skills and abilities are thoroughly assessed to ensure that they are ready to make steps to greater

³⁵ Suitability assessment required under Housing Act 1996 Part VII

independence. Supported accommodation is designated as accommodation commissioned and funded through Adult Social Care (Housing)

When these households are ready to move on from supported accommodation reasonable preference will be awarded when a household is assessed as ready to move to independent settled housing on the recommendation of the supported accommodation Key Worker.

If any ongoing support needs are assessed and, and where appropriate, a support plan must be put in place. This means that only a household who is ready to manage a tenancy will be able to access social housing. The assessment will take account of being able to manage a tenancy, have no rent arrears, have no record of anti social behaviour in the last 9 months, and demonstrate that they have completed a life skills course.

Sheltered Housing

Applicants can apply for sheltered housing using the Housing Registration form or can be referred by a relative, support worker, GP, or by the Medical Advisor recommending sheltered housing. Generally applicants or at least one of joint applicants must be over 55 years old.

The council and housing association partners have a variety of sheltered accommodation specifically for an older community where it has been agreed that a housing and support need is called for. Applicants will be required to complete a support needs form. This form will be assessed and presented to the sheltered accommodation panel.

On receipt of an application for sheltered housing, the Homemove Team will register the application and place it in the relevant housing and support need band. These are:

- High
- Medium
- Low

Social Welfare Considerations

Band A – Severe Need Authorised by the Senior Homemove Officer (or above) where members are in ‘severe need’, who would otherwise be placed in Band B, has needs which when assessed cumulatively are deemed to warrant emergency priority as to warrant them being placed in Band A (Three or more band reasons from Band B)

Band B – Multiple Needs – Authorised by the Senior Homemove officer (or above) where an applicant who would otherwise be placed in Band C, has needs which when assessed cumulatively are deemed to be so severe as to warrant them being placed in Band B (three or more band reasons from Band C).

Band B – Enabling Fostering/Adoption – Where social services make a recommendation that permanent accommodation be provided to enable someone to

foster or adopt a child, if the Homemove Team agrees this then the applicant will be placed in band B. This is only accepted with the full support of Brighton & Hove Council Children's Services.

Band C – Other social welfare/hardship – Households who need to move to a particular area in the city where failure to meet that need would cause hardship e.g. to give or receive care or support

Band C – Delivering a Care Plan – This is where accommodation is required to assist Brighton & Hove City Council's Social Services in delivering a Care Plan (eg moving the member nearer to the source of care and support or to accommodate a carer), or to relieve other social/welfare hardship as agreed between Social Services and Housing

Other priority categories (applicable to transfer applicants only)

Band A – Priority Transfers

Agreed in exceptional circumstances by the Homemove Manager and Housing Manager where there significant insurmountable problems associated with the tenant's occupation of a dwelling and there is imminent personal risk to the tenant or their family if they remain in the dwelling.

Where the Homemove Manager and Housing Manager agree a non-urgent management transfer Band B will be awarded.

Band A – Moving for major works

Awarded to transfer applicants if their property is imminently required for essential works and the tenant cannot remain in the property. Although the council will encourage and assist such tenants to make bids through the Homemove system we recognise that we have a duty to provide suitable alternative accommodation and will make a reasonable bid within the necessary timescale.

Band A is awarded to facilitate a tenant's move in one of the following circumstances:

- Make best use of adapted sock – for example where providing adaptations in the current property is not feasible but there may be a suitable alternative property available as agreed under Tenants Incentive Scheme(TIS).
- Statutory Successors to a property who are required to move due to the person under-occupying a property
- Non-statutory successors – approved by Housing Management, Housing Options and The Homemove Team for an offer of suitable accommodation
- Enable tenants under occupying family accommodation or adapted property they no longer require, to move to smaller accommodation or alternative accommodation under the Transfer Incentive Scheme (information on this scheme can be requested from your housing officer). Under occupiers who do not qualify for this scheme will be placed in Band C

- Retiring council and HA employees, e.g. Sheltered Scheme Managers, Residential Estate Wardens where the council or HA has a contractual obligation to house

Band B is awarded to facilitate a tenant's move for the following circumstance:

- Ex-tenants returning from institutions, e.g. rehabilitation where a commitment has been made in order to secure the relinquishment of a council or HA tenancy on entering the institution.

Transfer Incentive Scheme (TIS)

The TIS is a popular and successful route for many households, wanting to downsize to smaller flats from larger family homes they no longer need.

The TIS is available to council tenants who move out of a family size unit of accommodation and move to another area or into an affordable and sustainable private sector property of at least 12 months duration.

The table below shows the payment amounts (before any deductions)

Downsizing by one bedroom	£1,000
Downsizing by two bedrooms	£1,500
Downsizing by three bedrooms	£2,000
Downsizing by four bedrooms	£2,500
Moving from a wheelchair-adapted property, even if the same size	£1,000

The scheme to also include tenants moving from not just fully wheelchair adapted properties, but also partially adapted properties they no longer need (graded Mobility 2), to non-adapted, non-mobility rated properties. This is because there are very few fully wheelchair adapted properties in our council stock, but many that have been partially adapted (e.g. with level access showers, ramps).

It should be noted that some Housing Association Tenants can qualify for the Priority Banding but that the payments listed above are for Council tenants who have held standard tenancies for at least 12 months.

A person may only receive one payment under TIS

The TIS is a cash limited fund and applications may be refused if there are insufficient funds to make payments in any one financial year. A person who is refused on the basis of lack of funds may reapply to the scheme in future years.

Payments of the above amounts will be reduced if there is any remaining balance on the applicants rent account or if there are any amounts owing to Housing Benefits or any recharges following the ending of the tenancy. These amounts will be calculated by Tenants Service Income Management Team

Offers of accommodation may be restricted to council offers only if an applicant will still have any arrears or housing benefits overpayment to ensure that this may be recovered by the income management team

Council Interest Queue

BHCC Children's Services Nominations under quota arrangements – Band A

Under two schemes: 1. The Divert Scheme, which has been designed to prevent children being looked after by the Local Authority, and 2. General Social Services Nominations as agreed at Head of Service level.

BHCC Children's services Nominations early intervention – Band B

The Homemove manager agrees with social service an annual quota for housing client who would not be able to meet the criteria under the policy for Band B but is considered that the early intervention would enable the family to move forward with limited social care involvement.

BHCC Adult Social Care Nominations under quota arrangements - Band A

The Homemove Manager agrees with Adult Social Services an annual quota for housing clients in housing need designed to enable the person to live independently in the community and have been assessed under a care plan to be able to sustain an independent tenancy. This quota can comprise of either general needs or sheltered accommodation (agreed by sheltered panel)

Care leavers Protocol –

Applications will be dealt with under the care leavers protocol for applications from BHCC Care leavers team for those deemed to be tenancy ready. The Council's Children's services will inform the Housing Department of expected demand for accommodation each year so the housing department may include this demand in the Council's interest queue.

Extra Care Housing.

Extra care housing is specifically designed for applicants who have specific need of housing and support. Applicants can apply for this type of accommodation but applications will only be assessed for extra care housing if this is supported by a Social Worker working for Brighton & Hove City Council.

Applications for extra care are considered by the Extra Care Panel. This panel will look at the support needs to ensure that best use of this type of accommodation is made. Extra Care Housing deals with a range of support levels and allocation to Extra Care Housing may take account of the needs of existing residents in prioritising applicants.

Extra Care Housing in Patching Lodge and New Larchwood is restricted to applicants or one of joint applicants who are 55 years of age

Extra Care Housing at Vernon Gardens and Brookmead will be open to applicants who are normally over 55 years old although applications can be considered under the age restrictions on a case by case basis. Applications may be refused if the balance of these schemes changed by the number of applicants under 55 as they are designed to meet the needs of older people.

Other

Witness Protection – Band A (Homeseekers queue)

The Homemove Manager agrees with NWMS (National Witness Mobility Service) an annual quota for housing clients in housing need..

Banding structure

Banding can only be awarded if an applicant is an eligible and qualifying person as outlined above.

The four priority bands are:

Band A	Overriding (severe and immediate) priority awarded by the homemove assessor after seeking advice from the Medical Officer – where a person needs to move as the housing conditions are having a severe and immediate adverse effect on the medical condition of the applicant or a member of the applicants current household as to warrant emergency priority
	Armed Forces personnel, or their spouses, with an urgent level of housing need who current serving members of the Armed forces required to leave their accommodation or who have left within the last five years ³⁶
	Social Services nominations under the quota arrangements
	Witness protection nominations under a quota arrangement agreed by the National Witness Mobility Service
	Accepted homeless households owed the main duty by Brighton & Hove City Council and placed in temporary accommodation where the landlord requires the property back or the property is unsuitable to meet the applicants or member of the household's needs, and where the household have been assessed as ready to manage independent accommodation and no further accommodation can be sought as agreed by the Temporary Accommodation Allocations or Homemove Manger.
	Transfer applicants under-occupying family sized accommodation qualifying for the Transfer Incentive Scheme.
	Transfer applicants who are statutorily overcrowded and this overcrowding has occurred by family growth or two families joining together.
	Transfer applicants needing permanent or temporary decants where the property is imminently required for Major Repair.
	Where the property is deemed to be statutorily overcrowded by the Private Sector Housing Team under Part X Housing Act 1985 and there is no practicable means to make the property suitable for the number of occupants within a reasonable time period the applicant will be placed into Band A subject to a person intentionally overcrowding a property (see below).
	Priority Transfers, agreed in exceptional circumstances due to significant and insurmountable problems associated with the tenant's occupation and there is imminent personal risk to the household if they remain. This may include, but not be limited to, Domestic Violence, Racial Harassment, Homophobic, transphobic, bi-phobic abuse or harassment.

³⁶(Additional preference for former armed forces personnel) (England) Regulations 2012

	Leaving a mother and baby unit funded by Brighton & Hove City Council who has successfully completed the support placement and requires a move.
	Statutory successors who are under occupying the tenancy where the council has grounds for seeking possession by offering suitable alternative accommodation. (This category will not be considered under the TIS scheme).
	Retiring council employees, e.g. sheltered scheme managers, residential estate wardens where the council or Housing Association has a contractual obligation to house the applicant.
	Care leavers – where Brighton & Hove are the corporate parent to the applicant and there is agreement from the Homemove Manager and professional colleagues within the council, this priority is not valid for care leavers where the corporate parenting role is held by another Authority.
	Non statutory successors – where agreement has been provided by Housing Management and it is agreed that the applicant would be considered to be in priority need, as agreed by the Housing Options Service, and the council would therefore have a statutory duty to accommodate the person but the council considers that the property is too large to meet their needs.

Band B	Severe overcrowding – household lacking two or more separate bedrooms. This assessment may be qualified if a person is seen to have caused the overcrowding intentionally. (See below)
	Management Transfers – agreed by Housing Management for transfers on management grounds that do not satisfy the grounds of a Priority Transfer above. This will be agreed in consultation with the Homemove Manager.
	High (Major) priority awarded by the homemove assessor after seeking advice from the Medical Officer – where a person needs to move where the housing conditions are having a major adverse effect on the medical condition of the applicant or a member of the applicants current household as to warrant emergency priority
	Ex-tenants returning from institutions e.g. rehabilitation, hospital – where a prior commitment has been made in writing in order to secure the relinquishment of a council or HA tenancy on entering the institution. (this may also be considered for a person admitted under section in an emergency situation that would otherwise have been agreed on notice)
	To enable fostering or adoption – where agreement is reached to provide permanent accommodation or foster care arrangements on the recommendation from Brighton and Hove City Council Children and Families Service.
	Social Services nominations under the quota arrangements into band B used as a preventative measure but does not warrant an emergency move under Band A above.
	Unsatisfactory housing conditions as confirmed after a visit from the private sector housing team and classed as a priority 1 hazard(s) that cannot be rectified with in six months (as assessed by the Private Sector Housing Team using the HHSRS (Housing Health and Safety Rating System (part 1 Housing Act 2004))).
	Multiple Needs that warrant high priority – applicants whose needs match more than three of the priority reasons from the band C considered cumulatively (by the homemove manager are deemed to be so severe as to warrant being placed in a higher priority band.

Band C	Armed Forces personnel, or their spouses, with an urgent level of housing need who were former members of the Armed forces who have left the service for more than five years ³⁷
	Moderate Overcrowding – households lacking one separate bedroom
	Council and housing association tenants under-occupying that do not qualify for the transfer incentive scheme.
	Accepted homeless households owed the main duty by Brighton & Hove City Council placed in temporary accommodation.
	Accepted Homeless households owed the main duty by B&HCC making their own temporary arrangements or suffering family split due to a genuine lack of accommodation. These temporary arrangements cannot be from the property that a person is considered homeless from.
	Unsanitary conditions that cannot be addressed by the Private Sector Housing Team within a reasonable time scale. Unsanitary conditions are lacking one or more of the following an inside WC or a bathroom or no access to cooking facilities.
	Applications for sheltered accommodation where there is no higher need (must have a support need) allocation to general needs accommodation will not be accepted under this band reason.
	People who need to move to a particular area in the city where failure to meet that need would cause hardship, e.g. to give or receive support.
	An applicant where a household is living in support accommodation funded by Brighton and Hove City Council and has been assessed as ready to leave supported accommodation.
	Council and Housing Association tenants who are seeking to transfer and who need to move from another local authority district to be closer to work, or to take up an offer of work and the council is satisfied that the relevant person has a genuine intention of taking up the offer of work
	Minor Need to Move (mobility).

Band D	Any applicant who has applied to the council and who's application has been demoted from any other band to enable an investigation to take place on their application on the basis of false and misleading information.
	Key workers
	Applicants required to be on the Housing Register of the purpose of obtaining shared ownership. These applicants may only be assessed for the above purpose and will not receive an allocation of social housing or be nominated to a Housing Association.

Notification of assessed application

Once assessed the application will be placed in the appropriate bedroom, mobility category and Band and awarded a priority date (see priority date). The homemove team will write to the applicant to inform them of the following:

- Registration Number
- Priority date
- Priority Band

³⁷ (Additional preference for former armed forces personnel) (England) Regulations 2012

- Band reason under the policy
- Bedroom size
- Medical assessment (if applicable)
- Mobility assessment (if applicable)
- Support Need – for sheltered (if applicable)
- Extra Care –(if applicable)

PLEASE KEEP THIS NOTIFICATION IN A SAFE PLACE AS YOU WILL NEED YOUR REGISTRATION NUMBER IN ORDER TO PLACE BIDS ON PROPERTIES.

These notifications will advise applicants that they have the right to see information held on the application under the freedom of information act (subject access request). If they consider any information is inaccurate they may request that the information is corrected.

Reviews

Applicants have a right of review on any decisions made under this policy in line with the provisions of the Housing Act 1996 Part VI. The notification will contain details of how to request a review. A request must be requested within 21 days of the decision. Requests for a review out side of the 21 day period will only be considered on an exceptional basis. There is no right to second review of the same decision. (See Reviews)

Change of circumstances/ moving

Housing register assessments are based on an applicant's current circumstance. If you move it is the applicant's responsibly to inform the council. This can be done on the on-line change of circumstances form on the homemove web site. You should inform us if you wish to add or remove someone from your application. Adding someone to your application will be considered in line with the allocations policy above. A person may not appear on two applications at the same time.

Homeless applicants may have to be assessed to see if it is reasonable to add someone to their application. Having a child will automatically be approved. You should inform us if you wish a person to be removed from your application. We are not able to remove the main applicant from an application. If you do not wish to move with the main applicant you will need to make a new application.

Once an application has been re-assessed on the change of circumstances/moving a notification will be issued if there is any change to the applicants banding.

Applicants who have changed their accommodation will be reassessed on their new circumstances. Medical and Mobility may also be reassessed. If your new property is suitable to meet your needs this may be reflected in a change to your banding.

Re- registration

All homeseeker and transfer applicant must complete a review form to stay on the housing register once every 12 months. If you are sent a notification you will have up to six weeks following your registration anniversary date to return the form. If an applicant does not comply with this reregistration process the application will be cancelled and the applicant will be removed from the housing register. Applicants will be informed that they have been removed from the register and will have 21 day to appeal against this decision. (See reviews)

Closing of housing register applications & removal from the register

Once a household has been moved via the homemove scheme it will be deemed that the housing need has been met and therefore the housing application will be automatically be closed. If there are other applications from the same address that are impacted by the household being moved i.e. overcrowding, then these applicants will be reassessed. If a household is moved by the scheme into council accommodation then the information contained in their file will become available to the District Housing Office as part of the tenancy file.

If a person is moved to one of the partner registered providers then the information may be passed to the registered provider to form part of their tenancy file.

The council will hold a copy of any application that is closed for a period of six years from the date that it is closed. After this date the council will destroy any information relating to the application. If a person reapplies within the six year period and is subsequently removed from the housing register then the time period will run from the date that the later application is removed.

Re-assessing need and priority dates

The council may review all applications annually. If an applicant's circumstances change, at any time, they may be moved up or down the bands depending on their need.

All applicants must inform the homemove team immediately when their circumstances change. If any change results in a band change, the homemove will write to inform the applicant of the new band, their priority date, if applicable, and of their right to request a review of this decision. The principal of the scheme is that no one should overtake existing applicants in a Band.

Moving up a Band

If an applicant moves up a band their priority date will be as follows:

- Overcrowding due to the birth of a child. Date that information is received
- Priority or Management Transfer – date as agreed by the Housing Manager
- For Private Sector Housing Team reasons the date the decision is received from the Private Sector Team.

- For Social Services nominations, the date request is received from Social Services
- Medical reasons, the date the information is received into the Homemove Team.
- Homeless Households, the date the duty was accepted by Brighton & Hove City Council.
- All other Band Changes, the date the information is received.

Moving down a Band

If an applicant moves down a band, then their priority date will revert to the date that applied when the applicant was previously in that band, or an earlier date in a higher Band.

Multiple Needs

As part of the assessment of an applicant's needs, those applicants who have a range of needs will be identified. These cases will be assessed to identify those applicants whose needs, when considered cumulatively, are deemed to be so severe as to warrant them being placed in a higher band. Where such exceptional circumstances exist and a higher priority band is thought appropriate the Homemove officer will, having fully considered the details of the case, forward their recommendation to the Senior Housing Needs Officer to seek authorisation that the applicant be placed into a higher priority band. The applicant will be notified of the decision of the Senior Housing Needs Officer and if this is refused the applicant will be notified and given the right of review. (See Reviews)

Circumstance that result in reduction of Band awarded.

The council may reduce a person's Band award if there are indications that a person has moved into accommodation knowing that this accommodation is not suitable to meet the needs of their household. This will include moving into studio accommodation that causes statutory overcrowding and moving additional people into accommodation knowing that this will cause severe overcrowding. This is to ensure that applicants do not use the housing register to be housed over and above others that have waited to be accommodated. The Band reason may be reduced by one Band.

How does the council advertise properties?

Allocations Plan

The council is facing a number of challenges and has to provide services with reduced resources. In order for the council to meet these challenges the council requires the allocation of social housing to be flexible. The applications will be assessed and be placed into one of four queues. These are

1. Homeseeker
2. Transfer
3. Homeless
4. Council's interest (care leavers and other agreed quotas)

The council will formulate an allocation plan each financial year that prioritise the proportion of lettings to each queue. The allocations plan will be based on the performance of the last financial year to take account of the number of lettings required to each of the above groups. This will enable the council to balance the ongoing pressures and at the same time allow it to meet its statutory obligations, for example to discharge its homeless duty or to provide stable housing for someone leaving care or other commitments within children and adult social care.

The allocations plan must ensure that it still meets the requirements to those that are assessed as having a reasonable or additional preference. The allocations plan will be agreed by the Head of Housing each year and provide up to a certain level of lettings to each of the four queues.

The allocation plan will be applied to all adverts for properties that are available to let on the homemove scheme. Priority will be given to applicants in the allocated queue. If there are no successful applications from within the advertised queue then the property will be allocated in accordance with the allocation policy to an applicant in one of the alternative queues in priority order.

Advertising available properties

The council uses Sussex Homemove <http://www.homemove.org.uk/> to advertise all properties that are available. Full details on how to bid are set out in the scheme user guide. The Council will advertise properties in one of four queues, selected by the landlords, in accordance with the allocations plan (see above). These are:

- Transfer
- Homeseeker
- Homeless
- Councils interest

You may bid on properties in any of the queues; however priority will be given to applicants within the advertised queue before other applicants will be considered. You will be notified which queue you have been allocated to in your assessment letter. Other eligibility criteria will be laid out in the adverts for each property, such as

- The minimum and maximum number of persons in the household
- If there are age limits of households without young children
- The mobility group, if applicable, and details or potential for adaptations
- If pets are allowed
- Whether it is sheltered or extra care housing
- Who the landlord is (either council or housing association)
- The minimum and maximum weekly charge³⁸ including any other charges

³⁸ Housing & Planning Act 2016 pay to stay regulations

Security of Tenure & Fixed Term Tenancies

The council has a tenancy strategy that lays out the expected security of tenure; Council tenancies will be issued as introductory tenancies. Housing Associations will normally issue a starter tenancy. Under the Localism Act 2011 and Housing & Planning Act 2016, landlords may offer different types of tenancy, which could be either a lifetime tenancy or a tenancy with a fixed number of years (that is then renewed if you are still in need).

New tenants will normally be given a 12 month starter or introductory tenancy before a longer tenancy is allowed. Existing tenants transferring will usually keep the same type of tenancy when moving.

The advert will clearly state which tenancy applies to that property. More information is available in landlords' respective Tenancy Policies.

Under the Housing and Planning Act 2016 it will be compulsory for all new council tenancies to be offered for a fixed term of between two and ten years. This Policy may be amended to comply with any future legislative provisions that have been passed that impact the council's ability to let properties on a fixed term basis and to align it with its tenancy strategy.

Housing & Planning Act 2016

The Housing & Planning Act 2016 has introduced measures that will affect the levels of rents that will be charged. Any applicant(s) will be subject to a financial assessment. This assessment will look at the financial means of the household. All income must be disclosed on this assessment including income from any source of employment, saving, income from any other source including bank accounts. Any person who do not disclose all income may be withholding information that they should disclose and may be committing an offence under s171 Housing Act 1996

The Council will make such enquires into the financial details of any applicant and any other member of the Household as required to under the Housing & Planning Act 2016. This may include credit checks on bank accounts and any other financial transactions that the person have had including any mortgages for example.

Size of property you can bid for

An assessment of your housing need is made and you will be informed of the size of property you can bid for, please see the table below for guidance.

Size	Minimum People	Maximum People	Example Types of Household
Studio	1	1	Single Person
One Bed	1	2	Single Person or childless couple
Two Bed	2	4	One to two child family or single person with live in carer
2 bed Sheltered	2	3	A single person/couple and carer

3 Bed	3	6+ depending on Size	Two or more children of different sex over 10 years old
Four Bed	4	8+ depending on Size	Five or more children

In deciding the appropriate size of a property the age and gender of the children within the household are considered for example a male and female child where one is over 10 years are not expected to share a bedroom. Therefore some two child families are eligible for a two bed property and others with two children are eligible for a three bedroom property.

Extra Bedrooms Applicants may apply for extra bedrooms by submitting medical and or mobility information. This medical or mobility needs will have to be very high to meet the requirements of being awarded an additional bedroom.

Homeless applicants and property size

In cases where households have been accepted as homeless under Part V11 Housing Act 1996 and have been awarded the relevant band, a household may bid for accommodation that falls outside of the above criteria if it has been assessed that the property is reasonable for the households needs. The offer will discharge the council's duty under Part VII Housing Act 1996.

In addition:

- Where there is overriding medical need to support the request the council will allocate households up to one additional bedroom over the standards set above
- No applicants can bid for properties that would result in overcrowding or under-occupation
- Where a household is moving to smaller accommodation, they may be entitled to assistance under the Transfer Incentive Scheme
- If there are no eligible bidders over 50 years of age where an age restriction applies, applicants under 50 without children will be considered.

The bidding process

Eligible applicants can make bids for properties advertised, by telephone bidding or by bidding online via the website. Applicants can also nominate a proxy bidder, and in exceptional circumstances request that the council bid on their behalf (assisted bidding). Full details of how to bid are set out in the Scheme User Guide, which will be sent out to all new applicants and is available on the website www.homemove.org.uk.

Applicants with support needs and those who have difficulty with written English will be supported by an appointed support provider or the Homemove team.

Applicants who urgently need to move and who do not bid for properties may receive a direct bid. (see 'Direct bidding').

All bids for a property are checked against the eligibility rules, for example any age restrictions or size of property. Ineligible bids are excluded from consideration. We will

provide advice and support to applicants who regularly bid for properties they are not eligible for.

Applicants can bid for up to a maximum of three properties they are eligible for. NO bids can be placed on any available property after a shortlist deadline. Applicants are not required to place all three bids at the same time. Shortlists will be created within three working days for housing associations properties.

Council tenancies will be shortlisted once the Housing department has notified homemove that the property is vacant and ready for letting. Successful applicants will be contacted as soon as possible by the landlord. Homemove are not responsible for the letting process this is carried out by the landlord.

The shortlist sent to the landlords will include the three applications that are eligible for the property in accordance with the scheme. These will be:

- Top applicant
- 1st reserve candidate
- 2nd reserve candidate

If an applicant is the top applicant in any shortlist then they will still be able to place bids on other properties. However while the applicant is waiting to view the property they will not be considered for any other properties until the result of the offer is known. If the property is unsuitable then the applicant will be able to resume bidding. If the property is refused and deemed suitable the application will remain suspended until the result of the review is known.

If none of the shortlisted applicants accept the property then this will then be offered to the next eligible applicant and this will continue until the end of the shortlist. If no applicants accepts the property this will then be re-advertised.

Changes to advertising, shortlisting, selection and offers

The council is in the process of tendering for a new IT system to underpin the assessment and allocation of social housing. This policy may be updated, with out the need to refer changes to committee, to reflect changes that are made with any new IT system in how properties are advertised, shortlisted or offered to applicants and to reflect any enhancements that may be available that increases customer choice, such as automated bidding mobile apps or any enhancements that reduce property void times such as daily or continuous bidding so long as it is does not make changes to eligibility, qualifying persons, local connection or exemptions agreed in the policy.

Detection of fraud

The council is obliged to ensure that offers of a social housing tenancy are only awarded to those that are entitled to be offered the accommodation. Housing is a valuable community asset and unfortunately is sometimes obtained fraudulently. The Council is committed to improving our detection of fraud and reducing our losses from fraud.

Fraud is an act of deception intended for personal gain or to cause loss to another party. The harm caused by fraud is not just financial; it causes harm to local people. It can include:

- Failure to disclose information - for example providing false information on the housing application.
- Abuse of a position that is carried out to make personal gain - for example someone using their knowledge of council policies and procedures to gain advantage such as gaining access to a council service.
- False representation – Someone submitting false information on your behalf that is untrue and designed to increase the chance of an applicant obtaining housing.

Before the shortlist is passed to the landlord the Homemove team will pass the successful candidates to the Council's corporate fraud team who will carry out any necessary checks in relation to the application. These checks will include cross checking against council records, financial checks (including any bank accounts held), check with other local authorities or checks with utility and mobile phone companies.

If any information comes to light that contradicts any information held by the homemove team in any respect then the council will by-pass any application on the shortlist and may continue to investigate an application. If any fraud is found to be true then the applicant will be informed of the council's decision and removed from the housing register. If the information is not correct then the application will be reinstated. Offers of accommodation will not be held open if the case is suspected of being fraudulent or during an investigation.

Once an offer has been made the applicant has the choice to refuse the property. If they refuse they may be able to bid again the following cycle, there are exception to this and 'refusals' further in this Scheme should be considered. If an applicant is an Accepted Homeless Band A case and refused a successful bid (irrespective of bidding deadlines) then the Housing Options Team and the Homemove Team may consider that this is a full discharge of duty. Any accepted homeless case considering refusing a part 6 offer should contact the Housing Options Team before formally refusing a property

The Selection Process

All eligible bids for each property are placed in priority order. Priority is decided first on the advertised queue and then by the priority band, thirdly by priority date within the band. Where a property has been advertised to give preference to a mobility group, bids from these applicants will be prioritised in band order above bids from members who are not in that stated group. Every bid will be assigned a random number when the bid is made. This number is used to resolve a tie; the highest number gets the priority. If there are no eligible bidders for a property the Homemove team may decide to re-advertise the property.

If the property is owned by a housing association, the prioritised list will be referred to the landlord.

To minimise delays all landlords may arrange multiple viewings for up to three applicant households per property. Applicants will be required to bring proof of identity (for example Driving Licence or Passport) to the viewing. For general needs housing, the Lettings Team will:

- Contact the applicant using the telephone or e-mail contact provided; applicants are responsible to keep homemove updated of any changes to contact details. Any contact details that are not kept up to date may result in an applicant being by-passed on a shortlist.
- Offer the applicant the option to accept and invite to sign for the tenancy or agree a decision within 24 hours
- If the applicant chooses to refuse, the rehousing officer will note the reasons for the refusal and the next applicant is selected for an offer. Applicants will be offered one offer of suitable accommodation to meet their housing needs, except in certain circumstances contained in this policy. Properties are not kept open if they are refused.
- Applicants who do not provide proof of identity at the viewing will be given 24 hours to provide proof at a council office prior to signing for the tenancy, if this is not provided there is the chance the offer may be withdrawn and the case referred back to the Homemove Team for investigation
- Once an offer of accommodation has been accepted the Housing Application will be closed by the Homemove Team or the Lettings Team
- A failure to respond to an offer or viewing will be deemed for the purposes of this policy as a refusal. A failure to contact the housing office following a viewing will also count as a refusal.

If the property is considered to be a sensitive let any issues surrounding this will be discussed with the incoming tenant prior to a tenancy being granted. If a property is considered to be a sensitive let and an applicant refuses the property this will not count as a suitable offer of housing.

How shortlisting takes place

Offers will normally be made to applicants at the top of the shortlist. In very exceptional circumstances we may need to reject an applicant on the shortlist for a particular property to ensure that we meet the following objectives:

To ensure that communities are as balanced as possible

Landlords may adopt Local Lettings Plans for specific areas. These plans will need to be agreed by stakeholders and Brighton & Hove City Council and will consider the problems that need addressing, backed up by evidence. Properties subject to Local Lettings Plans will be clearly advertised and priority will be given to those that meet the agreed criteria.

To ensure that allocations are sensitively made

In exceptional cases, for housing management reasons, we may not offer to the person at the top of the shortlist. You will be contacted by the landlord in writing with the reasons for this decision. Any property that requires a “sensitive let” will be notified to the Homemove team before it is advertised. Any person that requires a sensitive let will be notified as part of the assessment process.

To make best use of the council’s stock and to reduce under occupation

From time to time a property may be advertised for those who are releasing larger council accommodation or reserved for those who need to move urgently because the council is undertaking work on the property

To ensure properties are let quickly

This is important to minimise rent loss and empty property turn around time. Applicants must be available and able to take up an offer of accommodation, applicants will be contacted by telephone or e-mail or in certain cases by letter, and if there is no contact after three days then the offer will be withdrawn and counted as a refusal.

If an offer is not made to the applicant at the top of the shortlist, the reasons will need to be agreed by the Homemove Manager in line with this policy.

Time limits for bidding for properties

There is a three-month time limit for bidding for the following categories of applicants (except where otherwise noted):

- Social Services nominations under quota arrangements
- Witness Protection nominations under a quota arrangement and agreed through the National Witness Mobility Service
- Reciprocal letting arrangements with another landlord or local authority
- Accepted homeless households owed the main duty by Brighton & Hove City Council Band A
- Accepted Homeless Household in Band C who are not bidding under the scheme.
- Households who are statutorily overcrowded
- Transfer applicants needing a permanent or temporary decant where the property is imminently required for major repair
- Where the property is deemed to be 'statutorily overcrowded' by the Private Sector Housing Team under section X of the 1985 Housing Act and there are no practicable means to make the property suitable for the number of occupants within a reasonable time period.
- Priority transfer, agreed in exceptional circumstances due to significant and insurmountable problems associated with the tenant's occupation and there is imminent personal risk to the household if they remain.
- Retiring council and HA employees, e.g. Sheltered Scheme Managers, Residential Estate Wardens where the council or HA has a contractual obligation to house.
- Non-statutory successors – where agreement has been provided by Housing

Management and Housing Options that the council will try to re-house in accommodation suitable for the applicant's housing need.

- Under-occupiers who have succeeded to the tenancy where the council has grounds for seeking possession by offering suitable alternative accommodation.
- Care leavers – where the applicant has been placed by Brighton & Hove city council and there is agreement from the Homemove Manager and professional colleagues within the council, this priority is not valid for care leavers from other authorities.
- Management Transfers - agreed by Housing Management for transfers on management grounds.
- Ex-council and HA tenants released or discharged from an institution that the council has given an undertaking to house who have not successfully bid within the timescale will be made one offer before duty is discharged or priority lost.

After the bidding time allowed above has passed and the applicant has not been successful the council will then place bids on behalf of the applicant that are more likely to receive an offer of accommodation this is known as direct bidding.

Applicants not bidding

Applicants who are not subject to a minimum bidding time limit who fail to make any bids within a 12 month period will be informed that they must be actively bidding. Applicants will be given one written warning giving them a further month to make a bid. If an applicant fails to make bid then the application will be cancelled and removed from the housing register. Applicants may reapply to the housing register but this will be considered to be a new application and be assessed accordingly. There will be no backdating of any priority dates to a former application that is removed.

Direct Bidding

It is our aim to advertise all properties through Homemove but there may be circumstances where we will make bids on behalf of households.

- Special circumstances, e.g. applicants who are assessed as high risk offenders have their application processed through a multi-agency panel. This group will be restricted from bidding and a property identified as recommended by the panel. The panel will make one reasonable offer and if refused the applicant can request a review. The final decision on eligibility to bid lies with the Homemove Manager.
- Accepted Homeless households in Band A or C who have failed to exercise choice through the bidding process within the three month timescale or who have bid within the timescale but have not been successful. The council may make one reasonable offer of accommodation before duty is discharged.
- Retiring council employees or those who have highly specific requirements or

who have failed to bid successfully within their bidding time will be offered one property. If refused, the Homemove Manager will review the case and priority may be lost and/or request proceedings possession begins.

- Tenants who need to be temporarily or permanently decanted who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost.
- Ex-council & HA tenants released or discharged from an institution that the council has given an undertaking to house who have not successfully bid within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost and/or request proceedings possession begins.
- Non-statutory successors who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost and/or request proceedings possession begins.
- Statutory successors who need to downsize who have failed to bid successfully within their bidding time will be offered one property
- Priority Transfers who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost and/or request proceedings possession begins.
- Social Services nominations under quota arrangements who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost.
- Witness Protection nominations under a quota arrangement and agreed through the National Witness Mobility Service who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost.
- Care leavers – where the applicant has been placed by Brighton & Hove City Council and there is agreement from the Homemove Manager and professional colleagues within the council, this priority is not valid for care leavers from other authorities. If refused the Homemove Manager will review the case and priority may be lost.
- Management Transfers — agreed by Housing Management for transfers on management grounds who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost and/or request proceedings possession begins. –
- Where the property is deemed to be 'statutorily overcrowded' by the Private Sector Housing Team under Part X of the 1985 Housing Act and there are no practicable means to make the property suitable for the number of occupants within a reasonable time period who have failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost.
- Reciprocal housing agreement with another landlord or local authority who have

failed to bid successfully within their bidding time will be offered one property. If refused the Homemove Manager will review the case and priority may be lost

Offers of accommodation.

With such high demand for accommodation and the need for landlords to let properties to keep down void periods and any subsequent rent loss the council will only make one suitable offer of accommodation to applicants who are bidding them selves or are receiving assisted bidding, except in the circumstances below.

Exceptions to one offer policy.

- Applicants accepted under the Tenants Incentive Scheme (TIS) or Tenants Support Scheme (TSS) downsizing from family accommodation
- Applicants accepted under the TIS or TSS Scheme releasing adapted properties
- Applicants in Homeseeker and Transfer groups seeking sheltered accommodation (three reasonable offers of accommodation in any one 12 month period will apply)

Suitability of offers

In order to maintain a transparent and open system that aligns offers of accommodation across all groups the allocations policy will apply suitability of all offers of accommodation using the criteria that is used for homeless applicants under the Housing Act 1996³⁹

Refusals following bidding or direct bidding

In the above cases the council will make a suitable offer, one that as far as possible matches the size, and type of property the applicant is eligible for. The applicant must give their reasons for refusing. The property will **not** be held empty while the refusal is reviewed but will be let to another applicant.

If the offer is to a homeless household the Temporary Accommodation Allocations Manager will check the case and see if the offer will be enforced. Applicants will be given the required notification on their rights to request a review under Housing Act 1996 Part VII s202. Applicants will be advised that they should accept an offer of accommodation and can still request a review under Part VII. This will at least leave the person with some accommodation if the review process does not uphold their review.

If an offer is to other categories of applicant the Homemove will consider the reasons for refusal. If there is a clear mismatch, eg where applicant or property details were incorrect, the offer will be withdrawn and the applicant notified. If the

³⁹ Housing Act 1996 Part VII s210

offer was found to be a reasonable one, the Homemove manager will advise the applicant of the reasons for this finding and of the effect that this decision has on their application.

Refusals of suitable accommodation member bidding

Applicants who have refused a suitable offer of accommodation will have their application closed, please note that if applicants who are second or third become first for an offer and refuse will be deemed 'first' under this part of the policy.

It should be noted that if a tenancy is accepted and then refused without the tenancy being moved into this will result in the application being closed. There is no facility for an application set to a status of let being reopened. This will be seen as a refusal and dealt with as the above.

All cases will be dealt with based on information supplied and submitted. There is no right to request a further review of the decision.

It should also be noted that this does not include Accepted Homeless cases where if households in this group are successful in obtaining an offer of accommodation within three months, this will be considered a final offer. Any refusal of offers for accepted homeless case will be dealt with under the reviews procedure under Part VII Housing Act 1996 and not under the allocations policy.

The council may exercise discretion to retain the current bandings or priority dates in certain instances, for example where a council or housing association tenant is releasing a property they are under occupying or one that has been adapted that could meet the needs of households who are waiting in a high banding.

Feedback on let properties

All properties let will be listed on the Homemove website showing the number of bidders for each property and the band and priority date of the successful applicant.

Ending a joint tenancy when one party to the tenancy leaves

Joint tenants remain jointly and severally liable for the terms of any tenancy granted by the council of housing association. A tenancy agreement is a legal contract between the landlord and the tenant. If one of the joint tenants leaves or abandons the property it is the responsibility of the remaining tenant to take action to resolve the situation. As the Council is an interested party the remaining joint tenants will be advised to seek independent legal advice on how to bring a tenancy to an end.

Broadly speaking the council will grant a joint tenancy to partners applying together for housing as long as both parties are eligible. A joint tenancy remains in joint names until one or both joint tenants terminate the tenancy. Where there has been a relationship breakdown then one of the joint tenants may make an application for a property adjustment order. If there is a dispute as to who should remain in the property the courts will make a decision on who can remain.

Local Lettings Plans

A local lettings plan is an agreement between the social landlord and local tenants and residents that restricts lettings in the area to certain households. This is done

to tackle a specific issue or problem that has been identified locally at either block, street, estate, neighbourhood or city level, or to achieve a sustainable community on a new development. Local lettings plans allow the council or HA to:

- Identify and explore the barriers to access housing.
- Deliver better outcomes and improve life chances for current tenants and future residents.
- Developing a stock and demand profile of the area alongside the views of local tenants and residents groups will primarily identify the need for any local lettings plans.

Four key elements will be considered when developing a new local lettings plan:

- Selective lettings - there may be some restrictions as to who can apply for certain properties or areas. For example this may involve age restrictions or a requirement to have a local connection.
- Making the best use of housing stock.
- Developing a balanced and sustainable community - where a local policy would promote community cohesion and balance the needs of existing and new tenants to create more inclusive neighbourhoods where people want to live. This may be in areas where there is a high turnover of properties either within an estate or amongst certain property types.
- Attract potential tenants - for example certain properties may be offered with a level of furnishings.

Key stages of development

Developing a stock and demand profile of the area - this may include a breakdown of and information on:

- Property types and numbers
- Household type, including customer profile information of residents
- Voids and lettings within last financial year
- Numbers and reasons for refusal
- Reasons for rehousing and reasons why tenants leave
- Where most availability has occurred and why
- Number of registered transfers
- The level of demand for properties in the area
- How long tenancies are lasting
- How quickly vacancies are filled
- The layout of the area and services available
- Social issues within the area and any multi-agency involvement
- An estimate of vacancies expected
- Local targets for performance

Involving and consulting residents and tenants

The landlords and partners will be responsible for consulting with residents and existing tenants and involving them in the development of any proposals for local lettings plans. This may involve carrying out 'door to door' surveys to collate resident and tenant's views. Partner landlords who have stock within the area will be consulted on the need or otherwise for a local plan. Full Quality

Impact Assessments will be carried out on all Plans.

Evaluating the information

The council will evaluate the information in the stock and demand profile. It will also take account of tenants' views when identifying recommendations to develop local lettings criteria. The council must also consider diversity and equal opportunity issues of local communities when formulating any local lettings plans.

Making recommendations

Recommendations may include some of the following criteria:

- Setting a maximum or minimum age limit for certain properties.
- Preference to tenants / applicants with a local connection or who already live or work in that area.
- Preference to tenants / applicants who are giving or receiving support to or from family/extended family, voluntary work, day care, playgroups or other support from locally based organisations.
- Preference to people who are employed.
- Preference to other household types who would not normally be eligible under the council's letting policy — e.g. this could be couples without children, where there is a high density already in the area of families with children.
- Preference to specific groups of people for specific types of properties or in specific localities where this would benefit the community.
- Preference to people from BME and religious cultures.
- Meeting need of a category of people to ensure most appropriate use of stock.

Impact of Local Lettings Plans on the Lettings Policy

Once a report with recommendations has been finalised, the council will have to formally adopt the plan and this will override the current eligibility criteria. This will take into account the impact of overall lettings in the district. Any property subject to a local lettings plan will be clearly labelled (LLP) within the advertisements.

Review of local lettings plans

The council will ensure that Local Lettings Plans are publicised and implemented. In addition, they will ensure that these plans are continuously monitored and reviewed annually or in line with the local lettings plan recommendation of any review period not exceeding four years, with the involvement of local tenants and residents. If a local lettings plan is agreed it will be promoted within the affected area. If a local lettings plan is not reviewed on an annual basis or in line with the recommendations agreed by committee, then the local lettings plan will lapse.

Reviews under Part VI Housing Act 1996

An applicant will be notified of the right to a review under the allocations policy. The Right of review under the allocations policy are as follows:

- (i) A decision an applicant is not eligible⁴⁰
- (ii) A decision concerning the facts of the case which are likely to be or have been taken into account in considering whether to allocate accommodation⁴¹
- (iii) A decision that an applicant is not a qualifying person for an allocation⁴²

Reviews concerning the facts of the case in above (ii) above include

- a) The type of property for which an applicant will be considered
- b) The extend of the applicant's household to be considered for housing with the applicant
- c) The applicant's medical condition or welfare needs
- d) Other fact used to determine whether the applicant in entitled to a reasonable preference
- e) Whether the applicant should receive additional preference on the grounds of urgent housing need or otherwise and
- f) Determining the applicant's priority including his or her financial resources, behaviour (or that of his or her family), and local connection.

Procedures on review

The Secretary of State has issued guidance⁴³ on how the local authority should carry out reviews under the allocations policy.⁴⁴

The review procedures should be clearly set out, including timescales for each stage of the process, and must accord with the principles of transparency and fairness. Failure to put in place a fair procedure for reviews, which allows for all relevant factors to be considered, could result in a judicial review of any decision reached. The following are general principles of good administrative practice:

Review time scales

⁴⁰ Housing Act 1996 160ZA(9)(a) & (c)

⁴¹ Housing Act 1996 166A (a)(b) & (c)

⁴² Housing Act 1996 160ZA 9(b) & 166A(9)(c)

⁴³ Allocation of accommodation: guidance for local housing authorities in England June 2012

⁴⁴ Housing Act 1996 s166a (10)

Applicants will be notified that they will have 21 days to request a review of any decision that is statutorily reviewable.

Review requests that are received outside of the 21day time limit may be accepted if there are exceptional circumstances as to why the applicant was unable to request a review within 21days.

Applicants will be notified that the request for review should be made in writing, and that it would also be acceptable for the request to be submitted by a representative on their behalf. Applicants will also be advised of the information which should accompany the request.

Representation for the review will normally be made in writing setting out the grounds for the review and any other submissions that the applicant wishes to be considered as part of the review. In exceptional circumstances the council may allow an applicant to make verbal representations to the person carrying out the review, if for example the case is extremely complex.

The review will be carried out by an officer who is senior to the person who made the original decision by at least one grade. It will not be carried out by a person who made the original decision or involved in the decision that is subject to the review.

The review will be considered on the basis of the authority's allocation scheme, any legal requirements and all relevant information. This should include information provided by the applicant on any relevant developments since the original decision was made – for instance, the settlement of arrears or establishment of a repayment plan or departure of a member of the household responsible for anti-social behaviour or a change in a person's medical or mobility.

Reviews should be completed wherever practicable within eight weeks from the date the review is requested. The applicant or their representative may request an extension of time to submit representations. The council will look to notify an applicant if the review cannot be completed with eight weeks with the reason for the extension.

Applicants will be notified in writing of the outcome of the review. The notification will set out the reasons for the decision. This is to assist the applicant and the authority if, for example, the applicant is not satisfied with the outcome and decides to seek a judicial review or to take their case to the Local Government Ombudsman.

Rights of Applicants following a review.

An applicant who is dissatisfied with the outcome of a decision made on review can either decided to pursue their case to the local government ombudsman or to seek a judicial review. If an applicant is seeking to pursue the matter by way of judicial review then they are advised that to seek advise from a legal advisor before doing so.

There is no right for an applicant to request a second right of review.

Right to Move (Transferring tenants from another local authority only)

Work

In order to qualify for an exemption of the local connection criteria the following will be taken into account in assessing if an exemption applies.

The Right to Move qualification regulations 2015⁴⁵ only apply if work is not short-term or marginal in nature, nor ancillary to work in another district. Voluntary work is also excluded.

Short-term

In determining whether work is short-term, the following are relevant considerations:

- whether work is regular or intermittent (This is likely to be particularly relevant in the case of the self-employed).
- the period of employment and whether or not work was intended to be short-term or long-term at the outset
- if a contract of employment that was intended to last for less than 12 months would be considered to be short-term.

Marginal

The following considerations would be relevant in determining whether work is marginal:

- the number of hours worked
- if less than 16 hours a week could be considered to be marginal in nature. This is the threshold below which a person may be able to claim Income Support and the threshold for a single person's entitlement to Working Tax Credit. (The fact that a tenant only works 15 hours a week, for example, may not be determinative if they are able to demonstrate that the work is regular and the remuneration is substantial).
- the level of earnings.

Ancillary

⁴⁵ Statutory guidance on social housing allocations for local housing authorities in England 2015

Work must not be ancillary to work in another local authority's district. This means that, if the person works occasionally in the local authority's district, even if the pattern of work is regular, but their main place of work is in a different local authority's district, the work is excluded for the purposes of this policy.

A further relevant consideration would also be whether the tenant is expected eventually to return to work in the original local authority district. If a local authority has reason to believe this is the case, they should seek verification from the tenant's employer.

A person who seeks to move to Brighton & Hove to be closer to work in a neighbouring authority – for example, where the transport links are better in the first local authority – are also excluded from the right to work

Voluntary work

Regulations exclude voluntary work. Voluntary work means work where no payment is received or the only payment is in respect of any expenses reasonably incurred.

Apprenticeship

The term 'work' includes an apprenticeship. This is because an apprenticeship normally takes place under an apprenticeship agreement which is an employment contract (specifically a contract of service).

Genuine intention to take up an offer of work

Where the tenant has been offered a job and needs to move to take it up, they must be able to demonstrate to the local authority's satisfaction that they have a genuine intention to take up the offer.

Verification and evidence

In all cases the council will want verification and evidence that the work or job-offer is genuine and therefore the following documentary evidence will be required:

- a contract of employment
- wage/salary slips covering a certain period of time, or bank statements (this is likely to be particularly relevant in the case of zero-hours contracts)
- tax and benefits information – e.g. proof that the applicant is in receipt of working tax credit (if eligible) P60 or other information related to the employment.
- a formal offer letter and letter of acceptance
- the employer to verify the position.
- Letters should be on company headed paper.

Applicant must qualify for an allocation under the right to move both at the time of the initial application **and** when considering making an allocation. This means that proof we have to be provided that the person's circumstances have not changed.

Any application that is suspected of attempting to supply false or misleading statements in order to obtain accommodation with the council commits an offence and may be prosecuted. If a property is allocated following false or misleading statements a person may face eviction.

Section 166A provides that the council must frame the allocations policy to ensure that reasonable preference is given to move to the area, where failure to meet that need would cause hardship to themselves or others. Reasonable preference for the Right to Move Scheme has been set at Band C under the banding structure. In exceptional circumstances an applicant may be awarded a higher band under the scheme on the basis of a medical condition to Band B. This will be assessed on the same basis as those with a local connection if they meet the relevant criteria above.

Quota of properties under right to work

The secretary of state recommends that council set a quota to allow people to move under this scheme. The recommended quota is advised to at one percent of letting each year. Councils that wish to set aside less than one percent of allocations have to be ready to explain publicly why this is the case.

In this allocations policy it is recommended that the council sets aside half a percent (0.5) as a quota for the right to work scheme. The rationale for this figure is that Brighton and Hove is an area of high housing demand that the council is unable to meet the needs of local residents including those that the council has a statutory duty to accommodate. Since the introduction of the right to move scheme there have been no applications to the council under this scheme. It is likely that people that move to the city are likely to move to employment that affords them the ability to source their own accommodation. It is also likely that the job market in the locality may only provide seasonal work to those on lower incomes.

This quota will be kept under review to see if it meets demand. This quota may be varied to a maximum of one percent of allocations by the Head of Housing.

Rehabilitation periods for certain types of sentence/disposal under the 1974 Act (as amended by the 2012 Act)

Sentence/disposal	Rehabilitation period if aged 18 or over when convicted/disposal administered	Rehabilitation period if aged under 18 when convicted/disposal administered
A custodial sentence of over 48 months	Never spent	Never spent
A custodial sentence of over 30 months but not exceeding 48 months	7 years from the date on which the sentence (including any licence period) is completed	42 months from the date on which the sentence (including any licence period) is completed
A custodial sentence of over 6 months but not exceeding 30	48 months from the date on which the sentence (including any licence	24 months from the date on which the sentence (including any licence period) is completed

months	period) is completed	
A custodial sentence of up to 6 months	24 months from the date on which the sentence (including any licence period) is completed	18 months from the date on which the sentence(including any licence period) is completed
Fine	12 months from the date of the conviction in respect of which the fine was imposed	6 months from the date of conviction in respect of which the fine was imposed
Community order	12 months from the last day on which the order has effect	6 months from the last day on which the order has effect
Simple caution, youth caution	Spent immediately	Spent immediately
Compensation order	On the discharge of the order (i.e. when it is paid in full)	On the discharge of the order (i.e. when it is paid in full)

All offences that are not spent must be disclosed to the council on the application form. No offences that are spent have to be disclosed under the Rehabilitation of Offenders act 1974.

Sexual Offences Act 2003

Applicants who are required to sign onto the sex offenders register are required to inform the council that they are required to do so. Offers of accommodation for this group may require authorisation from the public protection or Multi-agency Public Protection Arrangements before they can proceed to an offer of accommodation. Any refusal by public protection or MAPPA to agree to the offer will result in the offer being bypassed.

Reciprocals

The council recognise the need for the allocations scheme to contain an element of social mobility whilst protecting social housing as a valuable and scarce resource. In order to strike a balance the council will enter into reciprocal arrangement with another local authority or housing association.

All reciprocal arrangements are agreed on a discretionary basis and the Council retains the right to decline a request for a reciprocal agreement if it is not considered to be in the interests of the Council.

Applicants must have been registered on a mutual exchange system and have been unable to obtain housing through these schemes, except in the case of domestic violence.

The Homemove Manager must approve all reciprocal arrangements both in and out bound.

Requests for a reciprocal agreement will only be accepted if a person would otherwise meet the eligibility and qualification criteria contained in this policy requests for a reciprocal agreement for anti social behaviour and rent arrears will usually be refused. Applications will be considered to take into account the welfare cap on any reciprocal request.

Reciprocals are only agreed when there is no material loss to the Council in terms of available housing stock. In most cases, this means that the Council will expect back a property of equal or larger size than the unit offered. The unit must also be comparable in terms of quality and type. If a property requirement is within mobility groups one or two it will be mandatory that the reciprocal is of the same group and in the case of an inbound request that an outbound reciprocal will have to be identified before a request will be agreed.

In exceptional circumstances, the Council may agree to accept an equal number of bedrooms in exchange for a larger unit of the same number of bedrooms, i.e. 1 three bed for 3 three beds or 1 one bed and 1 two bed, This will only be considered where there is no other re-housing option available to the applicant and where there is a strong welfare reason to support the request. This request may be agreed where a tenant under the TIS or TSS schemes will vacate family size accommodation.

The Council expects to receive back the replacement unit within twelve months of the original re-housing.

The local authority or housing association concerned will be required to provide a written commitment to the terms of the reciprocal, as agreed by the Homemove Manager.

Applicants approved on a reciprocal basis will be placed in and be able to bid for the agreed housing appropriate to meet their needs for three months and if unsuccessful during this period will be given one direct offer of suitable accommodation. If this is unreasonably refused the application will be closed. The council's one offer policy applies.

The Council will contact the applicant's landlord at the point of re-housing, to notify them of the move and to request details of the property being provided in replacement.

The applicant will not be re-housed out of turn and all of the terms of bidding, shortlisting and letting apply.

Brighton & Hove Allocations Scheme guidance to officers on the assessment and implementation of this policy.

In order to implement the council's allocations scheme the following is guidance to officers on the use of council systems and procedures following council's agreement of the scheme by Members. This will be developed following the policy above. This guidance may change from time to time to reflect changes in the law or service delivery within the housing department or other services involved.

ANNEX 1: ELIGIBILITY

i.) As a local housing authority we must consider all applications made in accordance with the procedural requirements of our allocation scheme (Housing Act 1996 sections 166(3) and 166A(14)). In considering applications, we must decide:

- if an applicant is eligible for an allocation of accommodation, and
- if he or she qualifies for an allocation of accommodation

Eligibility

ii.) An applicant may be ineligible for an allocation of accommodation under s.160ZA(2) or (4).

We will consider an applicant's eligibility at the time of the initial application and again when considering making an allocation to them, particularly where a substantial amount of time has elapsed since the original application.

Joint Tenancies

iii.) Under s.160ZA(1)(b), we must not grant a joint tenancy to two or more people if any one of them is a person from abroad who is ineligible. However, where two or more people apply and one of them is eligible, we may grant a tenancy to the person who is eligible. In addition, while ineligible family members must not be granted a tenancy, we should take them into account in determining the size of accommodation which is to be allocated.

Existing Tenants

iv.) The eligibility provisions do not apply to applicants who are already our tenants. Most transferring tenants fall outside the scope of the allocation legislation (s.159(4A)); while those who are considered to have reasonable preference for an allocation are specifically exempted from the eligibility provisions by virtue of s.160ZA(5).

Persons from abroad

v.) A person may not be allocated accommodation under Part 6 if he or she is a person from abroad who is ineligible for an allocation under s.160ZA of the 1996 Act. There are two categories for the purposes of s.160ZA:

- a person subject to immigration control - such a person is not eligible for an allocation of accommodation unless he or she comes within a class prescribed in regulations made by the Secretary of State (s.160ZA(2)), and

- a person from abroad other than a person subject to immigration control – regulations may provide for other descriptions of persons from abroad who, although not subject to immigration control, are to be treated as ineligible for an allocation of accommodation (s.160ZA(4))

vi.) The regulations setting out which classes of persons from abroad are eligible or ineligible for an allocation are the Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 (SI 2006 No.1294) ('the Eligibility Regulations'). Persons subject to immigration control

vii.) The term 'person subject to immigration control' is defined in s.13(2) of the Asylum and Immigration Act 1996 as a person who under the Immigration Act 1971 requires leave to enter or remain in the United Kingdom (whether or not such leave has been given)

The following categories of persons do not require leave to enter or remain in the UK:

- British citizens
- certain Commonwealth citizens with a right of abode in the UK
- Irish citizens, who are not subject to immigration control in the UK because the Republic of Ireland forms part of the Common Travel Area (see paragraph 3.11 (iii) below) with the UK which allows free movement
- EEA nationals⁴⁶, and their family members, who have a right to reside in the UK that derives from EU law. Whether an EEA national (or family member) has a particular right to reside in the UK (or another Member State) will depend on the circumstances, particularly their economic status (e.g. whether he or she is a worker, self-employed, a student, or economically inactive) persons who are exempt from immigration control under the Immigration Acts, including diplomats and their family members based in the UK, and some military personnel.

viii.) Any person who does not fall within one of the four categories in paragraph x.) will be a person subject to immigration control and will be ineligible for an allocation of accommodation unless they fall within a class of persons prescribed by regulation 3 of the Eligibility Regulations (see further below).

xi.) If there is any uncertainty about an applicant's immigration status, we will contact the UK Border Agency (UKBA). UKBA provides a service to housing authorities to confirm the immigration status of an applicant from abroad (non asylum seekers) by email at LA@UKBA.gsi.gov.uk . Where UKBA indicates the applicant may be an asylum seeker, enquiries of their status can be made to the Immigration Enquiry Bureau helpline on 0870 606 7766.

x.) Regulation 3 of the Eligibility Regulations provides that the following classes of persons subject to immigration control are eligible for an allocation of accommodation:

⁴⁶ European Economic Area nationals are nationals of any EU member state (except the UK), and nationals of Iceland, Norway, Liechtenstein and Switzerland

- a person granted refugee status: granted 5 years' limited leave to remain in the UK
- a person granted exceptional leave to enter or remain in the UK without condition that they and any dependants should make no recourse to public funds: granted for a limited period where there are compelling humanitarian or compassionate circumstances for allowing them to stay. However, if leave is granted on condition that the applicant and any dependants are not a charge on public funds, the applicant will not be eligible for an allocation of accommodation. Exceptional leave to remain (granted at the Secretary of State's discretion outside the Immigration Rules) now takes the form of 'discretionary leave'.
- a person with current leave to enter or remain in the UK with no condition or limitation, and who is habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland (the Common Travel Area): such a person will have indefinite leave to enter (ILE) or remain (ILR) and is regarded as having settled status. However, where ILE or ILR status is granted as a result of an undertaking that a sponsor will be responsible for the applicant's maintenance and accommodation, the person must have been resident in the Common Travel Area for five years since the date of entry - or the date of the sponsorship undertaking, whichever is later – to be eligible. Where all sponsors have died within the first five years, the applicant will be eligible for an allocation of accommodation.
- a person who has humanitarian protection granted under the Immigration Rules⁴⁷: a form of leave granted to persons who do not qualify for refugee status but would face a real risk of suffering serious harm if returned to their state of origin (see paragraphs 339C-344C of the Immigration Rules (HC 395))

Other persons from abroad who may be ineligible for an allocation

xi.) By virtue of regulation 4 of the Eligibility Regulations, a person who is not subject to immigration control and who falls within one of the following descriptions is to be treated as a person from abroad who is ineligible for an allocation of accommodation:

- a person who is not habitually resident in the Common Travel Area (subject to certain exceptions - see paragraph 3.14 below)
- a person whose only right to reside in the UK is derived from his status as a jobseeker (or his status as the family member of a jobseeker). 'Jobseeker' has the same meaning as in regulation 6(1) of the Immigration (European Economic Area) Regulations 2006 (SI 2006/1003) ('the EEA Regulations').
- a person whose only right to reside in the UK is an initial right to reside for a period not exceeding three months under regulation 13 of the EEA Regulations
- a person whose only right to reside in the Common Travel Area is a right equivalent to one of the rights mentioned in (ii) or (iii) above and which is derived from EU Treaty rights

xii.) See Annex 2 for guidance on rights to reside in the UK derived from EU law.

⁴⁷ Inserted by the Allocation of Housing and Homelessness (Miscellaneous Provisions) (England) Regulations 2006

Xiii.) The following persons from abroad are eligible for an allocation of accommodation even if they are not habitually resident in the Common Travel Area:

- an EEA national who is in the UK as a worker (which has the same meaning as in regulation 6(1) of the EEA Regulations)
- an EEA national who is in the UK as a self-employed person (which has the same meaning as in regulation 6(1) of the EEA Regulations)
- a person who is treated as a worker for the purposes of regulation 6(1) of the EEA Regulations, pursuant to the Accession (Immigration and Worker Authorisation) Regulations 2006 (i.e. nationals of Bulgaria and Romania required to be authorised by the Home Office to work until they have accrued 12 months uninterrupted authorised work)⁴⁸
- a person who is a family member of a person referred to in (a) to (c) above
- a person with a right to reside permanently in the UK by virtue of regulation 15(c), (d) or (e) of the EEA Regulations f) a person who left Montserrat after 1 November 1995 because of the effect of volcanic activity there
- a person who is in the UK as a result of his deportation, expulsion or other removal by compulsion of law from another country to the UK. This could include EEA nationals, if the person was settled in the UK and exercising EU Treaty rights prior to deportation from the third country. Where deportation occurs, most countries will signal this in the person's passport.

xiv.) A person who is no longer working or no longer in self-employment will retain his or her status as a worker or self-employed person in certain circumstances. However, accession state workers requiring authorisation will generally only be treated as a worker when they are actually working as authorised and will not retain 'worker' status between jobs until they have accrued 12 months continuous authorised employment. 'Family member' does not include a person who is an extended family member who is treated as a family member by virtue of regulation 7(3) of the EEA Regulations (see annexes 2 and 3 for further guidance).

xv.) The term 'habitual residence' is intended to convey a degree of permanence in the person's residence in the Common Travel Area; it implies an association between the individual and the place of residence and relies substantially on fact.

xvi.) Applicants who have been resident in the Common Travel Area continuously during the two year period prior to their housing application are likely to be habitually resident (periods of temporary absence, e.g. visits abroad for holidays or to visit relatives may be disregarded). Where two years' continuous residency has not been established, housing authorities will need to conduct further enquiries to determine whether the applicant is habitually resident (see annex 4 for further guidance).

⁴⁸ As of 1 May 2011, nationals of the 8 Eastern European countries (A8 nationals) which acceded to the EU in 2004 are no longer required to register with the Workers Registration Scheme in order to work in the UK.

Regulation 4(2)(c) of the Eligibility Regulations no longer applies to applications from A8 workers as of that date. Rather applications from A8 workers should be considered on the same basis as those from other EU workers under regulation 4(2)(a).

ANNEX 2: RIGHTS TO RESIDE IN THE UK DERIVED FROM EU LAW

i.) EEA nationals and their family members who have a right to reside in the UK that derives from EU law are not persons subject to immigration control. This means that they will be eligible for an allocation of accommodation under Part 6 unless they fall within one of the categories of persons to be treated as a person from abroad who is ineligible for an allocation of accommodation by virtue of regulation 4 of the Eligibility Regulations.

General

Nationals of EU countries

ii.) Nationals of EU countries enjoy a number of different rights to reside in other Member States, including the UK. These rights derive from the EU Treaties, EU secondary legislation (in particular Directive 2004/38), and the case law of the European Court of Justice.

iii.) Whether an individual EU national has a right to reside in the UK will depend on his or her circumstances, particularly his or her economic status (e.g. whether employed, self employed, seeking work, a student, or economically inactive etc).

Nationals of Bulgaria and Romania - the A2 accession states

iv.) A slightly different regime applies to EU nationals who are nationals of Bulgaria and Romania which acceded to the EU on 1 January 2007. Bulgaria and Romania are referred to in this guidance as the A2 accession states. The Immigration (European Economic Area) Regulations 2006

The Immigration (European Economic Area) Regulations 2006

v.) The EEA Regulations' – SI 2006/1003) implement into UK domestic law Directive 2004/38. Broadly, the EEA Regulations provide that EU nationals have the right to reside in the UK without the requirement for leave to remain under the Immigration Act 1971 for the first 3 months of their residence, and for longer, if they are a 'qualified person' or they have acquired a permanent right of residence.

Nationals of Iceland, Liechtenstein and Norway, and Switzerland

vi.) The EEA Regulations extend the same rights to reside in the UK to nationals of Iceland, Liechtenstein and Norway as those afforded to EU nationals. (The EU countries plus Iceland, Liechtenstein and Norway together comprise the EEA.) The EEA Regulations also extend the same rights to reside in the UK to nationals of Switzerland. For the purposes of this guidance, 'EEA nationals' means nationals of any of the EU member states (excluding the UK), and nationals of Iceland, Norway, Liechtenstein and Switzerland.

Initial 3 months residence

vii.) Regulation 13 of the EEA Regulations provides that EEA nationals have the right to reside in the UK for a period of up to 3 months without any conditions or formalities other than holding a valid identity card or passport. Therefore, during their first 3 months of residence in the UK, EEA nationals will not be subject to immigration control (unless the right to reside is lost following a decision by an immigration officer in accordance with regulation 13(3) of the EEA Regulations).

viii.) However, regulations 4(1)(b)(ii) and (c) of the Eligibility Regulations provide that a person who is not subject to immigration control is not eligible for an allocation of accommodation if:

his or her only right to reside in the UK is an initial right to reside for a period not exceeding 3 months under regulation 13 of the EEA Regulations, or his or her only right to reside in the Channel Islands, the Isle of Man or the Republic of Ireland (the Common Travel Area) is a right equivalent to the right mentioned in (i) above which is derived from the EU Treaty

Rights of residence for 'qualified persons'

ix.) Regulation 14 of the EEA Regulations provides that 'qualified persons' have the right to reside in the UK so long as they remain a qualified person. Under regulation 6 of the EEA Regulations, 'qualified person' means:

- a) a jobseeker
- b) a worker
- c) a self-employed person
- d) a self-sufficient person
- e) a student

Jobseekers

x.) For the purposes of regulation 6(1)(a) of the EEA Regulations, 'jobseeker' means a person who enters the UK in order to seek employment and can provide evidence that he or she is seeking employment and has a genuine chance of being employed.

xi.) Nationals of Bulgaria and Romania who need to be authorised to work do not have a right to reside in the UK as a jobseeker⁴⁹. However, they may have a right to reside by virtue of another status, e.g. as a self-sufficient person.

xii.) Although a person who is a jobseeker is not subject to immigration control, regulation 4 of the Eligibility Regulations provides that a person is not eligible for an allocation of accommodation if:

- his or her only right to reside in the UK is derived from his or her status as a jobseeker or the family member of a jobseeker, or

⁴⁹ Regulation 6(2) of the Accession (Immigration and Worker Authorisation) Regulations 2006 (SI 2006/3317).

- his or her only right to reside in the Channel Islands, the Common Travel Area is a right equivalent to the right mentioned in (i) above which is derived from the Treaty establishing the European Community

Workers

xiii.) In order to be a worker for the purposes of the EEA Regulations, a person must be employed. That is to say, he or she is obliged to provide services for another person in return for monetary reward and is subject to the control of that other person as regards the way in which the work is to be done.

xiv.) Activity as an employed person may include part time work, seasonal work and cross-border work (i.e. where a worker is established in another Member State and travels to work in the UK). However, case law provides that the employment must be effective and genuine economic activity, and not on such a small scale as to be regarded as purely marginal and ancillary.

xv.) Provided the employment is effective and genuine economic activity, the fact that a person's level of remuneration may be below the level of subsistence or below the national minimum wage, or the fact that a person may be receiving financial assistance from public benefits, would not exclude that person from being a 'worker'.

xvi.) A person who is a worker is not subject to immigration control, and is eligible for an allocation of accommodation whether or not he or she is habitually resident in the Common Travel Area.

Retention of worker status

xvii.) A person who is no longer working does not cease to be treated as a 'worker' for the purpose of regulation 6(1)(b) of the EEA Regulations, if he or she:

- (a) is temporarily unable to work as the result of an illness or accident; or
- (b) is recorded as involuntarily unemployed after having being employed in the UK, provided that he or she has registered as a jobseeker with the relevant employment office, and:

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- (i) was employed for one year or more before becoming unemployed, or
- (ii) has been unemployed for no more than 6 months, or
- (iii) can provide evidence that he or she is seeking employment in the UK and has a genuine chance of being engaged; or
- (c) is involuntarily unemployed and has embarked on vocational training; or
- (d) has voluntarily ceased working and embarked on vocational training that is related to his or her previous employment.

A2 state workers requiring authorisation who are treated as workers

xviii.) By virtue of the Accession (Immigration and Worker Authorisation) Regulations 2006 ('the Accession Regulations'), nationals of the A2 states (with certain exceptions) must obtain authorisation to work in the UK until they have accrued a period of 12 months continuous employment.

xix.) An A2 national requiring authorisation is only treated as a worker if he or she is actually working and:

- (i) holds an accession worker authorisation document, and
- (ii) is working in accordance with the conditions set out in that document (regulation 9(1) of the Accession Regulations)

xx.) We may need to contact the employer named in the authorisation document, to confirm that the applicant continues to be employed.

Self-employed persons

xxi.) 'Self-employed person' means a person who establishes himself in the UK in order to pursue activity as a self-employed person in accordance with Article 49 of the Treaty on the Functioning of the European Union.

xxii.) A self-employed person should be able to confirm that he or she is pursuing activity as a self-employed person by providing documents relating to their business. A person who is no longer in self-employment does not cease to be treated as a self-employed person for the purposes of regulation 6(1)(c) of the EEA regulations, if he or she is temporarily unable to pursue his or her activity as a self-employed person as the result of an illness or accident.

xxiii.) A2 nationals are not required to be authorised in order to establish themselves in the UK as a self-employed person.

xxiv.) A person who is a self-employed is not subject to immigration control and is eligible for an allocation of accommodation whether or not he or she is habitually resident in the Common Travel Area.

Self-sufficient persons

xxv.) Regulation 4(1)(c) of the EEA regulations defines 'self-sufficient person' as a person who has:

- (i) sufficient resources not to become a burden on the social assistance system of the UK during his or her period of residence, and
- (ii) comprehensive sickness insurance cover in the UK

xxvi.) By regulation 4(4) of the EEA Regulations, the resources of a person who is a self-sufficient person (or a student – see below) and, where applicable, any family members, are to be regarded as sufficient if (a) they exceed the maximum level of resources which a UK national and his or her family members may possess if he or she is to become eligible for social assistance under the UK benefit system or, if (a) does not apply, (b) taking into account the personal situation of the person concerned and, where applicable, any family members, it appears to the council that the resources of the person or persons concerned should be regarded as sufficient.

xxvii.) Where an EEA national applies for an allocation of accommodation as a self-sufficient person and does not appear to meet the conditions of regulation 4(1)(c) of the

EEA regulations, the housing authority will need to consider whether he or she may have some other right to reside in the UK.

xxviii.) Where the applicant does not meet the conditions of regulation 4(1)(c) but has previously done so during his or her residence in the UK, the case will be referred to the Home Office for clarification of their status.

xxix.) A person who is a self-sufficient person is not subject to immigration control, but must be habitually resident in the Common Travel Area to be eligible for an allocation of accommodation.

Students

xxx.) Regulation 4(1)(d) of the EEA regulations defines 'student' as a person who :

- a. is enrolled at a private or public establishment included on the Register of Education and Training Providers⁵⁰, or is financed from public funds, for the principal purpose of following a course of study, including vocational training, and
- b. has comprehensive sickness insurance cover in the UK, and
- c. assures the Secretary of State, by means of a declaration or such equivalent means as the person may choose, that he or she (and if applicable his or her family members) has sufficient resources not to become a burden on the social assistance system of the UK during his or her period of residence.

xxxi.) A person who is a student is not subject to immigration control but must be habitually resident in the Common Travel Area to be eligible for an allocation of accommodation

Permanent right of residence

xxxii.) Regulation 15 of the EEA Regulations provides that the following persons shall acquire the right to reside in the UK permanently :

- a. an EEA national who has resided in the UK in accordance with the EEA regulations for a continuous period of 5 years
- b. a non-EEA national who is a family member of an EEA national and who has resided in the UK with the EEA national in accordance with the EEA regulations for a continuous period of 5 years
- c. a worker or self-employed person who has ceased activity (see regulation 5 of the EEA Regulations for the definition of worker or self-employed person who has ceased activity)
- d. the family member of a worker or self-employed person who has ceased activity
- e. a person who was the family member of a worker or self-employed person who has died, where the family member resided with the worker or self-employed person immediately before the death and the worker or self-

⁵⁰ Now known as the register of sponsors and held by the UKBA

employed person had resided continuously in the UK for at least 2 years before the death (or the death was the result of an accident at work or an occupational disease)

- f. a person who has resided in the UK in accordance with the EEA regulations for a continuous period of 5 years, and at the end of that period was a family member who has retained the right of residence (see regulation 10 of the EEA Regulations for the definition of a family member who has retained the right of residence).

Once acquired, the right of permanent residence can be lost through absence from the UK for a period exceeding two consecutive years.

xxxiii.) A person with a right to reside permanently in the UK arising from (c), (d) or (e) above is eligible for an allocation of accommodation whether or not he or she is habitually resident in the Common Travel Area. Persons with a permanent right to reside by virtue of (a), (b), or (f) must be habitually resident to be eligible.

Rights of residence for certain family members

The right to reside

xxxiv.) Regulation 14 of the EEA Regulations provides that the following family members are entitled to reside in the UK:

- (i) a family member of a qualified person residing in the UK
- (ii) a family member of an EEA national with a permanent right of residence under regulation 15
- (iii) a family member who has retained the right of residence (see regulation 10 of the EEA Regulations for the definition)

xxxv.) A person who has a right to reside in the UK as the family member of an EEA 38 national under the EEA Regulations will not be subject to immigration control. The eligibility of such a person for an allocation of accommodation should therefore be considered in accordance with regulation 4 of the Eligibility Regulations.

xxxvi.) When considering the eligibility of a family member, we will consider whether the person has acquired a right to reside in their own right, for example a permanent right to reside under regulation 15 of the EEA Regulations.

Who is a 'family member'?

xxxvii.) Regulation 7 of the EEA regulations provides that the following persons are treated as the family members of another person (with certain exceptions for students – see below):

- (a) the spouse of the person
- (b) the civil partner of the person
- (c) a direct descendant of the person, or of the person's spouse or civil partner, who is under the age of 21
- (d) a direct descendant of the person, or of the person's spouse or civil partner, who is over 21 and dependent on the person, or the spouse or civil partner

- (e) an ascendant relative of the person, or of the person's spouse or civil partner, who is dependent on the person or the spouse or civil partner
- (f) a person who is an extended family member and is treated as a family member by virtue of regulation 7(3) of the EEA regulations (see below)

Family members of students

xxxviii.) Regulation 7(2) of the EEA regulations provides that a person who falls within (c), (d) or (e) above shall not be treated as a family member of a student residing in the UK after the period of 3 months beginning on the date the student is admitted to the UK unless:

(i) in the case of paragraph 37(c) and (d) above, the person is the dependant child of the student, or of the spouse or civil partner, or

(ii) the student is also a qualified person (for the purposes of regulation 6(1) of the EEA regulations) other than as a student

Extended family members

xxxix.) Broadly, extended family members will be persons who:

(a) do not fall within any of the categories (a) to (e) in paragraph 37 above, and

(b) are either a relative of an EEA national (or of the EEA national's spouse or civil partner) or the partner of an EEA national, and

(c) have been issued with an EEA family permit, a registration certificate or a residence card which is valid and has not been revoked

Family members' eligibility for an allocation of accommodation

Relationship with other rights to reside

xxxx.) This section concerns the eligibility of an applicant for an allocation of accommodation whose right to reside is derived from his or her status as the family member of an EEA national with a right to reside. In some cases, a family member will have acquired a right to reside in his or her own right. In particular, a person who arrived in the UK as the family member of an EEA national may have subsequently acquired a permanent right of residence under regulation 15 of the EEA Regulations, as outlined in paragraph 32 (a) – (f) above. The eligibility for an allocation of accommodation of those with a permanent right of residence is discussed at paragraphs xxxii.) and xxxiii.)

Family members who must be habitually resident

xxxxi.) For family members with a right to reside under regulation 14 of the EEA Regulations, the following categories of persons must be habitually resident in the UK, the Channel Islands, the Isle of Man or the Republic of Ireland in order to be eligible for an allocation of accommodation:

- a) a person whose right to reside derives from their status as a family member of an EEA national who is a self-sufficient person for the purposes of regulation 6(1)(d) of the EEA regulations
- b) a person whose right to reside derives from their status as a family member of an EEA national who is a student for the purposes of regulation 6(1)(e) of the EEA regulations
- c) a person whose right to reside is dependent on their status as a family member of an EEA national with a permanent right to reside
a person whose right to reside is dependent on their status as a family member who
- d) has retained the right of residence

Family members who are exempt from the habitual residence requirement

xxxii.) A person with a right to reside under regulation 14 as a family member of an EEA national who is a worker or a self-employed person for the purposes of regulation 6(1) of the EEA regulations is exempted from the requirement to be habitually resident by regulation 4(2)(d) of the Eligibility Regulations. However, we note that an extended family

member (see above) is not counted as a family member for the purposes of regulation 4(2)(d) of the Eligibility Regulations (see regulation 2(3) of the Eligibility Regulations).

Family members of UK nationals exercising rights under the EU Treaty

xxxiii.) There are some limited cases in which the non-EEA family member of a UK national may have a right to reside under EU law. Under regulation 9 of the EEA Regulations, the family member of a UK national should be treated as an EEA family member where the following conditions are met:

- (i) the UK national is residing in an EEA State as a worker or self-employed person, or was so residing before returning to the UK, and
- (ii) if the family member of the UK national is his spouse or civil partner, the parties are living together in the EEA State, or had entered into a marriage or civil partnership and were living together in that State before the UK national returned to the UK

xxxiv.) Where the family member of a UK national is to be treated as an EEA family member by virtue of regulation 9 of the EEA Regulations, that person is not subject to immigration control, and his or her eligibility for an allocation of accommodation should therefore be determined in accordance with regulation 4 of the Eligibility Regulations.

ANNEX 3: STATUTORY OVERCROWDING

The statutory overcrowding standard

There are two standards in Part X of the 1985 Housing Act that are used to assess whether a home is 'statutorily overcrowded.' If either or both of these standards are breached a dwelling will be statutorily overcrowded.

1.1 The room standard

Section 325 of the Housing Act 1985 provides that there is overcrowding wherever there are so many people in a house that any two or more of those persons, being ten or more years old, and of opposite sexes, not being persons living together as husband and wife, have to sleep in the same room. For these purposes children under ten may be disregarded and a room means any room normally used as either a bedroom or a living room. A kitchen can be considered to be a living room provided it is big enough to accommodate a bed. When interpreting this definition a local authority looks at how the sleeping arrangements within the premises could be organised rather than how they are actually organised

Thus, a couple, with two children of opposite sexes and aged ten years old or more, with two living rooms (e.g. bedrooms), are not statutorily overcrowded because the couple could occupy separate rooms, with one each of the children (of the appropriate sex). There is no limit on the number of people of the same sex who can live in the same room although there may be a contravention of the space standard (see below).

1.2 The space standard

This standard works by the calculating the permitted number of people for a dwelling in one of two ways. The lower number thus calculated is the permitted number for the dwelling. One test is based on the number of living rooms in the dwelling (disregarding rooms of less than 50 square feet):

One room = two persons

Two rooms = three persons

Three rooms = five persons

Four rooms = seven and a half persons

Five rooms or more = ten persons plus two for each room in excess of five rooms.

A child below the age of one does not count and a child between the age of one and ten counts as a half person.

The other test is based on floor areas of each room size:

less than 50 square feet = no-one

50 to less than 70 square feet = half a person

70 to less than 90 square feet = one person

90 to less than 110 square feet = one and a half persons

110 square feet or larger = two persons.

Subject:	Private Rented Sector Discretionary Licensing Scheme: The evidence and next steps		
Date of Meeting:	16 November 2016		
Report of:	Executive Director Economy, Environment & Culture		
Contact Officer:	Name:	Andy Staniford	Tel: 01273 29-3159
	Email:	andy.staniford@brighton-hove.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 A key Housing Strategy theme has been the significant growth in private rented sector (PRS) housing in Brighton & Hove. While many landlords operate responsibly, there are concerns that a significant number do not and as a result issues continue to be raised in relation to the management, standards and quality of homes in this expanding sector.
- 1.2 On 13 January 2016 Housing & New Homes Committee delegated authority to the Acting Executive Director for Environment, Development & Housing to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area and report the findings and any resulting recommendations back to a future Committee.
- 1.3 Subsequently, independent research was commissioned which has concluded that there is sufficient evidence to demonstrate a significant proportion of HMOs are being managed sufficiently ineffectively to support the introduction of citywide Additional HMO Licensing to smaller houses in multiple occupation, and of poor property conditions and significant and persistent anti-social behaviour that supports the introduction of Selective Licensing to all other private rented properties in the worst affected areas.
- 1.4 This report:
 - presents the findings of independent research commissioned to seek evidence that would support, or reject, the need to implement a further discretionary licensing scheme across the whole, or part(s), of the private rented sector in Brighton & Hove (3.20-3.40)
 - reviews the existing Brighton & Hove HMO licensing schemes (3.45-3.54)
 - alerts Members to new government consultation on extending mandatory HMO licensing (3.58-3.62)
 - seeks Member approval to carry out formal consultation on the preferred option for extending licensing across Brighton & Hove (Section 6)

2. RECOMMENDATIONS

2.1 That Housing & New Homes Committee notes the findings of the Mayhew Harper Associates Ltd research that evidences the need for a citywide approach to discretionary licensing (Appendix 1).

2.2 That Housing & New Homes Committee approves 12 weeks of consultation (to commence once a revised fee structure has been agreed by Members) on the preferred option for private rented sector discretionary licensing across Brighton & Hove with persons who are likely to be affected by the designation (Sections 3.36-3.44, Section 6):

(1) Citywide Additional HMO Licensing covering all properties defined as HMOs under the Housing Act 2004 that are not covered by mandatory licensing

(2) Selective Licensing on all non-HMO private rented sector homes in the 12 worst affected wards (as currently delineated) where the evidence demonstrates a clear link between poor property conditions and anti-social behaviour with the private rented sector:

- 1 St. Peter's & North Laine
- 2 Regency
- 3 Moulsecoomb & Bevendean
- 4= Hollingdean & Stanmer
- 4= Queen's Park
- 6 Hanover & Elm Grove
- 7= Brunswick & Adelaide
- 7= East Brighton
- 9 South Portslade
- 10 Central Hove
- 11 Westbourne
- 12 Preston Park

2.3 That Housing & New Homes Committee requests the findings of the consultation and appropriate recommendations be brought back to a future committee for Member consideration.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 A key theme of the city's housing has been the significant growth in private rented housing in Brighton & Hove. In 2011, the Census reported that the Private Rented Sector stood at 37,518 homes, 31% of all housing stock in the City and the 9th largest in England and Wales.

3.2 The sector increased by 46%, an extra 10,691 homes, between the 2001 and 2011. Three wards have half or more than half of households in homes rented through private landlords or lettings agents. The city also has the sixth highest proportion of converted dwellings or shared houses (houses in multiple occupation and bedsits) in England & Wales.

- 3.3 In 2011, 17 of our 21 wards exceed the regional and national average of 15% of households living in private rented homes and the sector is expected to have grown in the 5 years since 2011:

Ward (Ranked by Percent of Ward being Private Rented)	Total Dwellings	PRS Dwellings	PRS as a Percent of Ward
Regency	5,730	3,400	59%
Brunswick & Adelaide	5,875	3,436	58%
Central Hove	5,377	2,863	53%
St. Peter's & North Laine	8,609	4,227	49%
Goldsmid	7,955	3,393	43%
Queen's Park	7,982	3,025	38%
Hanover & Elm Grove	6,501	2,348	36%
Westbourne	4,626	1,553	34%
Preston Park	6,497	2,137	33%
Moulsecoomb & Bevendean	5,892	1,420	24%
Wish	4,125	959	23%
East Brighton	6,561	1,497	23%
Rottingdean Coastal	6,359	1,435	23%
Withdean	6,308	1,413	22%
Hollingdean & Stanmer	5,290	965	18%
South Portslade	3,903	661	17%
Hove Park	4,086	641	16%
Private Rented National Average	x	x	15%
Hangleton & Knoll	6,010	682	11%
Patcham	5,797	644	11%
North Portslade	4,133	434	11%
Woodingdean	3,924	385	10%
Total	121,540	37,518	31%

Source: 2011 Census Table DC4101EW. PRS is Sum of Private Rented: landlord or letting agency, other private rented, living rent free

- 3.4 The growth in the sector brings the benefits of a flexible housing market response to meet accommodation needs in the city. However, while many landlords operate responsibly, issues continue to be raised in relation to the management, standards and quality of homes in the expanding private rented sector.
- 3.5 The 2004 Housing Act introduced mandatory licensing of larger HMOs and contained provisions for further 'discretionary licensing'. HMOs are defined as properties with three or more occupiers who form two or more households and who share a kitchen, bathroom or toilet. This does not include live-in landlords with 2 or fewer lodgers (unless that dwelling is itself within an HMO). Certain HMOs are exempt from licensing under Schedule 14 of the Act, such as those managed by local authorities, registered providers and educational establishments.
- 3.6 HMOs of three or more storeys with five or more occupiers are subject to mandatory licensing, and all such HMOs in England and Wales must be licensed.

3.7 There are two types of discretionary licensing for private rented sector homes:

- (a) **Additional:** where a council can impose a licence on other HMOs in its area which where the council considers that poor management and standards of the properties is causing problems either for the occupants or the general public.
- (b) **Selective:** covering all privately rented property in areas which are experiencing one or more of the following conditions^{1,2}:
- low housing demand
 - significant and persistent anti-social behaviour
 - poor property conditions
 - high levels of migration
 - deprivation
 - crime

Local authorities must obtain express confirmation from the Secretary of State for any Selective scheme(s) which cover more than 20% of their geographical area or affect more than 20% of their private rented sector.

3.8 Under licensing, landlords have to:

- Meet appropriate and professional standards of conduct;
- Demonstrate their properties meet health and safety standards including fire and electrical safety;
- Exercise appropriate management and supervision of the buildings to help reduce any adverse impact on neighbourhood

3.9 The different licensing schemes bring different responsibilities and requirements on the landlords and council:

Licensing Scheme Differences	Mandatory HMO	Additional HMO	Selective
Property Type	Larger HMOs (3 or more storeys, 2 or more households, and 5 or more people)	Smaller HMOs (2 or more households, 3 or more occupiers, share kitchen, bathroom or toilet)	All other private rented homes
Scheme Duration	Ongoing (but 5 year licences)	5 years max	5 years max
Fit and proper person test	Yes	Yes	Yes
Initial property inspection	Yes (but not statutory)	Yes (but not statutory)	Risk based (but not statutory)
Conditions can be	Yes	Yes	No

¹ As amended by The Selective Licensing of Houses (Additional Conditions)(England) Order 2015

² Selective licensing in the private rented sector: A Guide for local authorities, Department for Communities & Local Government 2015:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418551/150327_Guidance_on_selective_licensing_applications_FINAL_updated_isbn.pdf

Licensing Scheme Differences	Mandatory HMO	Additional HMO	Selective
attached to require upgrades to heating, fire safety etc			
Can specify no of occupiers	Yes	Yes	Yes
Consultation requirements	None	Must consult all likely to be affected for 10 weeks minimum	10 weeks but 12 weeks if Secretary of State application
Designation criteria	None	Ineffective HMO management and standards	Low demand, migration, deprivation, poor quality, anti-social behaviour
Secretary of State confirmation needed	No (legislative requirement)	Done via general consent if guidance followed	Yes if scheme exceeds 20% of area or 20% of PRS stock

- 3.10 Councils are able to recover their costs associated with the administration of licensing schemes through licensing fees. Landlords who operate a designated property without a licence may be subject to criminal prosecution and/or a rent repayment order.
- 3.11 Concerns about the impact of HMO's on tenants and communities led to the introduction of Additional Licensing of smaller HMO's, with the first scheme launching in 2012 covering 5 Lewes Road wards (Hanover & Elm Grove, Moulsecoomb & Bevendean, St Peter's & North Laine, Hollingdean & Stanmer, Queen's Park) and a second scheme launching in 2015 covering city centre and coastal wards (Brunswick & Adelaide, Central Hove, East Brighton, Goldsmid, Preston Park, Regency, Westbourne).
- 3.12 Evidence from Mandatory Licensing and Additional Licensing of HMOs in Brighton & Hove has highlighted that in almost 9 in 10 (88%) current cases³, the properties required improvements to ensure they are fit and safe for occupation. Whilst these improvements are benefitting an estimated 13,000 tenants, the city's licensing only covers 9% of the private rented sector.
- 3.13 The vast majority of the city's private rented sector (4 in 5 PRS homes, 81%) does not come under a current licensing scheme beyond the mandatory scheme for larger HMOs. Where we have introduced Additional Licensing, in the older Lewes Road wards licensing scheme, 77% of private rented homes are not covered and in the newer City Centre & Coastal scheme, 97% of private rented homes are not covered:

³ 2,629 of 3,004 licensed properties as of 19 October 2016

Ward	Private Rented Sector Dwellings	Additional Licensing	Licensed HMOs	Percent of PRS <u>Not</u> Licensed
Moulsecoomb & Bevendean	1,420	2012	863	39%
Hollingdean & Stanmer	965	2012	306	68%
Hanover & Elm Grove	2,348	2012	736	69%
St. Peter's & North Laine	4,227	2012	630	85%
Queen's Park	3,025	2012	218	93%
Preston Park	2,137	2015	115	95%
Regency	3,400	2015	95	97%
East Brighton	1,497	2015	62	96%
Goldsmid	3393	2015	68	98%
Westbourne	1553	2015	25	98%
Central Hove	2,863	2015	48	98%
Brunswick & Adelaide	3,436	2015	58	98%
Wish	959	x	9	99%
South Portslade	661	x	6	99%
Withdean	1,413	x	10	99%
Rottingdean Coastal	1,435	x	5	100%
Hove Park	641	x	2	100%
Woodingdean	385	x	1	100%
Hangleton & Knoll	682	x	1	100%
Patcham	644	x	0	100%
North Portslade	434	x	0	100%
Total	37,518	x	3,258	81%
2012 Lewes Road Wards Additional Licensing Area	11,985	2012	2,753	77%
2015 City Centre Wards Additional Licensing Area	18,279	2015	471	97%
<i>(PRS from Census 2011, HMO fully licensed properties [mandatory & additional] as at 5 Oct 2016)</i>				

- 3.14 Concerns about housing quality in the private rented sector were supported by respondents to the consultation for the Housing Strategy 2015, the Private Sector Housing Scrutiny Panel 2015 and more recently, the Fairness Commission Report 2016 which all call for the council to take action to improve the quality of homes and management across the private rented sector.
- 3.15 The benefits of discretionary licensing include development of a proactive and consistent council-led approach towards identifying, and tackling complex issues of management, standards and anti-social behaviour across the area to the benefit of tenants, responsible landlords and the local community:
- **Responsible landlords** will gain from the improved clarity of their role in raising property and tenancy management standards while action is taken to tackle those who flout their legal responsibilities.
 - **Tenants** will be clear on what they can expect from both the home that they rent and the landlord that they rent it from, with implementation of minimum standards resulting in better managed, quality and safer homes. Any repairs

and improvements will be required by the council rather than a tenant complaining and subsequently fearing loss of their tenancy, taking tension out of the landlord and tenant relationship.

- **Communities** benefit from a consistent approach towards proactively assessing and improving housing conditions across an area and knowing who is responsible for the management of properties that are rented out.
- 3.16 Any designation made by a local housing authority for discretionary licensing must ensure that the exercise of the power is consistent with their overall housing strategy; and seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others.
- 3.17 The Housing Strategy 2015 is a key chapter of the Community Strategy and a fundamental piece of evidence to support the City Plan, our Local Housing Investment Plan and other housing related funding opportunities enabling us to continue our impetus to help address the housing needs of the city and provide a consistent drive towards achieving our priorities.
- 3.18 Priority 2 of the Housing Strategy 2015 is to Improve Housing Quality. Themes within this priority include the Private Rented Sector and HMOs. A large majority of respondents to the consultation wanted us to introduce a register of all private sector landlords and take action to improve quality and standards.
- 3.19 The Homeless Strategy 2014 identifies that homelessness from the private rented sector is consistently the single biggest cause of homelessness in the city. Improving the standards of accommodation and management in the private rented sector is seen as one of a number of tools to help reduce homelessness from this sector.

The case for extending discretionary licensing

- 3.20 On 13 January 2016 Housing & New Homes Committee delegated authority to the Acting Executive Director for Environment, Development & Housing to explore the necessity or otherwise of the introduction of further discretionary licensing in all or part of the local authority area and report the findings and any resulting recommendations back to a future Committee.
- 3.21 Mayhew Harper Associates Ltd (MHA), headed by Professor Les Mayhew, were appointed to independently research and report on the evidence that would support, or reject, the need to implement a further discretionary licensing scheme across the whole, or part(s), of the private rented sector in Brighton & Hove. The report is attached as Appendix 1 and the main points are summarised below.
- 3.22 In analysing the evidence, it is important to link incidents of disrepair and anti-social behaviour with privately rented homes. Without this connection, whilst there may be evidence of problems in an area with a large private rented sector, it is not possible to say whether these are linked to those homes or other owner occupied or social rented homes. However, there is no formal database that identifies which homes are privately rented.

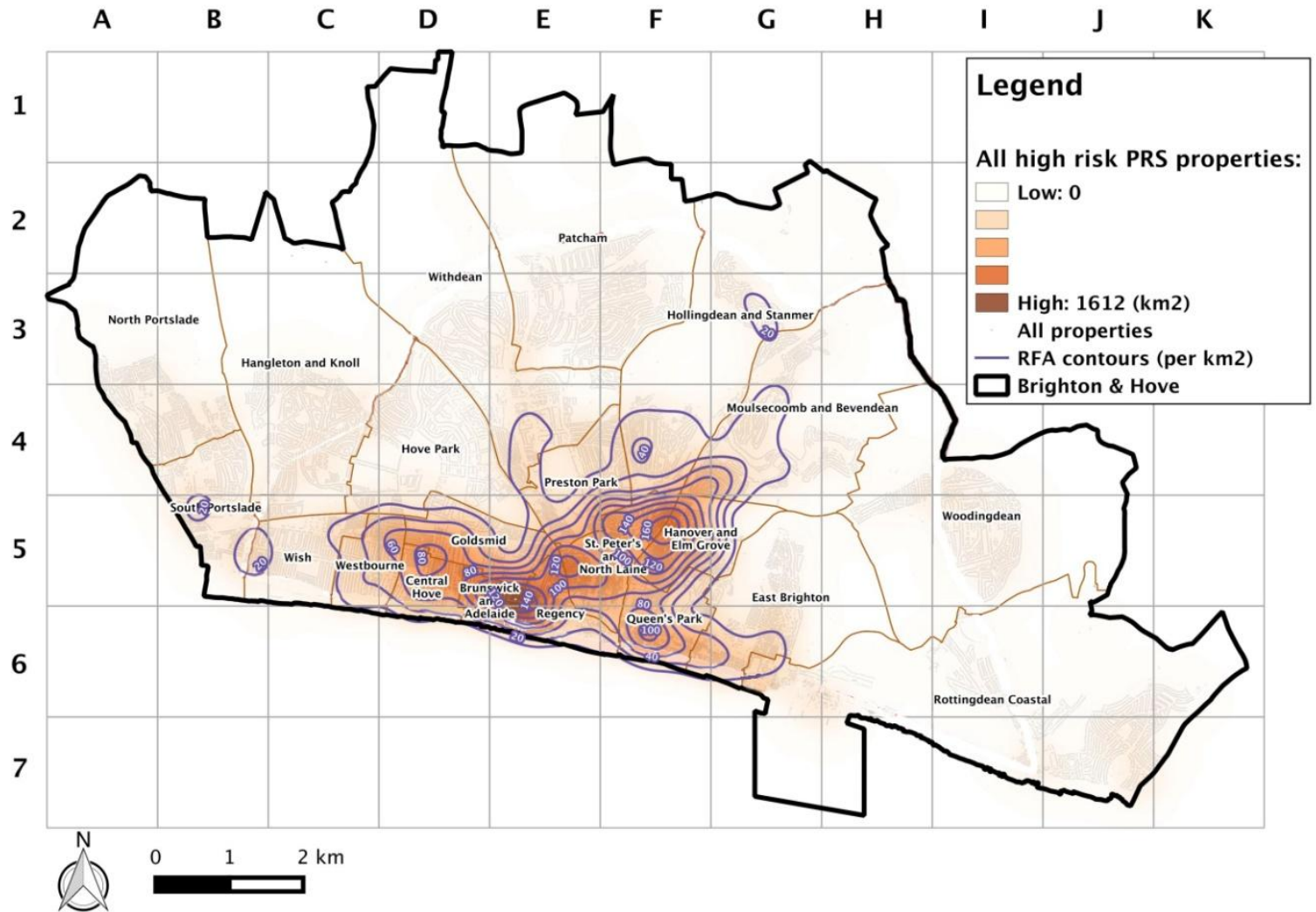
- 3.23 MHA were selected to carry out the research as they presented a unique methodology to predict which properties are most likely to be private rented dwellings. This methodology used a combination of indicators after discounting social housing, such as looking for three or more surnames at an address, frequent changes in occupiers, and housing benefit claims to predict whether homes were likely to be houses in multiple occupation, single family private rented dwellings or otherwise owner occupied homes.
- 3.24 The resultant property list then allowed them to analyse address level incidents to determine whether privately rented homes were more or less likely than other tenured housing to be associated with these problems. Their report outlines this methodology in more detail.
- 3.25 Of the criteria that may demonstrate a need for Selective Licensing, a number were discounted as they do not apply in Brighton & Hove sufficiently or there are insufficient means to link them to the private rented sector:
- low housing demand
 - high levels of migration
 - deprivation
 - crime
- 3.26 The MHA research focussed on poor property conditions and significant and persistent anti-social behaviour (ASB), analysing a number of data sources:
- Police ASB
 - Council ASB
 - Noise complaints
 - Pest control
 - Requests for Assistance (RFAs) to the council's private sector housing team regarding property disrepair
 - Waste complaints
 - Dwelling and HMO Fires
- 3.27 On analysing the data, the evidence shows that:
- Where a property is known to be a HMO (i.e. licensed):
- a Request for Assistance is 13.2 times more likely than other properties
- When combining known and predicted HMOs:
- a Request for Assistance is 3.9 times more likely than other properties
 - a noise complaint is 2.8 times more likely than other properties
- Where a property is predicted to be a single family private rented dwelling:
- a Request for Assistance is 2.4 times more likely than other properties
 - a noise complaint is 1.5 times more likely than other properties
- 3.28 The much higher rate of requests for assistance related to already licensed HMOs could be due to a number of reasons, which all demonstrate the need for the ongoing licensing of these properties:
- Tenants having more confidence to report issues once property licensed
 - Higher tenant turnover impacting on dwelling quality
 - Level of proactive property management

3.29 A geographical density analysis shows the ward level correlation between high concentrations of private rented homes and Requests for Assistance (RFAs).

3.30 As can be seen the density of PRS properties and RFAs are seen to coincide very closely, demonstrating the close links that exist between private renting and poor housing conditions.

3.31 This allows the research to be done at ward level with an analysis of the properties that were previously identified as being highly likely to be in the private rented sector compared to nuisance and ASB.

Geographical density analysis: Private Rented Sector & Requests for Assistance



3.32 Each ward has then been ranked according to the size of the PRS from high to low (1 being the highest ranked ward and 21 the lowest). Each of the 8 indicators is ranked similarly. A final column provides an overall ranking based on the eight indicators in order to derive an overall assessment of the risk factors in each:

Wards table comparing the size of the PRS with housing conditions and ASB

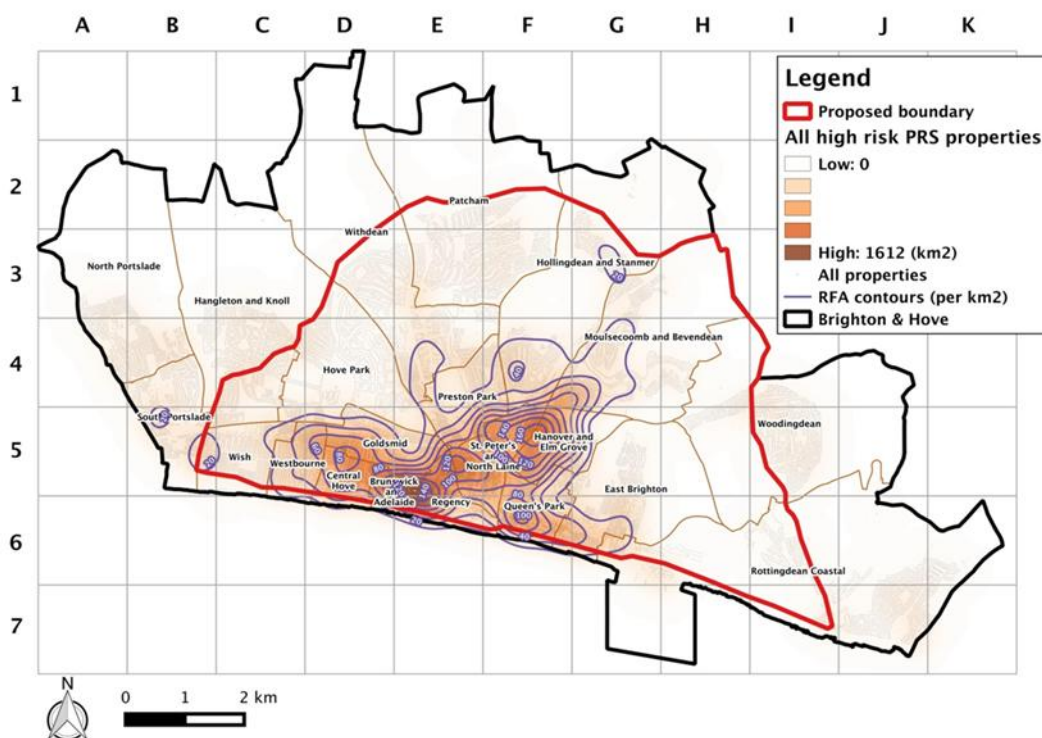
Ward name	Additional Licensing	PRS size	Police ASB	Council ASB	Noise complaints	Pest control	RFA	Waste	Dwellin g Fires	HMO Fires	Rank of ranks (1=worst)
St. Peter's & North Laine	2012	1	2	1	1	7	1	2	2	4	1
Regency	2015	3	1	2	2	15	4	8	6	2	2
Moulsecoomb & Bevendean	2012	12	6	9	6	8	3	1	5	15	3
Hollingdean & Stanmer	2012	14	4	6	4	10	6	5	8	13	4=
Queen's Park	2012	5	3	3	3	19	8	10	3	7	4=
Hanover & Elm Grove	2012	7	10	7	5	17	2	3	7	9	6
Brunswick & Adelaide	2015	2	8	5	8	20	5	17	4	1	7=
East Brighton	2015	10	5	13	7	16	12	4	1	10	7=
South Portslade	No	17	9	4	15	1	14	6	14	14	9
Central Hove	2015	6	7	8	9	21	7	16	12	3	10
Westbourne	2015	9	19	12	13	14	9	7	9	5	11
Preston Park	2015	8	13	20	10	12	10	11	13	8	12
Wish	No	15	12	10	14	9	13	15	20	12	13
Goldsmid	2015	4	17	18	12	18	11	18	11	6	14=
Hangleton & Knoll	No	16	11	11	11	13	17	12	18	18	14=
Woodingdean	No	21	14	15	18	4	19	9	17	19	16
North Portslade	No	20	16	14	17	11	16	14	10	19	17
Patcham	No	18	15	16	16	2	21	13	15	19	17
Withdean	No	13	20	19	20	6	15	21	16	11	19
Rottingdean Coastal	No	11	18	17	19	5	18	19	19	16	20
Hove Park	No	19	21	21	21	3	20	20	21	17	21
Correlation with PRS			0.49	0.47	0.71	-0.69	0.78	0.15	0.65	0.92	0.62

- 3.33 It is important to note that almost all of the worst affected areas are ones that currently include Additional Licensing, with 5 of the worst 6 being the wards with the longest running scheme. The 2012 Lewes Road wards Additional HMO Licensing scheme is the largest and oldest, covering 2,753 HMOs in both the Additional and Mandatory schemes which represent 23% of the private rented sector in those wards. This demonstrates that whilst Licensing is leading to improvements to the quality of those homes to the benefit of those estimated 13,000 tenants, it has not had a significant overall impact on overall private rented sector property conditions and ASB in those areas.
- 3.34 There is generally a medium to high positive correlation between the relative size of the PRS in each ward and the relative incidence of risk factors including poor housing conditions and ASB such as RFAs, noise complaints and dwelling fires. The ward results confirm that the core area of Brighton & Hove centred on the seafront contains most of the risk factors although there are at least two important outliers such as Moulsecoomb & Bevendean and Hollingdean & Stanmer.
- 3.35 The research concluded that there is significant variation in housing conditions and anti-social behaviour (ASB) among Brighton & Hove wards and so while there is a case for extending Additional Licensing to all wards, the case for a Selective Licensing Scheme (SLS) in every ward is not as strong. This suggests an option to introduce SLS only in the worst affected areas in terms of poor housing conditions and ASB in which there are high concentrations of private renting and extend Additional Licensing elsewhere.
- 3.36 The research has presented 4 options for consideration:
- Option 1: Selective Licensing citywide
 - Option 2: Introduce a Selective Licensing Scheme in the worst affected wards and extend Additional Licensing city-wide
 - Option 3: Selective Licensing in the worst affected areas bounded by an artificial barrier (such as roads) and extend Additional Licensing city-wide
 - Option 4: Selective Licensing in a small area within the 20% limits set by the Secretary of State and extend Additional Licensing citywide
- 3.37 **Option 1: Selective Licensing citywide.** This option has the advantage that it includes the whole private rented sector in Brighton & Hove. This would make licensing much clearer to landlords and tenants and have the biggest impact. This option would require an application to the Secretary of State for approval. However, it includes areas that do not fully meet the discretionary licensing criteria so it runs the risk of being rejected by the Secretary of State and neither does it allow us to attach special conditions to HMOs to require improvements.
- 3.38 **Option 2: Introduce a Selective Licensing Scheme in the worst affected wards and extend Additional Licensing citywide.** It would contain the whole private rented sector in the worst affected areas and HMOs in outlying areas and can be demonstrated to be meeting our strategic aims. This would not include single family private rented homes in outlying areas which risks the targeting of areas that do not require licenses for expansion of the sector. This option would require an application to the Secretary of State for approval. The 12 worst affected wards are (rank 1 = worst):
- 1 St. Peter's & North Laine

- 2 Regency
- 3 Moulsecoomb & Bevendean
- 4= Hollingdean & Stanmer
- 4= Queen's Park
- 6 Hanover & Elm Grove
- 7= Brunswick & Adelaide
- 7= East Brighton
- 9 South Portslade
- 10 Central Hove
- 11 Westbourne
- 12 Preston Park

3.39 Option 3: Selective Licensing in the worst affected areas bounded by an artificial barrier (such as roads) and extend Additional Licensing city-wide.

This option contains the whole private rented sector in the worst affected areas and HMOs in outlying areas and can be demonstrated to be meeting our strategic aims. The wider boundary allows the scheme to cater for future growth and expansion in the private rented sector. This would not include single family private rented homes in outlying areas which risks the targeting of areas that do not require licences for expansion of the sector. This option would require an application to the Secretary of State for approval, however, the guidance is unclear as to whether we could include wider boundaries to allow for growth. One example is presented in the research report, although this does exclude South Portslade which is the 9th worst affected ward and includes 4 of the least affected wards so could be potentially modified for consultation:



3.40 Option 4: Selective Licensing in a small area within the 20% limits set by the Secretary of State and extend Additional Licensing citywide. This option would contain the whole private rented sector in a small targeted area and HMOs across the rest of the city. Secretary of State approval would be gained via the

General Consent rather than an application, as long as the legislation and guidance is followed. The report acknowledges that this option is more illustrative as it would not tackle all those areas with an identified need. Whilst benefiting those specific areas, it would not have as much of a citywide impact and as such does not fully meet our strategic aims. When looking at the 12 worst affected wards, this scheme exceeds the 20% threshold very quickly unless some of the larger wards (Moulsecoomb & Bevendean and Hollingdean & Stanmer) are excluded. With this option an Additional Licensing scheme and Selective scheme must start/finish at the same time as properties falling out of Additional would come under Selective in those areas which could result in the 20% threshold being exceeded:

Wards ranked by housing conditions and ASB	Ward	Ward area (km ²)	Cumulative area as % of B&H	Cumulative single family as % of PRS	Wards covered by AL*
1	St. Peter's & North Laine	1.43	1.7	3.7	Y
2	Regency	0.95	2.8	5.8	Y
3	Moulsecoomb & Bevendean	5.83	9.6	7.4	Y
4=	Hollingdean & Stanmer	7.42	18.3	9.2	Y
4=	Queen's Park	1.28	19.8	11.9	Y
6	Hanover & Elm Grove	1.41	21.5	14.1	Y
7=	Brunswick & Adelaide	0.56	22.1	16.3	Y
7=	East Brighton	4.10	26.9	18.4	Y
9	South Portslade	1.92	29.2	20.0	
10	Central Hove	0.80	30.1	22.1	Y
11	Westbourne	1.00	31.3	24.0	Y
12	Preston Park	1.67	33.2	25.8	Y

(*) AL = Additional Licensing

Proposed fee structure

- 3.41 As part of the consultation on introducing or extending licensing, the council must include the proposed fee structure and likely charges. The current fee structure was reviewed and agreed by Housing Committee in June 2015, and implemented on 1 August 2015. This current fee structure does not include Selective Licensing since we do not have such a scheme in the city.
- 3.42 In setting fees for licences, the council is entitled to take into account all its costs in carrying out its functions in relation to administering any scheme. Fees cannot be set at a level designed to make a profit. Proposed fees are set at a level reasonably expected to cover the costs of providing the service for the licensing scheme. The fees are based on officer time and associated costs involved in processing the applications, inspections and monitoring including the relevant overheads. The majority of the costs involved relate to staff time. All costs included are allowable within the guidance for calculation of licence fees.

- 3.43 With the potential for a the proposals outlined in this paper encompassing a significant number of homes, it is important that the fee structure encourages landlords to apply promptly and also ensure their homes meet the required standard with minimal intervention from the council. This would minimise the fees for compliant landlords and also reduce pressure on the council in managing the scheme. As with previous discretionary licensing schemes, resources would have to be weighted to ensure are the greatest demand for licenses at or around scheme commencement can be managed.
- 3.44 If Committee approve the preferred option and decision to consult, we will review the existing fee structure and bring this to Members for approval prior to the consultation commencing.

Review of the existing Licensing Schemes

- 3.45 **Mandatory HMO Licensing:** As of 5 October 2016 we have licensed, or have active applications for 1,094 larger HMOs in the City (those over three storeys and five people) under the current national mandatory licensing scheme. Details are in the table below.

Ward Name	Properties
St. Peter's & North Laine	244
Hanover & Elm Grove	234
Queen's Park	111
Moulsecoomb & Bevendean	113
Hollingdean & Stanmer	78
Preston Park	66
Regency	58
Goldsmid	33
Brunswick & Adelaide	41
Central Hove	30
East Brighton	22
Westbourne	16
South Portslade	6
Rottingdean Coastal	5
Wish	9
Withdean	10
Hove Park	2
Hangleton & Knoll	1
Woodingdean	1
Ward not listed	14
Total	1,094
<i>(as of 5 Oct 2016)</i>	

3.46 **Lewes Road Additional HMO Licensing:** This scheme was introduced in 2012 in response to extensive consultation and robust evidence that a significant proportion of the smaller HMOs in the Lewes Road wards (Hanover & Elm Grove, Moulsecoomb & Bevendean, St Peter's & North Laine, Hollingdean & Stanmer, Queen's Park) were being managed sufficiently ineffectively as to give rise to one or more particular problems either for those occupying the HMOs or for members of the public. This 5 year scheme applies to smaller HMOs of two or more storeys and three or more occupiers.

3.47 As of 7 October 2016, the council has received 2,365 valid additional licence applications (some of these are new owners re-applying on the same property) and checked and issued 2,264 draft licences, of which 1,996 have been followed up with full licences (issued on condition that any work required is carried out within an agreed period):

Ward Name	Applications Received	Draft Licences Issued	Full Licences Issued
Hanover & Elm Grove	569	571	507
Hollingdean & Stanmer	276	264	229
Moulsecoomb & Bevendean	901	874	763
Queen's Park	133	123	107
St. Peter's & North Laine	459	432	390
Total	2,365	2,264	1,996
<i>(as of 7 Oct 2016)</i>			

3.48 **City Centre Additional HMO Licensing:** This scheme was introduced on 2 November 2015 in response to evidence and consultation that the smaller HMOs in city centre and coastal wards (Brunswick & Adelaide, Central Hove, East Brighton, Goldsmid, Preston Park, Regency, Westbourne) were being managed sufficiently ineffectively as to give rise to one or more particular problems either for those occupying the HMOs or for members of the public. This 5 year scheme applies to smaller HMOs of two or more storeys and three or more occupiers.

3.49 This scheme is relatively new so the number of licenses issued is comparatively small, but this will grow over time. As of 7 October 2016, the council has received 260 valid additional licence applications and checked and issued 237 draft licences, of which 205 have been followed up with full licences (issued on condition that any work required is carried out within an agreed period):

Ward Name	Applications Received	Draft Licences Issued	Full Licences Issued
Preston Park	62	59	49
Goldsmid	39	38	35
Regency	46	41	37
East Brighton	51	45	40
Brunswick & Adelaide	23	21	17
Central Hove	25	22	18

Ward Name	Applications Received	Draft Licences Issued	Full Licences Issued
Westbourne	14	11	9
Total	260	237	205
<i>(as of 7 Oct 2016)</i>			

3.50 **Benefits:** In addition to the mandatory conditions that all landlords of licensed HMO properties must adhere to, housing quality issues identified during property inspections have led to 12,619 special conditions being attached to licences that are resulting in improvements in 2,629 homes, benefitting an estimated 13,000 tenants:

Special Conditions	Mandatory HMO Licensing	Additional HMO Licensing (Lewes Road Wards)	Additional HMO Licensing (City Centre Wards)	Total
Total Special Conditions applied	1,823	9,992	804	12,619
Fully Licensed Properties with Special conditions applied	538	1,904	187	2,629
Percent of Fully Licensed Properties with Special conditions	67%	95%	91%	88%
Estimated number of tenants benefitting (at 5 per HMO)	2,690	9,520	935	13,145
<i>(as at 19 Oct 2016)</i>				

3.51 The conditions applied cover a range of housing quality issues with 75% complied with in the Lewes Road scheme and 23% in the new City Centre scheme:

Special Conditions	Mandatory HMO Licensing	Additional HMO Licensing (Lewes Road Wards)	Additional HMO Licensing (City Centre Wards)	Total Conditions
Other Fire Works	300	1,995	156	2,451
Management / Repairs	380	1,738	164	2,282
Structural Fire Works	358	1,696	160	2,214
Fire Alarms	160	1571	111	1,842

Special Conditions	Mandatory HMO Licensing	Additional HMO Licensing (Lewes Road Wards)	Additional HMO Licensing (City Centre Wards)	Total Conditions
Ventilation	99	842	64	1,005
Electrical Works	143	682	68	893
Loft Insulation	27	739	48	814
Additional Facilities	252	481	20	753
Enlargement Of Bedrooms	21	158	7	186
Enlargement of Kitchens	46	61	3	110
Gas Certificates	37	28	3	68
Enlargement of Dining Room	0	1	0	1
Total	1,823	9,992	804	12,619
<i>(as at 19 Oct 2016)</i>				

3.52 **How proposals affect existing discretionary licensing schemes:** The current Lewes Road Scheme comes to an end in November 2017 and City Centre Scheme in November 2019. Should the council implement Selective Licensing in all or part of these wards, these properties would come under that scheme once the Additional Licensing Scheme expires and the landlords of those properties would need to apply for Selective Licenses. It is also worth noting that this could push a small Selective Licensing Scheme above the 20% threshold that would require an application to the Secretary of State for approval.

3.53 Alternatively, as the evidence from MHA shows the disproportionate level of poor property conditions in HMOs and anti-social behaviour suggesting a significant proportion are being managed ineffectively, the council could look to designate a new Additional HMO Licensing Scheme in these wards. The advantages and disadvantages of these options are outlined in the table below:

Options on expiry of Lewes Road Additional HMO Licensing Scheme	Advantages	Disadvantages
Have no scheme in these areas	No licence fee for landlords	Does not meet strategic aims as evidence supports need for a scheme
Renew Additional	Can require property improvements to HMOs not in earlier scheme	More complex to administer
Bring under area Selective	Simpler to administer	Not able to attach special conditions to require improvements to fire safety etc

Options on expiry of Lewes Road Additional HMO Licensing Scheme	Advantages	Disadvantages
Bring under Citywide Additional	Can require property improvements to HMOs not in earlier scheme	None

3.54 It is recommended to consult those likely to be affected on the option to bring these properties under a citywide Additional HMO Licensing scheme rather than Selective Licensing. The proposed fee structure will consider the likely reduced level of resources required in relation to administering the scheme for landlords / agents relicensing properties that were licensed under the existing schemes.

Outline Timeline

3.55 Subject to Housing & New Homes Committee permission to consult:

- Dec 2016 / Jan 2017 - procure consultation provider
- Jan / Mar 2017 - Committee report on proposed fee structure
- April / June 2017 - Consultation (12 weeks)
- July / Sept 2017 - Committee report on consultation findings

3.56 If further discretionary licensing is subsequently proposed and approved by Committee:

- Aug / Oct 2017 - Secretary of State application (if necessary)
- formal notice of scheme
- Nov 2017 / Jan 2018 - potential scheme live

3.57 Any selective licensing scheme time-line could be subject to extension if Secretary of State approval is required. The time-line may also be affected by any challenge to proposals or process through judicial review.

New Government Consultation: Houses in Multiple Occupation and residential property licensing reforms⁴

3.58 The Government has recently launched consultation on reforms to HMO licensing covering:

1. Extending the scope of mandatory HMO licensing
2. National minimum room sizes in licensed HMOs
3. Impact assessment
4. Fit and proper person test
5. Refuse disposal facilities
6. Purpose built student housing

3.59 The main proposed change is to bring more HMOs into the Mandatory Licensing scheme:

- Remove the storey rule so all houses (regardless of how many floors) with 5 or more people from two or more households are in scope

⁴ Consultation: Houses in Multiple Occupation and residential property licensing reforms, DCLG, October 2016:

https://www.google.co.uk/url?url=https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/560774/161018_HMO_CONSULTATION.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ved=0ahUKEwj366u gvOnPAhVLBsAKHdifC7AQFggUMAA&usg=AFQjCNFMPaMIauPBUu55Cd4yibFcuKM7ow

- Extend mandatory licensing to some flats above and below business premises (regardless of the number of storeys)
- Set a minimum room size of 6.52m² in line with the existing overcrowding standard (Housing Act 1985) to close a loophole recently created by an upper-tier tribunal ruling which is enabling some landlords to let rooms far too small for an adult to legally occupy.

3.60 For the first time, these proposals include flats, but only where there are commercial or other non-residential premises in the building and it is a converted building or purpose built with up to two flats. Purpose built blocks comprised entirely of flats, or purpose built blocks with commercial/non-residential space and three or more flats are excluded, but the consultation states that local housing authorities will retain the flexibility to license such flats under an additional licensing scheme.

3.61 If the government implements these changes as proposed, more properties in Brighton & Hove would be covered by the mandatory licensing scheme. However, this would still leave a substantial number of dwellings in our proposed additional licensing scheme (primarily those smaller shared homes of 3-4 occupiers forming two or more households whether houses or flats, plus all HMO flats in purpose built blocks forming two or more households with three or more occupiers) rather than remove the need for the scheme.

3.62 The consultation closes in December 2016 and any resulting changes are likely to be implemented later in 2017. Their impact on our existing and any proposed licensing scheme, will be considered as and when they are published. The council will be making representations to this consultation based on the needs of Brighton & Hove.

Revised HMO Standards

3.63 Officers have been working in partnership with authorities across Sussex to review the HMO Standards.

3.64 The standards apply to shared houses with two or more storeys to make sure the homes have enough facilities such as washing, cleaning, cooking and living space for the intended number of occupiers. These should be seen as a minimum and reassure tenants that a licensed property offices a certain level of suitability and also provides useful guidance to landlords on what they need to be providing to look after their asset and tenants.

3.65 Officers are reviewing the changes made to the Sussex standards to determine their relevance to Brighton & Hove. Alongside this, officers are also considering the implications of the new government HMO consultation and its proposed minimum room sizes.

3.66 Should a view be taken that the local existing standards require amendment, then these will be brought to Members for consideration prior to the potential consultation on expanding licensing across the city.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 When considering whether to make a licensing designation a local housing authority must consider whether there are any other courses of action available to it that would achieve the same objective or objectives as the proposed scheme without the need for the designation to be made.
- 4.2 Only where there is no practical and beneficial alternative to a designation should a scheme be made. If the local housing authority decides there is no practical and beneficial alternative to the scheme, it must only make the designation if it is satisfied that the scheme will significantly assist it in achieving its objective or objectives, with other actions the local housing authority may be taking.
- 4.3 Five possible alternative options for tackling problem housing in the city were identified and are set out below:
- A. Do nothing
 - B. Use existing reactive powers
 - C. Targeted use of Management Orders
 - D. Area-based voluntary accreditation
 - E. Informal area action
- 4.4 The Strengths and Weaknesses of each option highlight that none are expected to be able to bring about the scale of improvement that the evidence suggests is required. A more detailed options appraisal would be completed following stakeholder consultation to help Members make an informed decision:

Option A: Do nothing		
Option Description	For	Against
This option would involve the council doing nothing to intervene in the sector, leaving the housing market as the driver for landlords carrying out improvements to their properties	<ul style="list-style-type: none"> • No additional resource costs • Housing market determines the quality of accommodation • Meets aspiration for many landlords for self-regulation 	<ul style="list-style-type: none"> • Would not meet statutory obligations • Community concerns not addressed • Concerns of people renting not addressed • Reliance on the current market may not yield widespread housing improvement
Option B: Use existing reactive powers		
Option Description	For	Against
This option envisages council intervention in the sector being limited to a 'complaint response' service with action by other departments and agencies on a largely ad hoc basis	<ul style="list-style-type: none"> • Responds to tenants' expressed concerns • Ensures council meets basic statutory responsibilities towards standards in rented housing • If pursued rigorously sends a strong signal to the erring landlord, may 	<ul style="list-style-type: none"> • Reliance on the market may not yield widespread housing improvement in the current climate • Reactive intervention not strategic • No impact beyond the subject property • Wider issues in rented

<p>using powers such as the Anti-Social Behaviour Crime and Policing Act 2014; injunctions using Section 222 of the Local Government Act 1972; directions regarding the disposal of waste (for example under section 46 of the Environmental Protection Act 1990); and Powers under the Noise Act 1996</p>	<p>lead to subsequent voluntary improvement</p> <ul style="list-style-type: none"> • Should produce worthwhile improvements in neighbourhood environment, external appearance, structural integrity, fire safety in cases where these tackled 	<p>stock not addressed</p> <ul style="list-style-type: none"> • Most Planning, Building Regulations enforcement powers would not reach longer-established stock where need is greatest • Key issues (amenities, space, health and safety) would be overlooked • Underreporting due to fear of retaliatory eviction • Labour-intensive, so costly • Council funded • Falls short of meeting Housing Strategy goals
<p>Option C: Use of Interim Management Orders and Final Management Orders</p>		
<p>Option Description</p>	<p>For</p>	<p>Against</p>
<p>Interim and Final Management Orders are for non-licensable HMOs or Special Interim Management Orders with regard to anti-social behaviour if problems are associated with a small number of properties. Once made, the Order is implemented until the property was fit either to be handed back to the landlord or if necessary, sold to a Registered Provider</p>	<ul style="list-style-type: none"> • An effective response to the most serious problems; • Local Authority taking control means work done to proper standard, management issues resolved optimally • Action sends a strong message that poor standards will not be acceptable 	<ul style="list-style-type: none"> • Powerful reactive enforcement action, not designed to secure overall stock improvement • Strict statutory criteria for use of the power; these will apply to a small proportion of the overall stock • Highly resource-intensive for council • Lengthy legal processes leads to delay • Minimal impact on the overall level of poor-quality rented housing • Council funded • Not a proportionate response
<p>Option D: Area-Based Voluntary Accreditation</p>		
<p>Option Description</p>	<p>For</p>	<p>Against</p>
<p>Accreditation schemes are a set of standards (or codes) relating to the management or physical condition of</p>	<ul style="list-style-type: none"> • Accreditation's proven track record in parts of the country • Easy set-up through access to existing local and national 	<ul style="list-style-type: none"> • Accreditation would tend to attract the responsible landlord, be ignored by the irresponsible • No particularly strong

privately rented accommodation that recognise and reward landlords who manage their properties to a good standard	<p>Accreditation models</p> <ul style="list-style-type: none"> • Infrastructure for further Accreditation exists through the current scheme • Rewards responsible landlords for their efforts • Prospective tenants signposted to quality accommodation run by responsible landlords 	<p>incentive for poor agents/landlords to join</p> <ul style="list-style-type: none"> • Brighton and Hove is a high demand area – impact of area based accreditation likely to be minimal
Option E: Informal Area Action		
Option Description	For	Against
A non-statutory Action Area zone, would be declared. The impetus for housing improvement would come from a combination of the council's activity in the area (a mixture of advisory surveys, council-landlord-agent dialogue and, where necessary, the threat of follow-up enforcement action), landlord peer pressure, and the prospect of an enhanced and thus more credible sector	<ul style="list-style-type: none"> • Targeted Action • Choice of area can be need and risk-based • Tailored solutions to area's housing and other problems possible • Should lead to comprehensive area improvement • Concentration of resources can lead to economies of scale • Message that the council is active in an area gets around, this facilitates resident co-operation, promotes voluntary landlord action • Partnership working to resolve management problems • Utilises existing frameworks 	<ul style="list-style-type: none"> • Informality of approach can result in extended timescales • Traditional, resource-intensive enforcement the only available response to non-cooperation • Additional funding or resources needed to implement, particularly if working city-wide • Pulls resources away from other areas • Will not tackle issues of disrepair or health and safety concerns • Relies on agents / landlords participation • Not all landlords/agents will participate which may leave some tenants vulnerable

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 The need to take action to improve conditions in the private rented sector has come from a range of local consultation and engagement, such as the Housing Strategy 2015, Private Rented Sector Scrutiny Panel 2015 and also the Fairness Commission 2016. In addition to this, there are specific consultation requirements that must be met before Additional or Selective licensing can be introduced in an area.
- 5.2 Before introducing an Additional HMO Licensing Scheme, the council must comply with the specific requirements set out within sections 56 and 57 of the Housing Act 2004. This includes being satisfied that a significant proportion of

the HMOs proposed under the additional scheme are being managed sufficiently ineffectively. Consultation must also take place and the scheme must be consistent with the authority's overall Housing Strategy. Provided the criteria are met then an application to the Secretary of State for permission is not required.

- 5.3 To implement a Selective Licensing Scheme, Section 80(9) of the Housing Act 2004 states that when considering designating an area the local housing authority must:
- take reasonable steps to consult persons who are likely to be affected by the designation, and,
 - consider any representations made in accordance with the consultation.
- 5.4 Local housing authorities are required to conduct a full consultation. This should include consultation of local residents, including tenants, landlords and where appropriate their managing agents and other members of the community who live or operate businesses or provide services within the proposed designation. It should also include local residents and those who operate businesses or provide services in the surrounding area outside of the proposed designation that could be affected. Local housing authorities should ensure that the consultation is widely publicised using various channels of communication.
- 5.5 If the designation does not require the confirmation of the Secretary of State because of its extent the local housing authority must consult on the proposed scheme for at least 10 weeks. The guidance recommends that if the scheme requires confirmation the local housing authority should aim to consult for at least 12 weeks unless there are special reasons for not doing so.
- 5.6 The consultation should be informative, clear and to the point, so the proposal is readily understood. It should inform local residents, landlords, letting agents and businesses about the proposed designation, giving the reasons for proposing it, why alternative remedies are insufficient, demonstrating how it will tackle specific problems together with other specified measures, and describing the proposed outcome of the designation. It should also set out the proposed fee structure and level of fees the authority is minded to charge (if any). Consultees should be invited to give their views, and these should all be considered and responded to.
- 5.7 Once the consultation has been completed the results should then be published and made available to the local community. This should be in the form of a summary of the responses received and should demonstrate how these have either been acted on or not, giving reasons.
- 5.8 This report is recommending to consult on the preferred option in accordance with the requirements of the Secretary of State for a period of 12 weeks.

6. CONCLUSION

- 6.1 Evidence from the research carried out by Mayhew Harper Associates provides a strong case for citywide additional licensing and the introducing selective licensing of all private rented properties in the worst affected wards in the city. It is noted that the evidence does not fully support city-wide selective licensing (Option 1) and that a smaller scheme within the 20% thresholds set by the

Secretary of State (Option 4) would not make as much impact on the scale of need identified.

- 6.2 In considering legislative requirements and those of government guidance, the introduction of citywide additional licensing and selective licensing in the worst affected wards or areas (Options 2 & 3) seem a proportionate, reasonable and strategic response to the issues with management, standards and antisocial behaviour affecting some of the city's private rented sector that existing (or other potential) interventions have not been able to resolve, nor is there any indication that they could resolve the problems experienced by so many of the city's residents.
- 6.3 Option 2 is the closest fit with the requirements of the Secretary of State and whilst Option 3 allows for effective management of future expansion of the private rented sector, it is not clear whether the boundaries we suggest would be permitted. Whilst this option is not being actively pursued, as part of any proposed consultation, stakeholders in adjoining areas to a proposed Selective Licensing scheme would be asked their views which will be considered as part of any final analysis. This could result in a final scheme proposal that goes beyond the boundaries of the worst affected wards to cover the worst affected areas and allow for some growth in the private rented sector.
- 6.4 It is recommended to consult stakeholders for 12 weeks on Option 2, Citywide Additional HMO Licensing and Selective Licensing on the other private rented sector homes in the 12 worst affected wards:
- 1 St. Peter's & North Laine
 - 2 Regency
 - 3 Moulsecoomb & Bevendean
 - 4= Hollingdean & Stanmer
 - 4= Queen's Park
 - 6 Hanover & Elm Grove
 - 7= Brunswick & Adelaide
 - 7= East Brighton
 - 9 South Portslade
 - 10 Central Hove
 - 11 Westbourne
 - 12 Preston Park
- 6.5 The proposed Additional Licensing scheme would cover all properties defined as HMOs under the Housing Act 2004 that are not covered by mandatory HMO licensing or exempt under Schedule 14 of the Act (such as those managed by local authorities, registered providers and educational establishments). This scheme would include all properties with three or more occupiers who form two or more households and who share a kitchen, bathroom or toilet. This would not include live-in landlords with two or fewer lodgers (unless that dwelling is itself within an HMO). This proposed scheme goes beyond the current Additional Licensing scheme to include single storey HMOs (flats).
- 6.6 The Selective Licensing scheme would include all other private rented homes in the designated areas. The landlord who would be required to obtain the licence, not the occupiers. Again, this would not include live-in landlords with two or fewer

lodgers, unless that landlord is private renting themselves (in which case the landlord of the flat will be required to obtain the licence).

- 6.7 In addition to the consultation on preferred options, the authority is required to publish and consult on the proposed fee structure and any changes to the HMO Standards as part of this.
- 6.8 It should be noted that if the consultation supported the introduction of further licensing as per Option 2, then before a Selective Licensing scheme could be introduced, permission must be sought from the Secretary of State.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The cost of undertaking a joint consultation exercise for both the additional licensing and selective licensing schemes is estimated as £0.030m. If the council consulted on the additional scheme only (recommendation 2.2 (1), then this would cost an estimated £0.025m, for the selective scheme only (recommendation 2.2 (2)), costs are estimated as £0.020m. The consultation exercise will be carried out by independent consultants, procured through a competitive process. These costs are one-off and will be met from 2016/17 underspends within the Housing Strategy service. It is difficult to quantify the financial implications of any final scheme at this stage because the costs will be defined by the size and nature of the scheme which will be determined following consultation with stakeholders and reported to this committee.

Finance Officer Consulted: Monica Brooks

Date: 04/11/2016

Legal Implications:

- 7.2 The criteria and procedures for the introduction of additional and selective licensing in parts 2 and 3 respectively of the Housing Act 2004 are very prescriptive. Failure to adhere to the requirements may leave the council vulnerable to challenge by way of judicial review in the High Court. A number of local authorities, such as Hyndburn, Thanet and Enfield have found their decisions to introduce licensing schemes challenged in this way.
- 7.3 **Additional Licensing:** Local housing authorities may designate either an area within their district or the whole district as being subject to additional licensing. A designation may apply to certain descriptions of HMOs or to all HMOs (other than those subject to mandatory licensing) in the designated area. An authority may not make an additional licensing scheme unless it has identified that a significant proportion of the HMOs of the description to which the scheme is intended to apply are being managed sufficiently ineffectively so that they are causing, or have potential to cause, particular problems either for the occupiers of the HMOs or members of the public (including anti-social behaviour). An authority must ensure that the decision to make a designation is consistent with its overall housing strategy. In particular, it must, ensure that the making of the designation is co-ordinated with its approach to combating homelessness, anti-social behaviour and empty homes in the private rented sector and the measures available to it to deal with those problems, as well as the work of other agencies

(such as the police, the voluntary sector and ASB practitioners, social services etc) in tackling those matters.

- 7.4 **Selective Licensing:** A selective licensing designation may only be made if the area to which it relates satisfies one or more of the following conditions - low housing demand; a significant and persistent problem caused by anti-social behaviour; poor property conditions; high levels of migration; high level of deprivation; high levels of crime. In considering whether to designate an area for selective licensing on the grounds above on property conditions, migration, deprivation and crime the local housing authority may only make a designation if the area has a high proportion of property in the private rented sector. When considering whether to make a selective licensing designation a local housing authority must first identify the objective or objectives that a designation will help it achieve. In other words it must identify whether the area is suffering problems that are caused by or attributable to any of the criteria for making the designation and what it expects the designation to achieve - for example, an improvement in property conditions in the designated area. Secondly, it must also consider whether there are any other courses of action available to it that would achieve the same objective or objectives as the proposed scheme without the need for the designation to be made. If the problems of anti-social behaviour are only associated with a small number of properties a local housing authority should consider making a Special Interim Management Order, rather than a selective licensing designation covering properties with regard to anti-social behaviour. Only where there is no practical and beneficial alternative to a designation should a scheme be made. If the local housing authority decides there is no practical and beneficial alternative to the scheme, it must only make the designation if it is satisfied that the scheme will significantly assist it in achieving its objective or objectives, with other actions the local housing authority may be taking. Any designation made must ensure that the exercise of the power is consistent with the council's overall housing strategy and seek to adopt a co-ordinated approach in connection with dealing with homelessness, empty properties and anti-social behaviour affecting the private rented sector as regards combining licensing with other action taken by them or others.
- 7.5 **Consultation:** Before introducing either sort of scheme, the council is statutorily required to take reasonable steps to consult persons who are likely to be affected by the designation. Case law has determined that to be proper, the consultation should be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken. The Secretary of State's Guide for local authorities on "Selective licensing in the private rented sector" interprets those principles, and advises that, " The consultation should be informative, clear and to the point, so the proposal is readily understood. It should inform local residents, landlords and letting agents and businesses about the proposed designation, giving the reasons for proposing it, why alternative remedies are insufficient demonstrating how it will tackle specific problems together with other specified measures, and describing the proposed outcome of the designation."

- 7.6 **Confirmation or General Approval:** The designation of an area as subject to additional licensing or selective licensing cannot come into force unless it has been confirmed by the appropriate national authority (the Secretary of State) or it falls within a description of designations in relation to which the Secretary of State has given a General Approval. The current general approval is “The Housing Act 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of other Residential Accommodation (England) General Approval 2015.” For additional licensing schemes, local authorities can rely on the General Consent provided that the consultation period with persons who are likely to be affected is at least 10 weeks. At least 10 weeks consultation is required under the General Consent for selective designations, but that is only available where the authority is designating less than 20% of its geographical area, or the designation affects less than 20% of privately rented homes in the local authority area.

Lawyer Consulted: Liz Woodley

Date: 01/11/2016

Equalities Implications:

- 7.7 In seeking to tackle poor management, quality standards and anti-social behaviour, it is expected that any licensing scheme would have a positive impact on tenants including those with protected characteristics. A full equalities impact assessment would be undertaken in relation to any discretionary licensing scheme recommended to Housing & New Homes Committee for approval. This assessment would incorporate the relevant findings of the stakeholder consultation to help inform decision making.

Sustainability Implications:

- 7.8 The evidence has identified poor property conditions in the private rented sector. Action to tackle this is expected to improve the quality of the city’s housing stock, thereby improving its sustainability.

Crime & Disorder Implications:

- 7.9 The evidence has identified anti-social behaviour linked to properties in the private rented sector. Action to tackle this is expected to reduce anti-social behaviour and nuisance associated with these properties.

Risk and Opportunity Management Implications:

- 7.10 Should the stakeholder engagement support the need for further discretionary licensing across Brighton & Hove, the scale of such a scheme would require careful planning in terms of making sure the fees structure reflected the need for sufficient staffing and resources are in place to effectively implement and manage the scheme.

Public Health Implications:

- 7.11 Poor housing conditions, management and anti-social behaviour impact negatively on health. Improvements to housing quality and management will have a positive health impact on tenants and neighbours.

Corporate / Citywide Implications:

- 7.12 The long term impact will be a higher quality and better managed private rented sector to the benefit of owners, tenants and neighbours. Improvements sought in

management and standards and reductions in anti-social behaviour related to private rented homes will have wider beneficial impacts identified in the report.

SUPPORTING DOCUMENTATION

Appendices:

1. The case for an extension to discretionary property licensing in Brighton & Hove, Mayhew Harper Associates, 2016

Documents in Members' Rooms

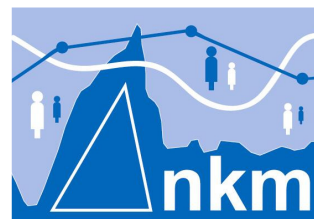
None

Background Documents

1. Update on Private Rented Sector Scrutiny Panel Recommendations, Housing & New Homes Committee, 21 September 2016: <http://present.brighton-hove.gov.uk/mgconvert2pdf.aspx?id=100151>
2. Brighton & Hove Fairness Commission Report 2016: <https://www.brighton-hove.gov.uk/sites/brighton-hove.gov.uk/files/Report%20-%20Fairness%20Commission.pdf>
3. Scrutiny Panel Report on Private Sector Housing, Housing & New Home Committee, 17 June 2015: <http://present.brightonhove.gov.uk/ieListDocuments.aspx?CId=884&MId=5928&Ver=4>
4. Report on Private Sector Housing (PSH) Discretionary Licensing Update, Housing & New Homes Committee, 13 January 2016: <http://present.brighton-hove.gov.uk/mgconvert2pdf.aspx?id=91179>
5. Brighton & Hove Housing Strategy 2015: <http://www.brighton-hove.gov.uk/content/housing/general-housing/housing-strategy-2015>
6. Selective licensing in the private rented sector: A Guide for local authorities, Department for Communities & Local Government 2015: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418551/150327_Guidance_on_selective_licensing_applications_FINAL_updated_isbn.pdf
7. Consultation: Houses in Multiple Occupation and residential property licensing reforms, DCLG, October 2016: https://www.google.co.uk/url?url=https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/560774/161018_HMO_CONSULTATION.pdf&rct=j&frm=1&q=&esrc=s&sa=U&ved=0ahUKEwj366ugvOnPAhVLBsAKHdifC7AQFggUMAA&usg=AFQjCNFMPaMlauPBUu55Cd4yibFcuKM7ow

The case for an extension to discretionary property licensing in Brighton & Hove

Dr L. Mayhew
G. Harper
Mayhew Harper Associates Ltd.
September 2016
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*Neighbourhood
knowledge management*

Executive Summary

In January 2016 the Housing & New Homes Committee asked officers to explore if evidence supported the possible introduction of further discretionary licensing in all or part of the local authority area. Mayhew Harper Associates Ltd. were appointed in May 2016 to undertake the research and to report by September 2016.

The terms of reference were:

- (a) To investigate whether there is evidence that indicates a need for the implementation of a further discretionary licensing scheme across the whole, or part(s), of the private rented sector in Brighton & Hove
- (b) If the research outcome shows there is evidence to indicate a need for further discretionary licensing, the report is to contain recommendations relating to which type of licensing is indicated, and in which area(s).

An overarching theme arising from the city-wide Housing Strategy has been the significant growth in private rented housing in Brighton & Hove. The Private Rented Sector (PRS) stands at between 34,000 and 37,000 homes or roughly 31% of the city's housing stock depending how it is measured (see report). The City also has the ninth largest private rented sector and sixth highest proportion of converted dwellings or shared houses (houses in multiple occupation and bedsits) in England and Wales.

At the same time there are concerns that the existing Additional Licensing Scheme covering houses in multiple occupation (HMOs) only covers a small fraction of the total Private Rented Sector. Given that the evidence points to a significant growth in private rented housing in Brighton & Hove, private renting will be a key theme in the housing strategy including possible extensions in discretionary licensing.

Main findings

On the basis of our findings there are a number of issues that should inform any decision on how the Council might proceed.

- There is significant variation in housing conditions and anti-social behaviour (ASB) among Brighton & Hove wards and so while there is a case for extending Additional Licensing to all wards, the case for a Selective Licensing Scheme (SLS) in every ward is not as strong.
- The existing AL schemes cover twelve wards or 32.6% of the area but only around 9% of all PRS properties in the city. If it is proposed to convert these areas in to an SLS scheme by including all private rented properties and not just HMOs, permission would need to be sought from the SoS.

- However, it would also be open to the Council to introduce SLS only in the worst affected areas in terms of poor housing conditions and ASB in which there are high concentrations of private renting and extend Additional Licensing elsewhere. The report suggests how this could be achieved.
- The four main options suggested in the report are: 1. A city-wide Selective and Additional Licensing Scheme; 2. Selective Licensing Schemes where they are justified delineated by ward boundaries and city-wide Additional Licensing; 3. Selective Licensing Scheme delineated by designated roads with city-wide Additional Licensing; 4. Selective Licensing Scheme limited to the 20% rule and city-wide Additional Licensing
- The corollary is that if it is decided to apply for SoS approval (or there is a Judicial Review) then the Council should ensure that it puts forward the best possible case since if the scheme is rejected it may cause the Council significant delays.
- The proposals include a suggestion for a boundary delineated by roads which would cover the built-up area and allow for future encroachment of the PRS but would fall short of covering the whole of the Brighton administrative area. This would also deal with the problem of sparsely populated outer suburbs, but it is only a suggestion and other alternatives are possible.
- On other criteria such as the link between private renting and the index of multiple deprivation (IMD) the research found only relatively weak evidence at ward level. This was primarily a data issue because wards are heterogeneous with levels of deprivation varying markedly at sub-ward level. Our evidence using household level data is more precise in this regard and finds that private renting and poor housing conditions overlap and are linked.

Accompanying this research will be a database of all identified private residential properties in Brighton & Hove containing a risk assessment of known and probable private rented tenancy (either HMOs or Single Family Rented).

Les Mayhew

Gillian Harper

September 2016

(email: lesmayhew@googlemail.com.uk)

1. The case for discretionary licensing in Brighton & Hove

1.1 Introduction

In January 2016 the Housing & New Homes Committee asked officers to explore the possible introduction of further discretionary licensing in all or part of the local authority area.

Here, 'discretionary licensing' means any licensing of residential property under the Housing Act 2004 (the Act) that goes beyond the national mandatory HMO licensing requirements contained in the Act.

The two types of discretionary licensing are:

- (a) Additional: where a council can impose a licence on other HMOs in its area which are not subject to mandatory licensing, but where the council considers that poor management of the properties is causing problems either for the occupants or the general public.
- (b) Selective: covering all privately rented property in areas which suffer or are likely to suffer from low housing demand and also to those that suffer from significant and persistent anti-social behaviour (ASB).

In both cases Councils must however consult local landlords before introducing additional or selective licensing and it must be widely publicised when it comes into force. Additional Licensing (AL) means that a Local Authority can specify the maximum number of people who can occupy the house, and attach conditions relating to the management of the building, as well as making sure amenities are kept up to standard. Failure to comply may lead to the withdrawal of a licence or other sanctions including fines.

DCLG guidance published in 2015 sets out the conditions for Selective Licensing in an area unless the property is a House in Multiple Occupation and is required to be licensed under Part 2 of the Act.¹ For it to be considered it must be experiencing one or more of the following conditions: low housing demand, significant and persistent ASB, poor property conditions, high levels of migration, deprivation and crime.²

On the one hand these conditions potentially constrain the coverage of Selective Licensing Schemes (SLS) to the most affected areas or properties but also widen the criteria for its introduction. In addition, new rules require that local authorities obtain confirmation from the Secretary of State (SoS) for any SLS which will cover more than 20% of their geographical area or will affect more than 20% of privately rented homes.

¹ Housing Act 2004 Section 85 (1)(a).

² Selective licensing in the private rented sector A Guide for local authorities
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418551/150327_Guidance_on_selective_licensing_applications_FINAL_updated_isbn.pdf

1.2 Motivation for this research

An overarching theme arising from the city-wide Housing Strategy 2015³ has been the significant growth in private rented housing in Brighton & Hove. The Private Rented Sector stands at between 34,000 and 37,000 homes depending on how it is measured or 31% of the city's housing stock based on the 2011 Census. The City also has the ninth largest private rented sector and sixth highest proportion of converted dwellings or shared houses (houses in multiple occupation and bedsits) in England and Wales.

At the same time there are concerns that the existing Licensing Schemes covering HMOs include only a small fraction of the total Private Rented Sector (PRS), approximately 9%. Given that the evidence points to a significant growth in private rented housing in Brighton & Hove, private renting is a key theme in the housing strategy including possible extensions in discretionary licensing. Concern about the quality of housing and management in the private rented sector is also evidenced in the Brighton & Hove Private Rented Sector Scrutiny Report 2015⁴ and more recently, the Brighton & Hove Fairness Commission Report 2016⁵.

Whilst the majority of those homes licensed to date have led to improvements in the housing quality and safety to the benefit of approximately 15,000 tenants, these have not resulted in an overall reduction in ASB. Meanwhile, the PRS continues to grow in size and encroach into the suburbs especially along the student corridor towards Sussex University. Hence, there is a determination in the Council to try and do much more.

Since existing AL schemes already cover the central area of Brighton and sections of the suburbs, the main options involve either further extensions of AL to the whole borough and/or the introduction of an SLS to all or part of the area. If an SLS is introduced into an area it would run alongside AL.

1.3 Terms of reference

The terms of reference of this study are:

- (c) To investigate whether there is evidence that indicates a need for research and report evidence to support the case for the implementation of a further discretionary licensing scheme across the whole, or part(s), of the private rented sector in Brighton & Hove.
- (d) If the research outcome shows there is evidence to indicate a need for further discretionary licensing, the report is to contain recommendations relating to which type of licensing is indicated, and in which area(s).

³ Housing Strategy 2015: <https://www.brighton-hove.gov.uk/housingstrategy>

⁴ Scrutiny Panel Report on Private Sector Housing, Housing & New Homes Committee, 17 June 2015
<http://present.brighton-hove.gov.uk/ieListDocuments.aspx?CId=884&MIId=5928&Ver=4>

⁵ Fairness Commission 2016: <http://www.brighton-hove.gov.uk/content/council-and-democracy/fairness-commission>

1.4 Key issues arising

On the basis of our findings there are a number of issues that should inform any decision on how the Council might proceed.

- There is significant variation in housing conditions and ASB among Brighton & Hove wards and so while there is a case for extending AL to all wards, the case for an SLS in every ward is not as strong.
- The existing AL schemes cover twelve wards or 32.6% of the area but only around 9% of all PRS properties in the city. If it is proposed to convert these areas in to an SLS scheme by including all private rented properties and not just HMOs, permission would need to be sought from the SoS.
- However, it would also be open to the Council to introduce SLS only in the worst affected areas in terms of poor housing conditions and ASB in which there are high concentrations of private renting and extend AL elsewhere. The report suggests how this could be achieved.
- The four main options suggested in the report are: 1. A city-wide Selective and Additional Licensing Scheme; 2. Selective Licensing Schemes where they are justified delineated by ward boundaries and city-wide Additional Licensing; 3. Selective Licensing Scheme delineated by designated roads with city-wide Additional Licensing; 4. Selective Licensing Scheme limited to the 20% rule and city-wide Additional Licensing
- If option 4, then as the aim should be to maximise the size of the PRS covered by SLS or the area over which it operates providing neither exceeds the 20% maximum laid down before SoS approval must be sought.
- The corollary is that if it is decided to apply for SoS approval (or there is a Judicial Review) then the Council should ensure that it puts forward the best possible case since if the scheme is rejected it may cause the Council significant delays.

Our suggestions are not set in stone and there is scope to fine tune them as necessary.

1.5 Structure of this report

The report is structured as follows

Section 2 outlines our approach and summarises our data sources

Section 3 analyses structural changes in the size of the PRS and other tenancy types between Censuses in 2001 and 2011

The case for extending discretionary licensing in Brighton & Hove

Section 4 considers trends in housing conditions and ASB using available administrative data

Section 5 examines the evidence for direct links between ASB and private renting

Section 6 considers all the evidence at a ward level and ranks wards by the size of the PRS, housing conditions and ASB

Section 7 reviews options for different licensing schemes

Section 8 provides a discussion and summary our conclusions

2. Approach and method

2.1 Wards versus households

In the eyes of the legislation it is necessary to link cause and effect – for example, it should be possible to identify an event such as noise disturbance to an exact address. Secondly that address and similar ones to it are part of a general problem which is characterised by certain attributes of that address such as whether it is privately rented or not.

Of course it could be a privately owned or social tenure property and these may be more or less vulnerable to similar problems. The difficulty with private rented properties is that there is only very partial information about whether it is private rented or not – for example it may be a mandatory licensed HMO, housing association or a Council-owned property in which case it will be known to the Council by definition.

Office of National Statistics (ONS) information about the size of the PRS is partial and also arguably out of date. The Census provides information at ward level but even if we find that the PRS and ASB are correlated it does not necessarily imply causation for the reasons given above. If ASB can be linked to actual properties in the PRS then the case is stronger especially if ASB is less common in other tenancies – especially owner occupation.

Rules on SLS have recently been extended to include areas experiencing poor property conditions, influxes of migration, a high level of deprivation or crime. We adopt these wider criteria where it is appropriate to do so subject to the availability and granularity of data.

However, one of these aspects can be discounted straight away and that is low housing demand. Currently high property prices are crowding out owner occupiers and effectively encouraging a buy-to-let culture and this looks set to continue. This also makes it difficult to keep reliable tabs on the size of the PRS since it is always changing.

Data provided to us on police reported ASB and fire call outs proved useful for identifying problematic wards. We were also advised that migration could be discounted since it is on a relatively small scale (although Brighton & Hove does have a partly transitory population). However, we did find that deprivation as measured by the Index of Multiple Deprivation was weakly correlated with the percentage of private renting.

To re-iterate, ward level data must be considered a blunt instrument since it often contains a wide mix of neighbourhoods covering a large area. The data available at a household level

generally turns out to be more useful and is more up to date is as far as housing conditions and ASB are concerned. It includes requests for assistance (a proxy for housing conditions) noise complaints, pest control and waste, each of which could be divided into sub-categories and analysed at different spatial scales.

To summarise, the approach adopted therefore combines published data as far down as ward level with the Council's own administrative data sources at a household level. Aside from the examples above we also benefited from having access to benefit households (Housing Benefit and Council Tax Reduction Scheme), Council Tax records, current HMO stock, Electoral Register, and so on. These are used primarily to help inform whether a property is likely to be private rented or not.

On administrative data, our task entailed cleaning all the data sources and geo-referencing them by matching them to the Local Land and Property Gazetteer (LLPG). The end result was a database with one record for each address linked to various different attributes, for example the occurrence of a noise complaint, if it was a benefit household or not and so on.

We needed to determine whether a property is owner occupied or not or social housing or part of the known PRS e.g. licensed HMOs, known bedsits, student accommodation. We removed social housing and any properties such as businesses, or care homes and other residential institutions. For properties of unknown tenancy we used a model to identify PRS properties using risk factors such as Housing Benefit or Council Tax status, the number of adults per address and turnover. A later section covers this stage in more detail.

2.2 The importance of the Local Land and Property Gazetteer

The Local Land and Property Gazetteer (LLPG) is a database of all properties in Brighton & Hove with a unique identifier for each property address called the UPRN (Unique Property Reference Number). A properly maintained LLPG linked to all other council data sets is a strategic tool that can be used to underpin many possible uses including, crucially, this research.

Assigning the correct UPRN to each address in routinely collected local authority datasets enables linkage between these datasets, so that a profile for every property address can be produced e.g. from council tax, benefit information, and the electoral roll, to library and other customer services. Although the LLPG is supposed to cover all residential properties in an area, the correspondence between, for example, the council tax register and the LLPG is inexact.

Although addresses on local authority datasets should conform to the same standard as the LLPG (BS7666) many do not. We used our own algorithm to compare each address on the administrative datasets with all addresses on the LLPG to select the correct match, and thus assign the UPRN. When addresses are formatted very differently to the LLPG standard, automation is less effective and clerical manual checks are required.

The BLPU (Basic Land and Property Unit) classification is used to give an indication of each UPRN use. However, it was noticed that some residential UPRNs were actually institutions such as halls of residence or care homes or sheltered housing. It was not possible to do a full

internet search on every address to check this, but obvious cases were identified and excluded.

Through this process we were able to remove properties known or suspected to be in the private rented sector such as licensed HMOs and known right- to-buy properties and properties with council tax student discounts. We also removed council owned properties, halls of residence, bed & breakfasts, care homes, travellers' sites and hostels. We used other means to identify housing association properties (the council does not keep records of their addresses).

The LLPG also contains UPRNs for 'parent' and 'child' properties, the parent being the building shell for the flats or rooms/bedsits within them. In these cases we took the pragmatic decision to remove parent UPRNs where these were obviously sub-divided into flats and retain parent UPRNs where these were obviously being split into HMOs or bed-sits.

As a result of these different stages we ended up with 129,678 residential properties of which 15,522 were mainly council and housing association tenancies and the rest private owned or rented. In what follows we use sub-divisions of these quantities to produce a range of analyses, tables and maps to support the case for, and extensions to, discretionary licensing across the city.

3. Structural changes in tenancy based on the Census

3.1 Census data

Data on tenancy is also available in the Census but only down to ward level. The Census breaks down households into three main tenure categories: owner occupied, social housing or private rented. According to the 2011 Census 54% of the housing stock is owner occupied, 15% is social housing and 31% is private rented.

Although the 2011 Census must be considered slightly dated, the structural changes in tenancy are an important guide to what has been happening in Brighton & Hove compared with elsewhere. Table 1 (a) and (b) show that in Brighton & Hove social housing rose by 8.3% whereas in London it fell by 0.6%. In Brighton & Hove owner occupation fell by 6.7% and in London by only 0.6%.

The biggest changes, however, were in private renting. In London it rose by 65.5% and in Brighton & Hove by 38.4%. The reasons for this difference is not so much that Brighton & Hove is falling behind London but because Brighton & Hove already had a larger private rented sector than London, or it could be an indication of what Brighton & Hove may experience growth in the future.

The total number of households in Brighton & Hove based on the 2011 Census was 121,540. It is important to realise that this figure is constantly changing and in the case of Brighton & Hove still growing. Reconciling this figure with data contained in administrative sources such as the Local Land and Property Register Gazetteer, Council Tax and Electoral Register is therefore never going to be an exact science.



London boroughs	2001	2011	Change %
Owner occupied	1,704,719	1,618,315	-5.1
Social housing	790,371	785,993	-0.6
Private rented	520,907	861,865	65.5
Total	3,015,997	3,266,173	8.3

(a)

Brighton & Hove	2001	2011	Change %
Owner occupied	70,580	65,835	-6.7
Social housing	16,796	18,187	8.3
Private rented	27,103	37,518	38.4
Total	114,479	121,540	6.2

(b)

Table 1: Change in Tenancy between 2001 and 2011 in (a) London and (b) Brighton & Hove

At ward level, Census data shows significant changes in the PRS over the period. This is seen in Figures 1 to 3. These maps are overlaid with a grid (1.5 x 1.5 sq. kms.) for ease of identification of different areas of the borough.

For example in 2001, Figure 1(a), the highest percentages of private rental properties (>40%) were concentrated in columns D and E row 6 in wards abutting the sea front. These correspond to Central Hove, Brunswick & Adelaide, and Regency wards.

By 2011, Figure 2, private renting had spread northwards to adjacent wards such as Goldsmid, St Peters & North Laine. There have also been notable increases in private renting in other wards especially those fanning out from the city centre into the immediate suburbs.

Examples include Moulsecoomb & Bevendean, Withdean, and East Brighton, which together have increased both the depth and spread of private renting in the city. Figure 3 showing the percentage changes between 2001 and 2011 and confirms the spread of private renting along north, east and west facing radii.

Of these Moulsecoomb & Bevendean (cells H3 to G4) may be singled out especially as it corresponds closely with the locations of educational institutions including Sussex and Brighton Universities, and provides rented accommodation for many students attending courses here and elsewhere in Brighton & Hove.

Annex A gives a table of housing tenure by ward based on the 2011 Census.

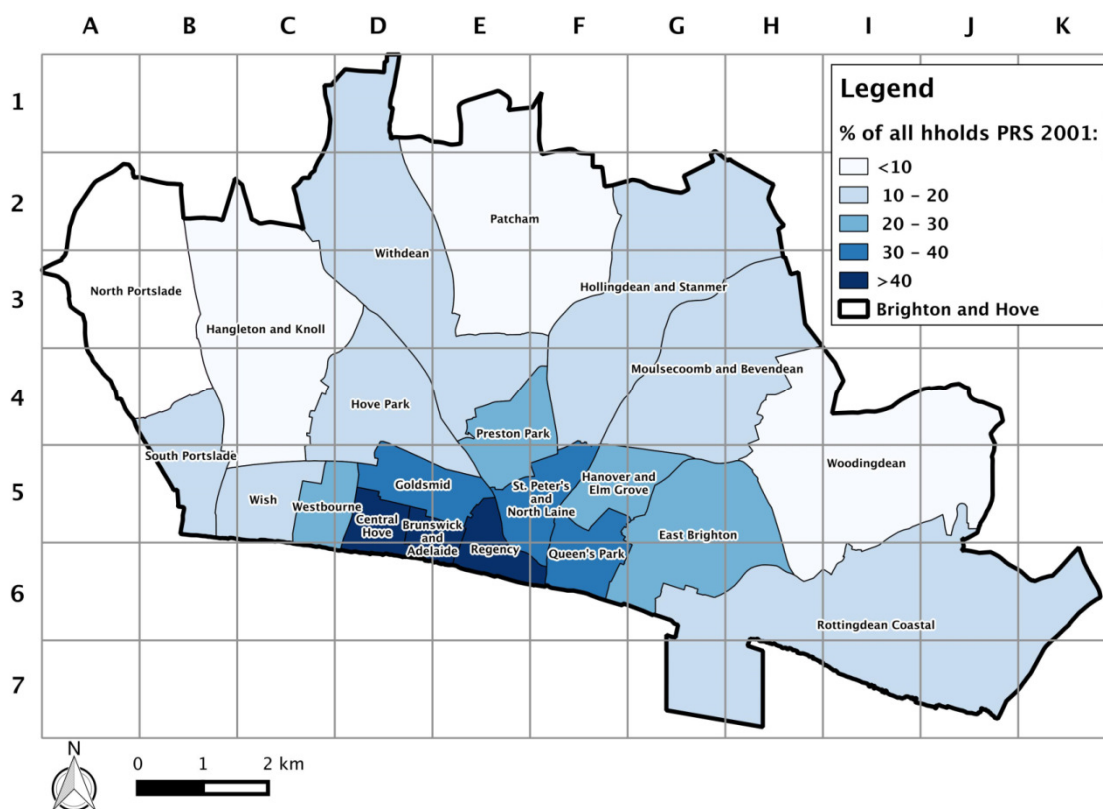


Figure 1: PRS households in 2001 as a percentage of all tenancies

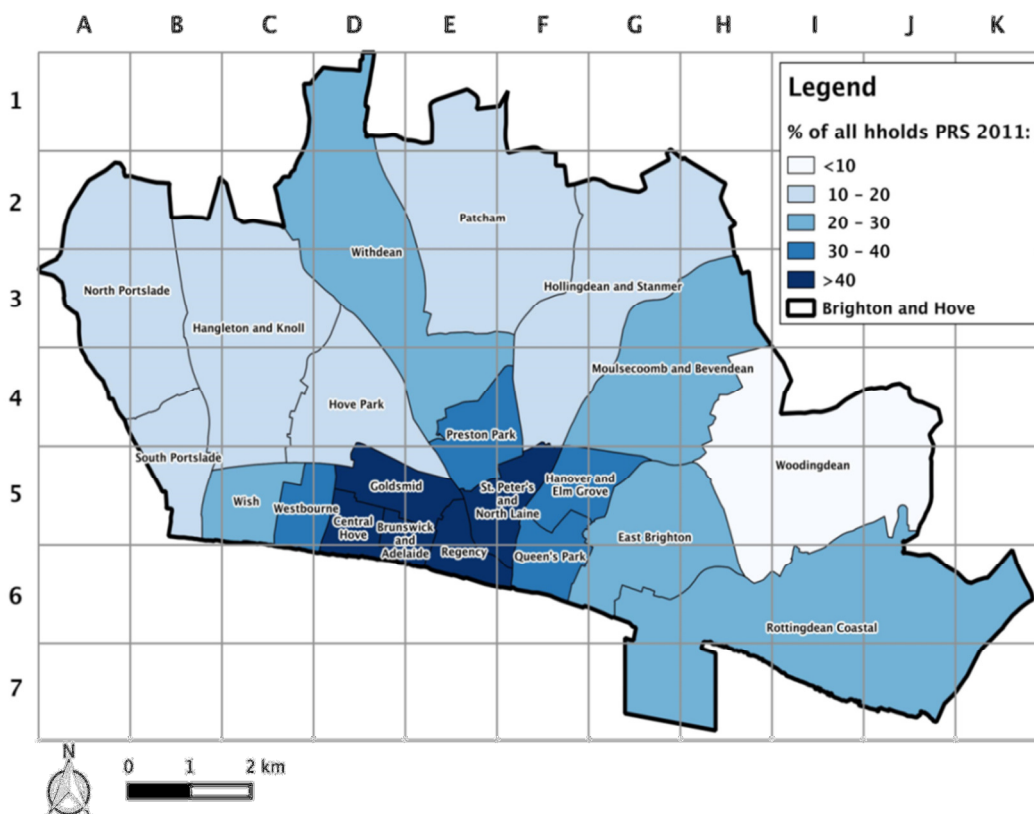


Figure 2: PRS households in 2011 as a percentage of all tenancies

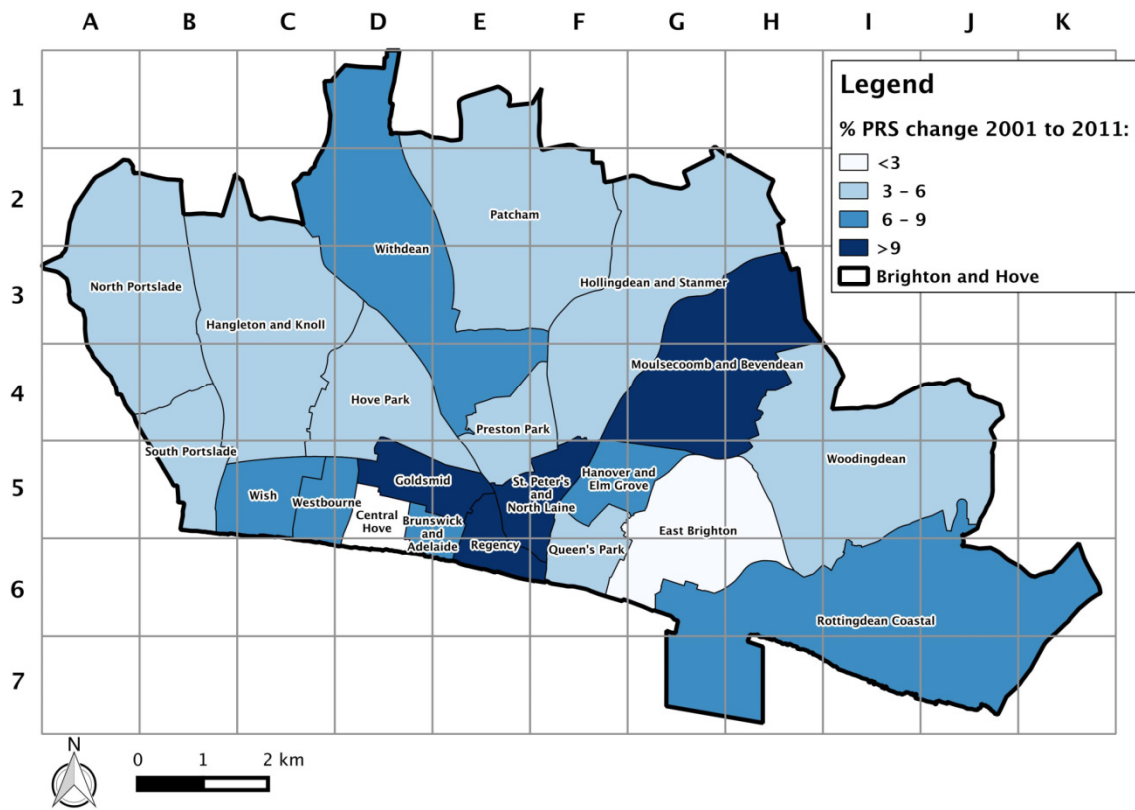


Figure 3: Percentage change in size of PRS between 2001 and 2011

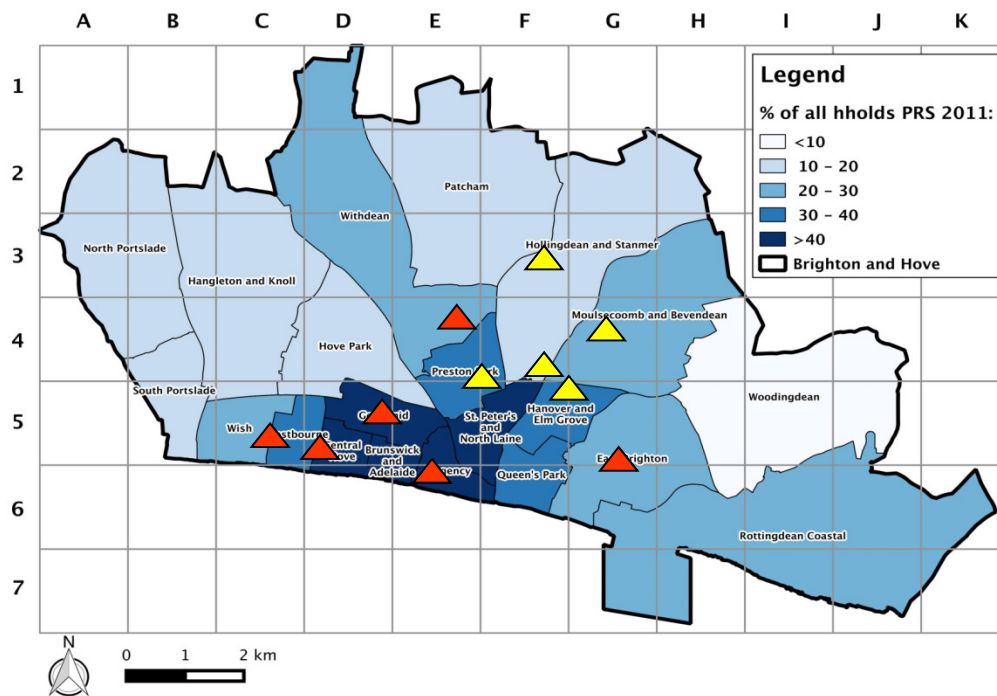


Figure 4: Wards where Additional Licensing has been introduced: Key: Red 2015; Yellow 2012

3.2 Wards covered by Additional Licensing

Figure 4 shows the present coverage of Additional Licensing in Brighton & Hove. Since 5th of November 2012 it has been applied in five wards and from 2nd of November 2015 in a further seven wards. As can be seen these wards substantially cover the city core and sea front. The wards include in the scheme are given below.

(a)

- Hanover & Elm Grove
- Moulsecoomb & Bevendean
- St Peter's & North Laine
- Hollingdean & Stanmer
- Queen's Park

(b)

- Brunswick & Adelaide
- Central Hove
- East Brighton
- Goldsmid
- Preston Park
- Regency
- Westbourne

4. Housing conditions and anti-social behavior

4.1 Data availability

Notwithstanding recently changed rules on Selective Licensing which have already been touched upon in relation to deprivation and migration, in this section we focus on characteristics of incidents that derive from households. These can be bracketed under two headings: 1. Housing conditions and 2. Anti-social behaviour (ASB).

For the first category, we found that there were no direct data available on housing conditions at a household level but there were suitable proxies available. The most important were requests for assistance (RFA) which is a Council provided service to the private residential sector. This service deals with a range of problems including disrepair, utility disconnections, public health issues, rubbish accumulation, unlicensed HMOs and safety concerns.

Related to this data is information on pest infestations for which there exists a separate data source and so this was also used. Apart from this we were also given data on fires in dwellings. Although small in number we were able to show that these tended to occur more often in HMOs than other tenancy types so was relevant to this research.

Under the second heading, DCLG guidance advises that ASB is deemed to occur when it falls into one of three categories:

- **Crime:** Tenants not respecting the property in which they live, including vandalism, criminal damage, and robbery/theft or car crime
- **Nuisance neighbours:** Noise, nuisance behavior, animal-related problems, vehicle-related nuisance etc.
- **Environmental crime:** Graffiti, fly-posting, fly-tipping, litter around a property

Because ASB may be communicated in more than one way to the responsible authorities, there could be some overlap between Police and Council reported noise incidents although it is not possible to establish the extent to which this may have occurred as data are recorded differently and so are inconsistent.

Council sourced data usually show the date and location of the occurrence and the nature of the complaint. Complaints that are sourced to residential addresses rather than a locale and so are almost certainly domestic in origin whilst others originate from external sources such as a building site.

Police data by contrast are highly aggregated at ward level and categorized in different ways. In addition, not all Police related ASB can be sourced to residential addresses since some of it relates to pubs or clubs, vehicle nuisance and general rowdy behavior on the streets.

This is an important point since there is a perceived problem for example that noise related ASB relating to pubs and clubs could be wrongly blamed on local residents. We therefore split the data into three sub-categories: 1. Rowdy behaviour; 2. neighbour-related rowdy nuisance and; 3. 'other'.

Separately recorded data was provided on 'waste' covering fly-tipping, street litter, waste accumulation and foul or filthy residential properties. Based on the data that could be verified, less than 10% could be traced directly to households.

In what follows we analyze time series and trends in four different categories starting with ASB using the best of the data provided. They are Police recorded ASB, Council related noise complaints, RFAs and pest call outs. In each case the data are presented on a quarterly basis from April 2013 onwards and separately analyzed.

4.2 Patterns and trends arising

We now consider each in turn.

1. Police ASB

Police categorise ASB in various ways not all of which relate to residential properties. Examples include vehicle related ASB, drug and solvent mis-use and prostitution. Figure 5 shows the trend in each of the three categories from April 2013 at regular intervals.

The results show that ASB in any one of the categories is strongly seasonal with summer peaks in July and August. However, it is noticeable that these peaks are much more extreme in the rowdy behaviour category and so are probably holiday or day-tripper related.

Whereas general rowdy behaviour is declining over time, nuisance behaviour by neighbours has been steady at between 250 to 300 incidents per month. It falls into a similar pattern to the third 'other' category which relates to a miscellaneous collection of incidents.

If all the incidents are then analysed by time of day all three categories demonstrate a similar build up during the day and a quiet period in the early hours of the day. However it is noticeable that incidents in the rowdy neighbour category tend to peak between 10pm and 1am.

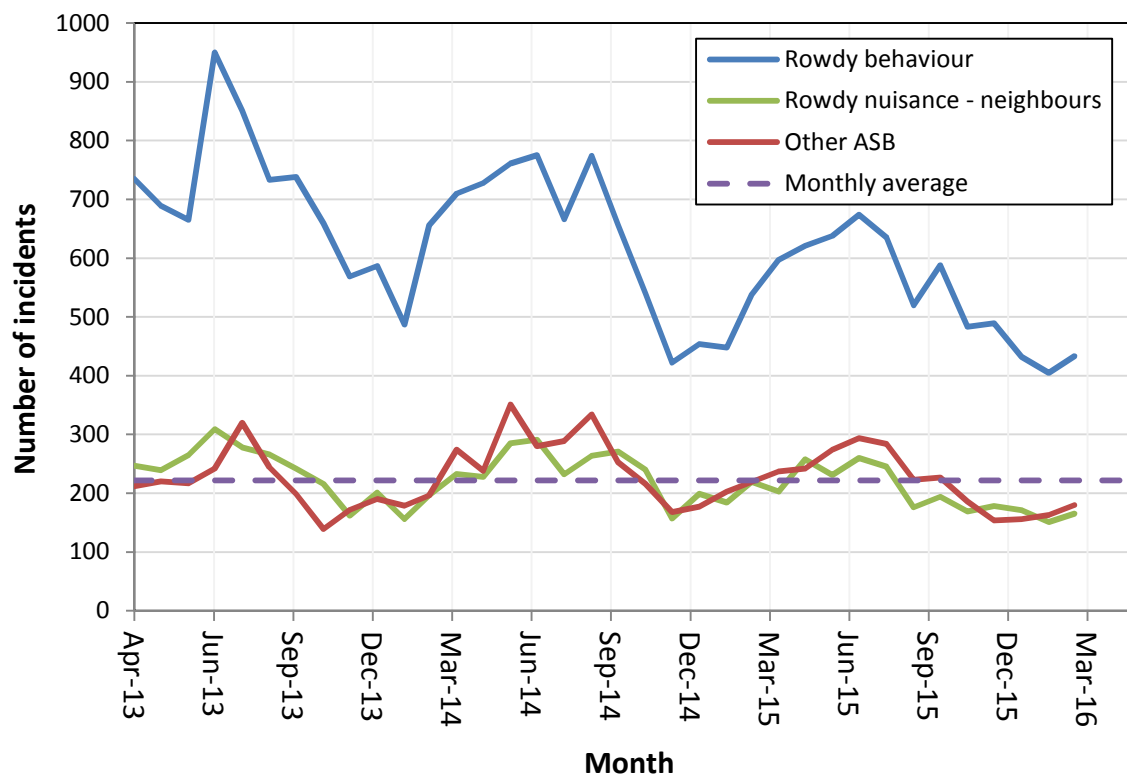


Figure 5: Police reported ASB incidents split by major category from April 2013

2. Council related noise complaints

Figure 6 shows the trend in Council reported noise incidents. Noise complaints average about 350 per month, are seasonal and cover all tenures. We found evidence of a slight decline in incidents in recent years as shown in the chart.

Setting that issue to one side, the main finding is that over 56% of noise complaints related to music and parties. Other sources of noise disturbance were spread thinly with machinery accounting for 9% and animals only 4%.

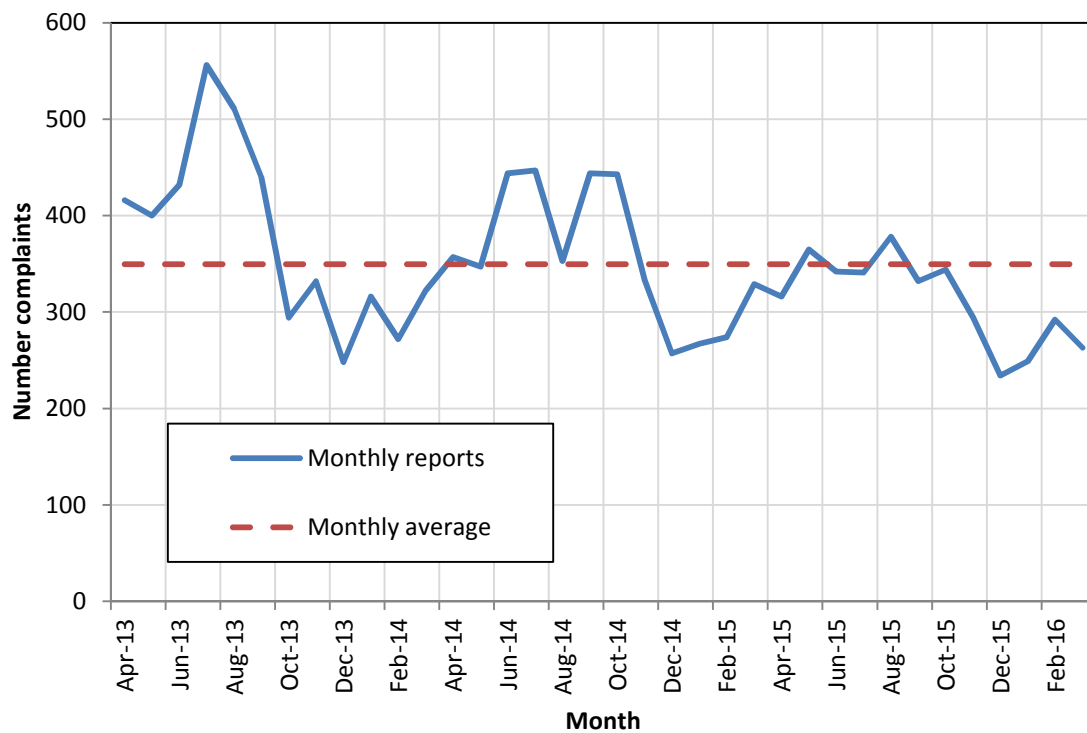


Figure 6: Council reported noise incidents from April 2013

3. Requests for Assistance (RFAs)

RFAs emanate from the private housing sector – either privately rented or owner occupied. Figure 7 shows that there are on average about 80 such requests a month. Unlike the previous examples RFAs tend to peak in autumn and winter months.

Our analysis of the data found that the largest category of call is related to disrepair or rubbish nuisance. This accounted for 33% of all requests. Also of interest, because it relates specifically to privately rented properties, is that 24.6% of requests came from already licensed HMOs.

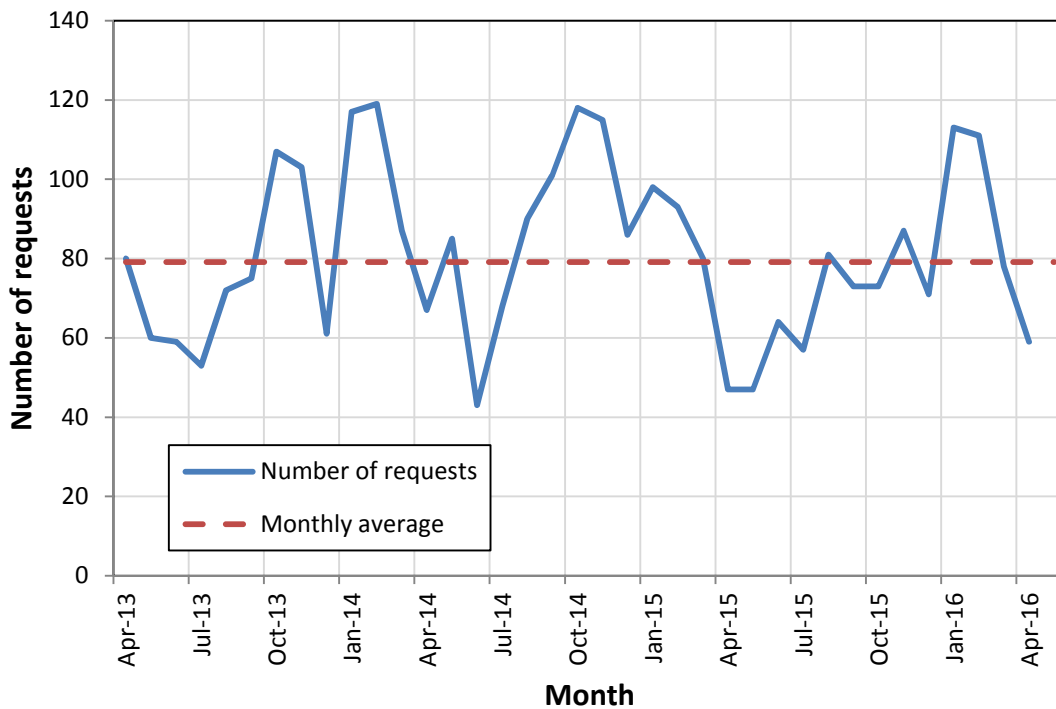


Figure 7: Requests for assistance (RFAs) from April 2013

4. Pest control call outs

Pest control services regulate the populations of pests such as rats and insects and are essential for maintaining properties and protecting the public. Figure 8 shows that there are slightly fewer than 100 call-outs per month on average. However, the pattern tends to be irregular with peaks generally occurring in summer. The data show a slight increase over time with a noticeably high peak in August 2014. An analysis of the reasons for call outs shows that 90% are related to mice and rat infestations and 10% to insects.

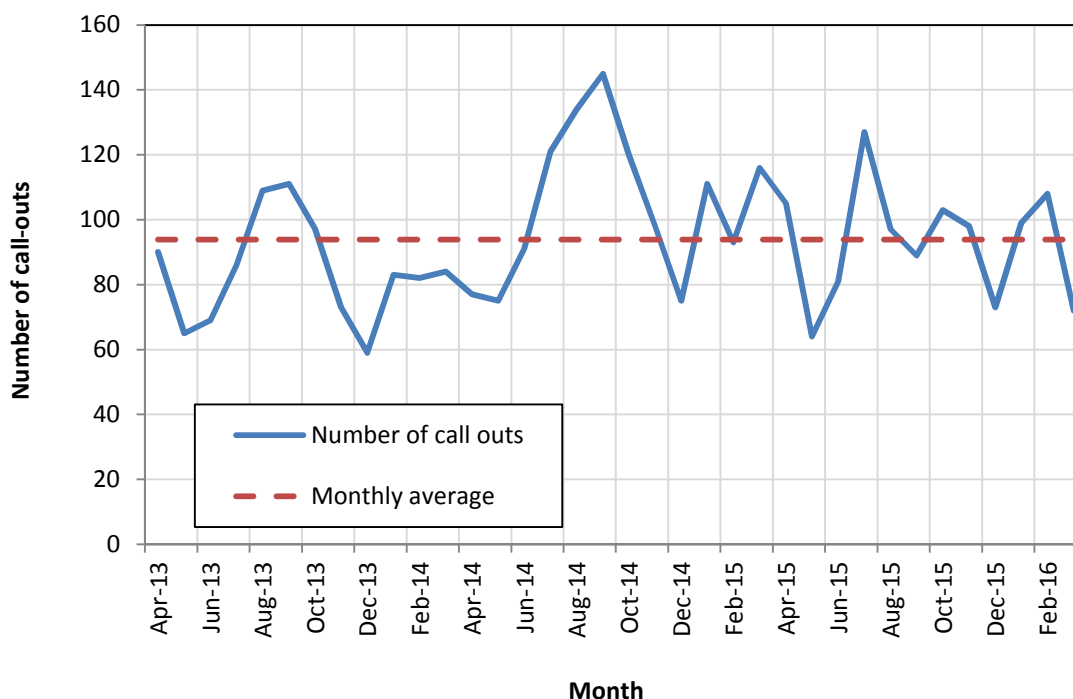


Figure 8: Pest control incidents from April 2013

5. An analysis of housing conditions at the property level

5.1 Risk ladders

We have previously noted that because there is a correlation at ward level between, say, poor housing conditions and private renting, it does not necessarily mean that private renting is to blame. In this section, we develop the concept of a risk ladder to quantify the association between specific risk factors and housing conditions at an individual property level in order to identify if private renting is culpable. This is a much more accurate approach since it avoids averaging across highly differentiated areas of mixed tenancy.

A risk ladder is a table that enumerates all possible combinations of risk factors, quantifies the number of households exposed to each risk factor combination, and the incidence of RFAs, which we use as a proxy for housing conditions (see previous section). For the purposes of this analysis a request for assistance is deemed to occur if there has been at least one request. RFAs can cover a multitude of circumstances from disrepair and waste to utility problems and overcrowding.

In general we find that the typical risk factors that are predictive of poor housing conditions typically re-inforce one another where they occur together (e.g. a noise complaint at the same address, or something else to do with the property). How predictive these risk factors are of housing conditions depends on how many properties share these characteristics. The information is useful since it can result in a more targeted and joined up action to improve housing conditions including the use of selective licensing. However, first we have to consider whether or not a link exists.

At this stage in the analysis we only had information on a relatively small subset of the private rented sector – essentially licensed HMOs and properties purchased under the Right to Buy Scheme and then potentially sub-let (used as a comparator). After some experimentation using different risk factors taken from all address based data sources, a smaller number of the most predictive factors were selected and analysed in depth.

These risk factors are whether a property is a known HMO or not, the benefit status of the property (i.e. eligibility for Housing Benefit or Council Tax Reduction and a proxy for low income), if it has been the subject of a pest call-out or there had been any noise complaints (a proxy for ASB). Based on these definitions, we analysed data from 114,156 privately owned properties in all. Our results are shown in Table 2.

5.2 Results

Column two of Table 2 lists the number of properties exposed in each risk category; the next four columns show whether or not a risk factor applies in that risk category (denoted by ‘Y’). Risk categories have been ranked from high to low according to percentage of properties requesting assistance. As can be seen, there are 16 sub-categories altogether as defined by the presence or absence of each risk factor. The last risk category in row 16 can be ignored since no properties were found that fitted these criteria.

At the foot of each column is the total number of occurrences of each risk factor, so for example of the 114,156 properties in the private sector of which 3,129 are licensed HMOs, 14,708 are benefit households, 2,300 were subject of a pest control incident and 3,092 the subject of at least one noise complaint. The average level of RFAs across all properties is 2.0% and is shown in the bottom right hand corner of the table.

At highest risk of RFAs are 22 properties in the first row which are known HMOs associated with noise complaints; 34.8% of these had made RFAs. More importantly, it can be seen that the top seven risk categories are all associated with HMOs. The largest of these is row seven for which the only applicable risk factor is HMO status. By contrast in the largest risk group comprising 92,596 properties which are *not* HMOs only 1.1% made RFAs.

Further analysis shows that an RFA is 13.2 times more likely if the property is an HMO, 2.8 times more if it is a benefit household, 1.4 times if a pest control incident and 2.4 times if subject of a noise complaint. In addition we found that these four factors statistically accounted for 86% in the variation in RFAs across all risk categories demonstrating a very high correlation.

Our main conclusion therefore is that HMOs are a key generator of RFAs. Since the risk factors are multiplicative a property is $13.2 \times 2.8 \times 1.4 \times 2.4$ times = 129 times more likely to request assistance if it is an HMO, a benefit household, the subject of noise complaints or a pest control incident. However, why HMOs should be so predominant in this analysis is open to different interpretations.

One could be that because they are already licensed they are somehow subjected to extra scrutiny by the Council, but a more probable explanation is that the premises are not being adequately supervised by the landlords and that tenants and neighbours turn to the council

for help rather than the landlords. If the latter is true it could be speculated that licensing is not as effective as it should be in keeping properties in good order.

In the next section we consider whether this is a more general problem across the wider private rented sector. However, in order to do this we need independent estimates of the number and type of rented properties which have not already been identified through other means.

Category	Number of properties in category	Known HMO	Benefit household (CTRS or HB)	Any pest control incident	Reported noise incident	Request for assistance %
1	23	Y		Y	Y	34.8
2	19	Y	Y		Y	31.6
3	508	Y			Y	25.2
4	178	Y	Y			21.9
5	101	Y		Y		20.8
6	5	Y	Y	Y		20.0
7	2,295	Y				15.6
8	530		Y		Y	7.4
9	204		Y	Y		4.4
10	1,965				Y	3.8
11	13,765		Y			3.4
12	40			Y	Y	2.5
13	1,920			Y		1.7
14	92,596					1.1
15	7		Y	Y	Y	0.1
16	0	Y	Y	Y	Y	n.a.
Total	114,156	3,129	14,708	2,300	3,092	2.0

Table 2: Risk ladder showing the percentage of properties making RFAs according to the risk factors given

6. Identifying the remaining private sector rented stock

6.1 Empirical basis

As previously stated, the problem is that there are no complete data on which properties among private sector housing are confirmed as rented or not although some will self-identify if for example a Council Tax student discount applies.

The only directly confirmable information is provided by already licensed HMOs of which there are 3,129⁶ plus another 2,864 which can be identified as private rented by other

⁶ Reduced to this number by including parent UPRNS only (as at August 2016)

means. This leaves around 108,163 properties of the 114,156 previously identified as comprising the private sector whose rental status is currently unknown.

The London Borough of Newham, the farthest progressed borough in terms of selective licensing, has been running an SLS since January 2013. Although no two boroughs are exactly alike, Brighton & Hove share certain similarities including a large and growing previously unregulated private rented sector, poor housing conditions in some areas, a high turnover of residents and overcrowding, coupled with an increasing population.

At the implementation stage, Newham officials visited numerous properties which it believed to be at risk of rental status. In other words there was a high likelihood that the properties in question were being lived in by rent paying tenants. These properties were flagged either as HMOs or 'single family' private rented dwellings (though occupants are not necessarily related).

Each property was linked to risk factors such as benefit status and turnover and profiled to other properties that had not yet been visited. The factors themselves are generic and are combined in a database of all private sector properties by assigning a risk score to each property which is predictive of the likelihood of a private sector property being rented or not. Properties with the highest likelihood of rental status are then flagged as such.

Unvisited properties in Newham at high risk that have not registered under the Newham scheme are selected, written to and then visited on a systematic basis. Because the methodology is probabilistic, it does not give a definitive answer as to whether a property is privately rented or not but simply a probabilistic score. However, its use in practice has resulted in around a 90% accuracy of identification.

In previous work for Newham, different combinations of risk factors were systematically analysed for their predictive power in terms of any of the three outcomes. This process resulted in the creation of different binarised sets of risk factors, one for each outcome (i.e. a risk factor was either present at an address or not).

For each risk factor the odds were calculated using the model. Four risk factors with the best predictive power were used giving rise to 16 possible risk factor combinations per address for each outcome. Odds schedules were then tabulated and are explained in the results section below.

Although the identified risk factors are highly intuitive and plausible, the analysis is not without its limitations. The sample of visited properties is rich in information but relatively small in terms of sample size and it is also based on a different London borough and not on Brighton & Hove properties. This has four possible effects on the analysis:

- First, although selected risk factors are statistically significantly different from zero at the 95% level of confidence, confidence intervals tend to be wide
- Second, not all possible risk factor combinations are observed in the Newham data collected during visits. This means that the reported odds of them being in either

category are based on the extrapolation of risk factors present in other categories which had been visited

- Third, some risk factors may overstate the effect in some cases where prior selection criteria had been used to identify a particular property e.g. where housing officers had prior intelligence they could use
- Fourth, risk factor weights in Newham may not be identical to weights in Brighton & Hove which means that risk scores could vary between the areas and neighbourhoods

Whilst the above are possible, there is no reason to suggest that they are probable or that B&H differs from Newham in respect of these risk factors.

6.2 Results

In this section we use the linked data sets to identify HMOs and single family rented properties in Brighton & Hove so as to distinguish between them as far as possible, based as closely as possible on Newham risk factor profiles. Since we are interested in profiling the tenure status of each property in the private sector we can exclude properties with known private rental tenure status. This leaves 108,163 properties.

(a) HMOs

The risk factors for identifying HMOs are as follows:

- No current CTRS (Council Tax Reduction Scheme⁷) recipient at address: A property *not* receiving CTRS is estimated to be 3.1 (1.1 to 9.1, p=95%) times more likely to be HMO status than a property receiving CTRS. A possible explanation for this is that properties receiving CTRS tend to be older person households or owner occupied rather than a landlord.
- Change in Council Tax liable account since 2014: This is proxy for ownership turnover (normally we would use a measure based on change in owners, but this was not available to us). This measure is 1.1 (0.48 to 2.6, p=95%) times more likely to be a HMO.
- At least one change in electoral roll registrants in last 12 months: Properties in which the surnames of at least one current registrant at an address were not present the previous year were estimated to be 2.1 (0.9 to 4.5, p=95%) times more likely to be HMOs than properties where there had been no changes.
- Three or more surnames on the Electoral Roll at address. Properties with three or more surnames registered at an address is estimated to be 6.9 (2.9 to 16.5, p=95%) times more likely to be HMOs than properties with three or fewer. This is the most predictive of all the risk factors selected

⁷ CTRS = Council Tax Reduction Scheme. A benefit which provides low income households with financial support for paying their Council Tax and which was previously known as Council Tax Benefit



Table 3 shows the number and proportion of properties impacted by each risk factor combination ranked from highest to lowest risk. The risk scores are obtained by multiplying the risk factor weights at the foot of the table under each risk factor. A risk score of say 23.6 in row 3 means for example that the outcome is 23.6 times more likely than if none of the risk factors were present as in row 16.

Based on the first 8 rows of Table 3 there are 14,417 properties at higher likelihood of being HMOs, excluding the group of nearly 6,000 already identified. This assessment is based on the eight risk categories with the highest scores in which all shares a high turnover of residents based on the electoral roll or at least three risk factors. All remaining properties are classed as only 'low risk' HMOs on this basis of which there are 93,746 making 108,163 private sector properties altogether excluding those previously identified.

Category	Number of households	No Recipient of Council Tax Benefit at address	One or more changes in Council Tax account since 2014	Any change in electoral roll registrants in 12 months to Dec 2015	Three or more surnames in Electoral Roll registrations at address (Dec 2015)	Risk score
1	925	Y	Y	Y	Y	48.8
2	495	Y		Y	Y	43.8
3	159	Y	Y		Y	23.6
4	353	Y			Y	21.2
5	55		Y	Y	Y	15.9
6	11			Y	Y	14.3
7	22		Y		Y	7.7
8	12,397	Y	Y	Y		7.1
9	25				Y	6.9
10	4,472	Y		Y		6.3
11	22,620	Y	Y			3.4
12	55,540	Y				3.1
13	1,238		Y	Y		2.3
14	413			Y		2.1
15	3,126		Y			1.1
16	6,312					1.0
Total	108,163	96,961	40,542	20,006	2,045	

Weights	3.06	1.11	2.07	6.92
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Table 3: Risk ladder showing the relative risk of a private property being a private sector HMO (excludes known PRS)

As an example of the risk assessment process, a property in row 1 in which 925 properties are identified as having all four risk factors is nearly 49 times more likely to be PRS than one in row 16 which has none of the given risk factors in which 6,312 properties are identified. This risk is obtained by multiplying the figure at the foot of each risk factor column together, each figure being the risk multiple for a particular risk factor – in this case 3.06 x

1.11 x 2.07 x 6.92 = 48.8.

An important finding is that if we take all known and likely HMOs based on the first 8 rows, the incidence of RFAs is 5% and noise complaints 5.7% as shown in Table 4, row A. However, if we take the bottom 8 rows in Table 3, i.e. those least likely to be HMOs, then the incidence of RFAs and noise complaints is only 1.3% and 2.0% (Table 4, row B). The ratio A/B gives an indicator of how much more prevalent RFA and noise complaints are in properties that are more likely to be HMOs. For RFAs it is 3.9 times more common and for noise complaints 2.8 times more common.

Incidence/100 properties	RFAs	noise
A: Known or most likely to be HMOs	5.0	5.7
B: Least likely to be HMOs	1.3	2.0
Multiple A/B	3.9	2.8

Table 4: Relative incidence of RFA and noise complaints in known and likely HMOs

(a) Single family rented

The risk factors for single family rented properties are as follows:

- No CTRS recipient at address: A single family privately rented household is less likely to receive CTRS but more likely to receive Housing Benefit (see below). Not in receipt of CTRS increases the odds of private rented status 1.6 (0.9 to 4, p=95%) times.
- Change in Council Tax account since 2014: This is proxy for ownership turnover (as before, normally we would have used a measure based on change in owners, but this was not available to us). This measure is 1.6 (0.48 to 2.6, p=95%) times more likely to be single family rented.
- Two or less adults at address: Two or less adults at an address are predictive of single family status rather than HMO status. It is estimated that this factor increases the odds of private family rented status 1.2 times (0.74 to 1.95, p=95%) times.
- Housing Benefit recipient at address: Rented single family households can be partly identified by their Housing Benefit status. This is by far the strongest of the four predictive risk factors, increasing the odds of identification 4.7 (2.63 to 8.00, p =95%) times.

Table 5 shows the number and proportion of properties impacted by each risk factor combination and the comparable proportion of households in each category. The column to the right shows the relative risk or likelihood score with risk categories ranked from high to low.

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As previously for HMOs, these are obtained by multiplying the risk factor weights at the foot of the table under each risk factor. A risk score of say 9.1 in row 3 means that the outcome is 9.1 times more likely than if none of the risk factors were present as in row 16. The contribution of each risk factor to the odds of private rental status is shown in the bottom row.

It is noteworthy that Housing Benefit has the most influence amongst these. It increases the odds of private rental status 4.65 times and appears in each of the top eight risk categories. Other risk factors make smaller contributions whilst the final column is obtained by multiplying the odds together to derive an overall risk score.

Category	Number of households	No Recipient of Council Tax Benefit at address	One or more changes in Council Tax account since 2014	2 or less adults at address based on ER Dec 2015	Any recipient of Housing Benefit at address	Risk score
1	977	Y	Y	Y	Y	14.3
2	591	Y	Y		Y	11.9
3	1,225	Y		Y	Y	9.1
4	2,758		Y	Y	Y	8.8
5	410	Y			Y	7.6
6	1,671		Y		Y	7.3
7	5,545			Y	Y	5.6
8	1,064				Y	4.7
9	23,640	Y	Y	Y		3.1
10	10,893	Y	Y			2.6
11	43,752	Y		Y		2.0
12	9		Y	Y		1.9
13	15,473	Y				1.6
14	3		Y			1.6
15	140			Y		1.2
16	12					1.0
Total	108,163	96,961	40,542	78,046	14,241	

weights	1.63	1.57	1.20	4.65
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Table 5: Risk ladder showing the relative risk of a private property being a private sector single family dwelling

Table 6 shows that the incidence of RFAs and noise complaints is 5.8% and 6.0% in properties more likely to be single family rented based on the first eight rows of Table 5, and is therefore similar to levels found in HMOs. Furthermore, RFAs and noise complaints are 2.4 times and 1.5 times more common in 'high risk' single family rented properties than in 'low risk' single family rented properties (see bottom row of Table 6, A/B).



Incidence/100 properties	RFAs	Noise
A: More likely to be single family rented	5.8	6.0
B: Less unlikely to be single family rented	2.4	4.0
Multiple A/B	2.4	1.5

Table 6: Relative incidence of RFA and noise complaints properties more likely to be single family rented

To put a scale on the findings the results suggest that there are 14,241 Single Family rented properties in the top eight risk categories all of which claim Housing Benefit and 93,922 in the bottom eight ‘low’ risk categories. This compares with 14,417 higher probability HMOs identified in Table 3 and so we infer that there are roughly equal numbers of each.

However, these figures exclude 5,993 known PRS properties which include mandatory licensed HMOs and properties identified from other data. If we assign these to the HMO stock in Table 3, this brings the total number of HMOs to 20,410 properties and single family rented 14,421 giving a combined total of 34,651 properties in the PRS.⁸ Note however, that this is an upper limit since there will be some double counting in combining Table 3 with Table 5.

7. Ward level analysis and options appraisal

7.1 Ward level analysis of risk factors and the PRS

In this section we analyse patterns of ASB and housing conditions at ward level using both ward and linked household level data. The results we obtain are consistent with earlier analysis. By re-analysing the results the Council will be able to translate the findings in to different areas and neighbourhoods. Examples of how to do this and the implications are provided.

We repeat the earlier caution that because there is a correlation between private tenure and ASB at a ward level it does not necessarily imply cause and effect, only association. The GIS map on the other hand, shown later, uses property level information and so it is reasonable to infer causality in this case.

At ward level we compared the percentages of all properties that were previously identified as being highly likely to be in the private rented sector with the density of ASB and poor housing conditions. Table 7 contains the results.

Each ward is ranked according to the size of the PRS from high to low (1 being the highest ranked ward and 21 the lowest). Each of the 8 indicators is ranked similarly. A final column provides an overall ranking based on the eight indicators in order to derive an overall assessment of the risk factors in each. Note that some wards are tied.

⁸ The known PRS stock comprises 3129 licensed HMOs and 2,864 properties with Council Tax student discount or a ‘non-residential’ owner.

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Shaded cells are wards belonging to one of the 12 Brighton & Hove wards which already operate AL. The two bottom rows are correlation measures that range from -1 (negatively correlated) to +1 (positively correlated) to indicate the degree of correlation between the ranked information based on the risk factors with the size of the PRS in each ward.⁹ For example, it finds that there is a +0.92 correlation between the size of the PRS and HMO dwelling fires.

The following additional points can be made:

- Eleven of the top ranked wards for poor housing conditions and ASB all operate AL. This could suggest that AL has not had the desired effect – probably because it only applies to a small fraction of the private rented stock in each area.
- The results confirm that the core area of Brighton & Hove centred on the seafront contains most of the risk factors although there are at least two important outliers such as Moulsecoomb & Bevendean and Hollingdean & Stanmer which we discuss further below.
- St Peters & North Laine scores highly on most measures. Hove Park, an affluent area of Brighton & Hove, is lowest on most measures. The fact that pest control is ranked higher in Hove Park than in St Peter’s could mean that Hove Park are more likely to take action when infestations occur.
- There is generally a medium to high positive correlation between the relative size of the PRS in each ward and the relative incidence of risk factors including poor housing conditions and ASB. RFAs, noise complaints and dwelling fires are good examples of this.

⁹ The correlation coefficient used is based on Spearman’s rank coefficient which is designed for use with ranked data. $\rho = 1 - \frac{6D}{n(n^2 - 1)}$, where D is the sum of the squared differences in ranks between x and y and n is the number of wards.

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Ward no.	Ward name	PRS ward rank	Police ASB	Council ASB	Noise complaints	Pest control	RFA	Waste	Dwelling Fires	HMO Fires	Rank of ranks
1	Brunswick & Adelaide	2	8	5	8	20	5	17	4	1	7
2	Central Hove	6	7	8	9	21	7	16	12	3	10
3	East Brighton	10	5	13	7	16	12	4	1	10	7
4	Goldsmid	4	17	18	12	18	11	18	11	6	14
5	Hangleton & Knoll	16	11	11	11	13	17	12	18	18	14
6	Hanover & Elm Grove	7	10	7	5	17	2	3	7	9	6
7	Hollingdean & Stanmer	14	4	6	4	10	6	5	8	13	4
8	Hove Park	19	21	21	21	3	20	20	21	17	21
9	Moulsecoomb & Bevendean	12	6	9	6	8	3	1	5	15	3
10	North Portslade	20	16	14	17	11	16	14	10	19	17
11	Patcham	18	15	16	16	2	21	13	15	19	17
12	Preston Park	8	13	20	10	12	10	11	13	8	12
13	Queen's Park	5	3	3	3	19	8	10	3	7	4
14	Regency	3	1	2	2	15	4	8	6	2	2
15	Rottingdean Coastal	11	18	17	19	5	18	19	19	16	20
16	South Portslade	17	9	4	15	1	14	6	14	14	9
17	St. Peter's & North Laine	1	2	1	1	7	1	2	2	4	1
18	Westbourne	9	19	12	13	14	9	7	9	5	11
19	Wish	15	12	10	14	9	13	15	20	12	13
20	Withdean	13	20	19	20	6	15	21	16	11	19
21	Woodingdean	21	14	15	18	4	19	9	17	19	16
	Correlation with PRS		0.49	0.47	0.71	-0.69	0.78	0.15	0.65	0.92	0.62

Table 7: Wards table comparing the size of the PRS with housing conditions and ASB

7.2 Discretionary Licensing options

The evidence presented thus far has found that there is an elevated risk of ASB and poor housing conditions in the private rented sector and that the existing Additional Licensing (AL) schemes operating in twelve wards does not seem to have made a difference to this. This appears to be in spite of improvements in the housing quality and safety to the benefit of residents among the 3,200 or so properties covered by existing schemes.

Figure 9 is a map of Brighton & Hove showing contours measuring the density of requests for assistance (RFAs) per sq. km which is built up from data at a household level. The same map also shows the density of PRS sector properties based on the analysis of the previous sections, again based on data at a property level.

As can be seen the density of PRS properties and RFAs are seen to coincide very closely, leaving no room for doubt of the close links that exist between private renting and poor housing conditions. These areas include wards already subject to Additional Licensing (AL) covering all 2 or more storey HMOs whether mandatory or not. This, together with the evidence of previous sections, suggests that the case for an extension to discretionary licensing (DL) is compelling.

In considering the options, one reason why Brighton & Hove's case is more unusual compared to other boroughs is that it covers a mixed urban-rural area. We know of at least one case of a council's application for a borough wide SLS that has been turned down because residential density was low and incorporated much green space.

Whether Brighton & Hove has a strong enough case to apply SLS to the whole area is therefore open to question and needs careful analysis. A further complication is that neither rental hotspots nor RFAs strictly follow ward boundaries, but clearly they bunch in some wards more than others. This could mean that some wards considered for SLS may need to be split in some way.

These possibilities are acknowledged in the four options below. Each is now reviewed in turn:

Option 1 is to extend SLS to the whole of Brighton as delineated by the Brighton & Hove boundary and extend AL to all remaining wards. This has the merit that it would deal with all the main housing issues in 'one go'; however, a key issue is that it includes rural and sparsely populated areas which do not meet DL criteria which could mean that it is unlikely to succeed.

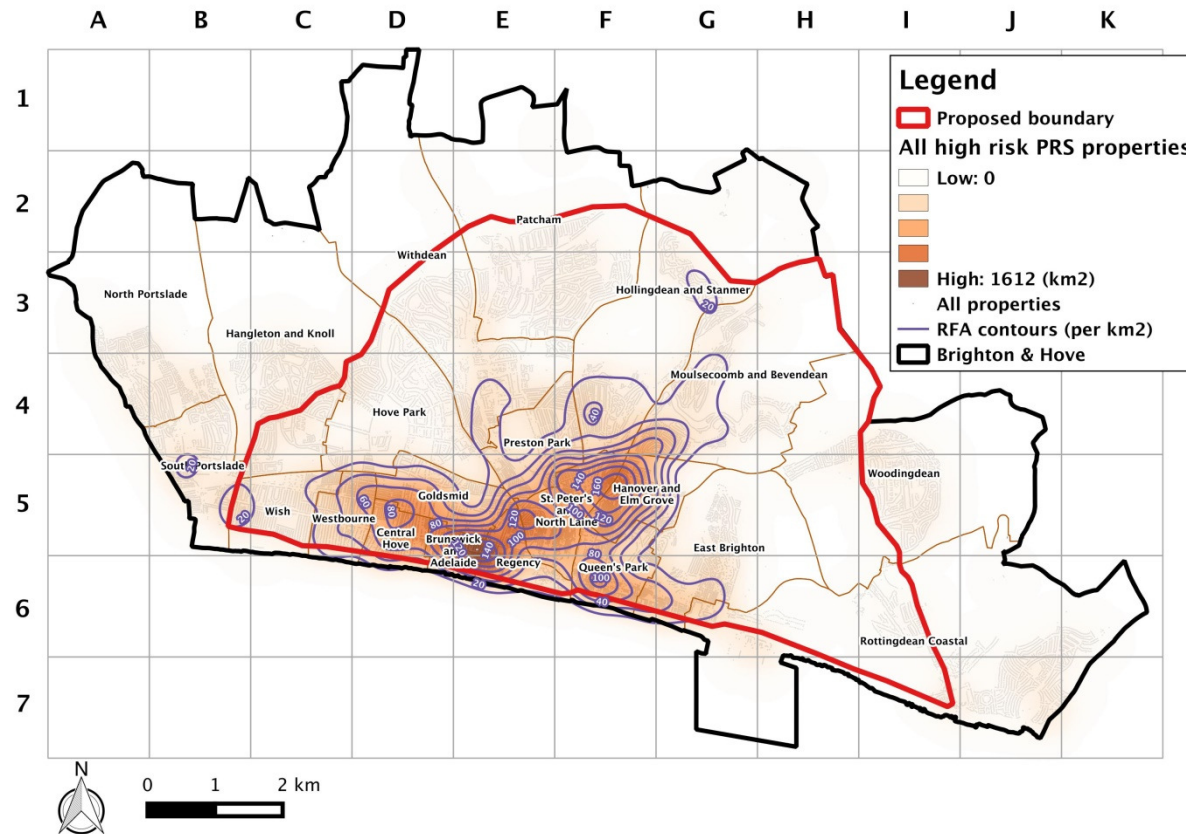


Figure 9: Map of Brighton & Hove showing contours of RFAs (proxy for poor housing conditions), the scope of the built up area, hotspots of private renting, ward boundaries and a possible delineated boundary for an SLS scheme which is not ward-based (see option 3 below)

Option 2 would be to introduce SLS where it is justified and extend AL city-wide. This would allow the council to target the scheme and make sure that DL criteria for introducing SLS are met. This is important because extending AL city-wide, by itself, may not be sufficient as many of the new wards are quite affluent and so the hoped for effects could be diluted. One possibility could be to select SLS wards in which PRS hotspots and poor housing conditions coincide. This is not an exact process since some wards fully meet this criterion and some only partly and so an element of judgment is involved.

Based on Figure 10, an enlarged version of Figure 9, those wards fully or partly meeting this criterion appear to include the following: Brunswick & Adelaide, Central Hove, Goldsmid, Hanover & Elm Grove, Queen's Park, Regency, St. Peter's & North Laine, Moulsecomb & Bevendean, Hollingdean & Stanmer, Westbourne and Preston Park. This option would require SoS approval.

If the lesser affected wards of Moulsecomb & Bevendean, Hollingdean & Stanmer, Westbourne and Preston Park were excluded, this option would cover around 17% of the whole private rented sector and 10.5% of the Brighton & Hove area and so no SoS approval would be needed in this case. However, Moulsecomb & Bevendean and Hollingdean & Stanmer, are ranked 3rd and 4th respectively for poor housing conditions and ASB (see table in Option 4).

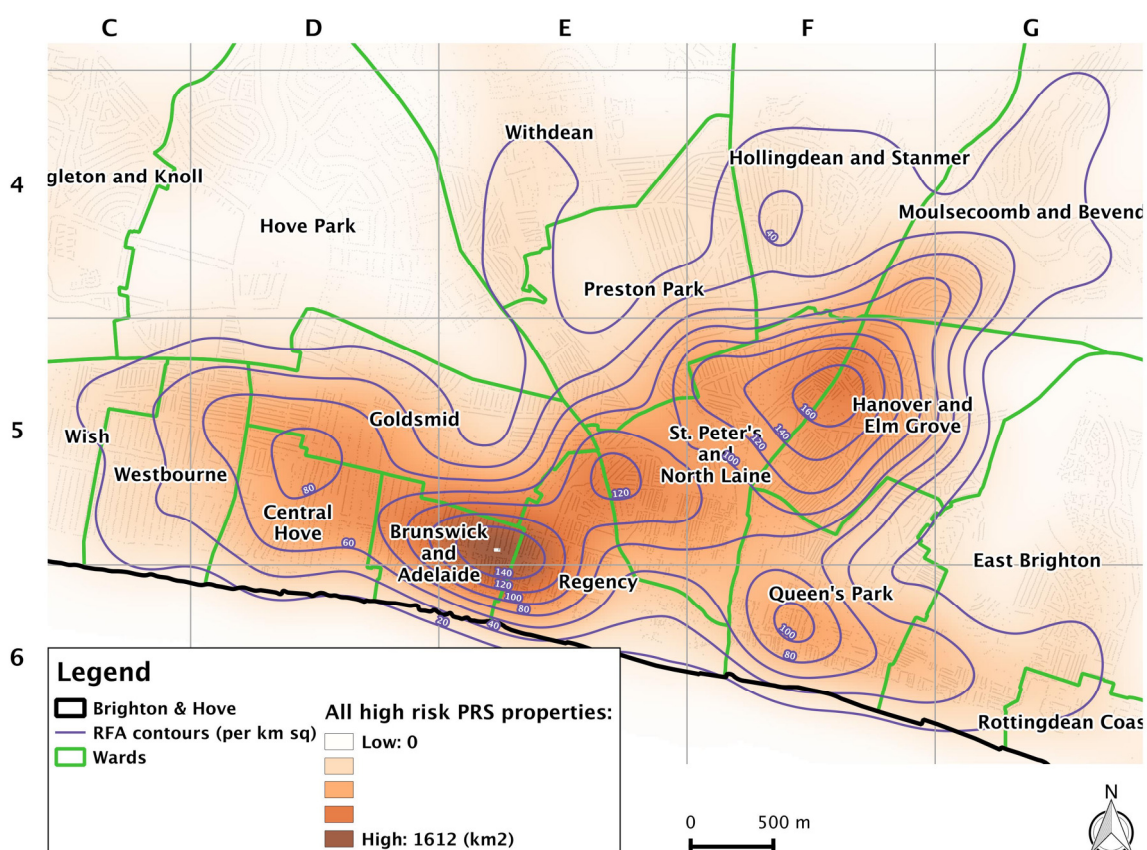


Figure 10: Map showing concentrations of poor housing and private renting in central Brighton wards

Option 3, like option 2, involves implementing SLS where justified and to extend AL city-wide. The main difference between this option and option 2 is that the SLS area is delineated by artificial rather than ward boundaries e.g. road. It is not necessary that wards should be the unit of accounting for the introduction of SLS, although this has been the chosen route by Brighton & Hove to date.

To illustrate the concept, a red boundary line has been overlaid on the map in Figure 9 which is delineated by the A27 in the north and the seafront in the south. To the west the boundary follows the A2038 and to the east the B2123 Falmer Road. This covers an area of 43 square kilometres and equates to 50% of the whole Brighton & Hove area and about 90% of the PRS. This option would still need to be referred to the SoS but at least it deals with the problem of low density and green space and so is more likely to meet DL criteria.

Option 4 combines elements of options 2 and 3 and include both city-wide AL and SLS in selected wards limited to the SoS 20% criteria. SLS would apply to private rented properties that are not HMOs in areas selected according to their co-incidence with poor housing conditions and ASB. Whilst this option does not tackle all of the areas of need as suggested by the evidence, it is an illustrative option should the council wish to consider piloting a smaller scheme within the SoS thresholds before deciding on a wider roll-out.

For this option it is important to know at what point or points the 20% thresholds are breached. This leads to two types of SLS scheme: those which are more comprehensive but need SoS approval and schemes that do not. Our analysis of this option is set out in Table 8. In it, all Brighton & Hove wards are ranked from high to low based on poor housing conditions and ASB. The ward ordering has been reproduced from the analysis and shown in the final column of Table 7 (note that some wards are tied).

Due to the difficulty of combining census data from 2011, council data and modelled data on tenure from 2016, the estimates can only be considered approximate.

The columns show:

- Estimates show the number of private rented properties in each ward based on the 2011 Census (Col A)
- The number of licensed Mandatory and Additional HMOs in each ward (Col B)
- The estimated number of most likely single family rented properties which would potentially fall under an SLS scheme based on earlier the estimates in section 6.2 (Col C)

Further columns show

- The cumulative area of each ward as a percentage of the whole of Brighton & Hove
- The cumulative percentage of Single Family PRS properties wards expressed as a percentage of the whole PRS (Col A)
- Wards already subject to Additional Licensing (final column)

The results show that the first five wards cover 20.7% of the area but only 11.9% of the PRS.¹⁰ It is doubtful that this option would meet the needs of the council but it is modifiable if larger wards are omitted or somehow truncated using suitable boundaries such as streets.

Suffice it to say that if Moulsecoomb & Bevendean Hollingdean & Stanmer were omitted it would be possible to include the first eleven wards and meet both conditions. These would extend the wards in option 2 but would not include Goldsmid. Other options are possible using this table as a starting point.

If a more limited version of Option 4 is taken up then the wards that would not be covered could be phased in at a later time. However, there are also other potential complications on which legal advice may also be necessary relating to when existing schemes are scheduled to end and new ones begin. If an Additional Licensing scheme comes to an end these properties may be deemed to fall under a selective scheme in those areas which could result in more than 20% of PRS properties being covered. National guidance is clear that new schemes breaching the 20% threshold need SoS approval but not when an existing smaller scheme expands through other factors. We are not qualified to express an opinion on this which is why independent legal advice should be sought if this option is pursued.

The above analysis might suggest therefore that a limited scheme staying within the 20% rule may not be viable in achieving the Council’s strategic aims, although further analysis might help e.g. sub-dividing some of the larger wards on the periphery of the central area.

Wards ranked by housing conditions and ASB	Ward	(A) Private Rented Sector	(B) of which licensed HMOs	(C) of which estimated SF	Ward area (sq kms)	cumulative area as % of B&H	cumulative SF as % of PRS	Wards covered by AL
1	St. Peter's and North Laine	4,227	664	1,269	1.43	1.7	3.7	Y
2	Regency	3,400	80	768	0.95	2.8	5.8	Y
3	Moulsecoomb and Bevendean	1,420	885	623	5.83	9.6	7.4	Y
4	Hollingdean and Stanmer	965	322	671	7.42	18.3	9.2	Y
4	Queen's Park	3,025	224	1,018	1.28	19.8	11.9	Y
6	Hanover and Elm Grove	2,348	770	801	1.41	21.5	14.1	Y
7	Brunswick and Adelaide	3,436	60	836	0.56	22.1	16.3	Y
7	East Brighton	1,497	44	805	4.1	26.9	18.4	Y
9	South Portslade	661	5	584	1.92	29.2	20.0	
10	Central Hove	2,863	38	800	0.8	30.1	22.1	Y
11	Westbourne	1,553	20	696	1	31.3	24.0	Y
12	Preston Park	2,137	94	703	1.67	33.2	25.8	Y
13	Wish	959	8	517	1.53	35.0	27.2	
14	Goldsmid	3,393	54	1,006	1.41	36.7	29.9	Y
14	Hangleton and Knoll	682	2	624	7.24	45.1	31.6	
16	Woodingdean	385	-	374	8.44	55.0	32.6	
17	North Portslade	434	-	487	6.1	62.2	33.9	
17	Patcham	644	-	361	8.08	71.6	34.8	
19	Withdean	1,413	10	514	8.12	81.1	36.2	
20	Rottingdean Coastal	1,435	5	536	12.55	95.8	37.6	
21	Hove Park	641	6	248	3.56	100.0	38.3	
Total		37,518	3,291	14,241	85.4			

Table 8: Ward selection ranked in order of poor housing conditions and ASB

¹⁰ Note that there is more than one way of calculating 20% of the PRS. In this case we express it as a percentage of all private rented properties at the time of the census whether licensed or not. Legal advice should be sought on this point if it is decided that other methods are more appropriate.

8. Conclusions

The terms of reference of this research were firstly to investigate whether there is evidence that indicates a need for the implementation of a further discretionary licensing scheme across the whole, or part(s), of the private rented sector in Brighton & Hove.

Secondly, if the research outcome found there is evidence to indicate a need for further discretionary licensing, the report is to contain recommendations relating to which type of licensing is indicated, and in which area or areas.

The evidence of this research points to a strong case for extending discretionary licensing for three reasons. Firstly the data show that private renting continues to grow as a proportion of the total housing stock and that owner occupation is declining.

Since the evidence points to a link between poor housing conditions, it means that they could be further compromised depending on the types of tenants and landlords living and operating in Brighton & Hove in the future over which the Council has little control.

Secondly the introduction of Additional Licensing in 12 current wards does not, as yet, seem to have made much of an impact on different forms of ASB, although it has led to quality and safety improvements in about 3,000 homes. On the other hand police reported ASB in categories unrelated to private residences seems to be in decline.

We also found that HMOs are more likely to be subject to requests for assistance (a proxy for poor housing conditions – see text) than other rented properties. In addition, single family rented properties also appear to be problematic in this regard because their landlords are unregulated and poor housing conditions and ASB are also more common.

The third and most important reason is that the currently licensed sector covers only a small fraction of the total private rented sector (approximately 9%) and even if housing conditions in this sector could be brought up to the required standard there would still be a much larger problem to resolve.

Four options for extending discretionary licensing were presented: 1. A city-wide Selective Licensing and Additional Licensing Schemes; 2. Selective Licensing Schemes where they are justified delineated by ward boundaries and a city-wide Additional Licensing; 3. A Selective Licensing Scheme delineated by designated roads with city-wide Additional Licensing; 4. A Selective Licensing Scheme limited to the 20% rule and city-wide Additional Licensing. The pro's and con's of these options are summarised in Table 9 below:

If the discretionary scheme is based solely on extending Additional Licensing to the whole of Brighton & Hove then this would only cover HMOs and not the large single family private rented sector. The concern is that the currently licensed areas already cover the most troublesome wards and so extending the scheme to the suburbs may not result in the hoped-for improvements.



Option	Pros	Cons
1. City wide SLS delineated by the Brighton & Hove boundary	Would contain the whole of the PRS regardless of whether HMOs or single family properties	Includes rural and sparsely populated areas which do not meet DL criteria. Needs approval from SoS.
2. SLS where needed + city-wide AL (delineated by ward boundaries)	Would contain all HMOs and also single family private rented properties in SLS designated areas	Could exceed 20% SoS rule depending on which wards included. Excludes single family PRS in less dense areas
3. SLS where needed + city-wide AL (delineated by artificial rather than ward boundaries e.g. road)	Would contain almost the whole PRS but mainly focus on built-up areas	Similar to Option 1, but reduced to cover main built up area. It would include more than 20% of the area and so need SoS approval, but would be more likely to meet DL criteria.
4. SLS limited to 20% rule + city-wide AL (delineated by ward boundaries)	Would contain all HMOs and there would be no need for SoS approval	Similar to Option 2 but subject to the 20% rule based on no more than 20% of area or 20% of PRS. May be difficult to apply and at same time meet council aims. This option would not tackle all those areas with an identified need so whilst benefiting those specific areas, it would not have as much of a citywide impact

Key: PRS- Private Rented Sector; SoS – Secretary of State; DL – Discretionary licensing; AL - Additional Licensing; SLS – Selective Licensing Scheme.

Table 9: Summary of main options and their pros and cons

Selective Licensing on the other hand would cover all private renting in the areas where it is introduced that are not HMOs. This should lead to greater improvements provided the scheme is properly funded and enforced. If this is to be the way forward a decision is needed on whether to cover the whole area and apply for SoS permission or to stay within the 20% rule.

Qualitatively speaking, Option 1, to extend SLS city-wide looks ambitious since DL rules would not be able to be met in more rural and affluent areas; Options 2 and 3 implementing SLS where it is justified is feasible and would include most of the affected areas; Option 4 offers an approach to select wards individually, basing selection on the neediest wards but it may be difficult to get the coverage required without breaking the 20% rule or sub-dividing some of the larger wards.



Annex A: Housing tenure by ward (Source: 2011 Census)

No.	WARD_NAME	Owner occupied	Social Housing	Private Rented Sector	Total
1	Brunswick & Adelaide	2,105	334	3,436	5,875
2	Central Hove	2,305	209	2,863	5,377
3	East Brighton	2,286	2,778	1,497	6,561
4	Goldsmid	3,985	577	3,393	7,955
5	Hangleton & Knoll	3,809	1,519	682	6,010
6	Hanover & Elm Grove	3,325	828	2,348	6,501
7	Hollingdean & Stanmer	2,555	1,770	965	5,290
8	Hove Park	3,385	60	641	4,086
9	Moulsecoomb & Bevendean	2,316	2,156	1,420	5,892
10	North Portslade	2,948	751	434	4,133
11	Patcham	4,512	641	644	5,797
12	Preston Park	4,002	358	2,137	6,497
13	Queen's Park	2,725	2,232	3,025	7,982
14	Regency	2,000	330	3,400	5,730
15	Rottingdean Coastal	4,713	211	1,435	6,359
16	South Portslade	2,642	600	661	3,903
17	St. Peter's & North Laine	3,323	1,059	4,227	8,609
18	Westbourne	2,668	405	1,553	4,626
19	Wish	2,696	470	959	4,125
20	Withdean	4,660	235	1,413	6,308
21	Woodingdean	2,875	664	385	3,924
22	Total	65,835	18,187	37,518	121,540

Subject:	Young People's Housing Advice and Supported Accommodation		
Date of Meeting:	Housing & New Homes Committee 16th November 2016		
Report of:	Executive Director, Health & Adult Social Care following consultation with: Executive Director, Neighbourhoods, Communities & Housing Executive Director, Families, Children & Learning		
Contact Officer:	Name:	Sandra Herring	Tel: 292526
	Email:	Sandra.Herring@brighton-hove.gov.uk	
	Name:	Juliette Beach	Tel: 294242
	Email:	Juliette.Beach@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	All		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 The Council's Families, Children & Learning and Health & Adult Social Care directorates jointly commission services for the prevention of homelessness of young people between the ages of 16 and 25.
- 1.2 These services are available to vulnerable young people who are homeless or at risk of becoming homeless, and need support to live safely and independently. Support focusses on managing a tenancy, health, daily living, access to education and employment, core to making a successful transition to adulthood.
- 1.3 Most of the current services are commissioned by Health & Adult Social Care and are provided under long-term agreements. They are mainly funded by the Housing Related Support (HRS) budget. These services form what is known as the "Young People's Accommodation and Support Pathway" (the "Pathway") and include:
 - A drop-in housing advice service, which also acts as the gateway to other services in the pathway (the 'Housing Advice Service')
 - Family support and mediation
 - Nightstop (short stays with volunteer hosts)
 - Mixed model of supported accommodation for young people aged 16-25
 - Tenancy support service for 18-25 year olds living independently
- 1.4 In addition, Families, Children & Learning contribute to the above and also commission:
 - Two units of accommodation and support under the Housing First model

- A supported lodgings service
- Spot-purchased units of accommodation for Unaccompanied Asylum Seeking Children and 16-17 year olds whose high needs cannot be supported through the Pathway.

1.5 The housing advice, family mediation and supported accommodation services outlined above require retendering in 2016-17. The existing contracts for these services come to an end in March 2017 and this provides an opportunity to focus resources in response to changing need.

2. RECOMMENDATIONS:

That Housing & New Homes Committee:

2.1 Approves the proposals to procure new contracts for a Young People's Housing Advice service and a Family Mediation Service.

2.2 Grants delegated authority to the Executive Director of Health & Adult Social Care, following consultation with the Executive Director Neighbourhoods, Communities & Housing and Executive Director of Families, Children & Learning, to:

- (i) carry out the procurement and award of the new contracts referred to in 2.1 above each with a term of three years and an option to extend the term by up to a further two years;
- (ii) grant the two year extension in relation to each contract referred to in 2.1 above, subject to performance of the relevant contractor.

2.3 Approves the proposals to procure a Dynamic Purchasing System (DPS) for the provision of supported accommodation for young people between the ages of 16 and 25.

2.4 Grants delegated authority to the Executive Director of Health & Adult Social Care, following consultation with the Executive Director Neighbourhoods, Communities & Housing and the Executive Director of Families, Children & Learning, to:

- (i) carry out the procurement of the DPS referred to in 2.3 above;
- (ii) agree the term of the DPS;
- (iii) award and let the DPS; and
- (iv) award and let call-off contracts under the DPS.

2.5 Approves the set-aside of funding for the development and future commissioning of Peer Mentoring and Move On Facilitator roles.

2.6 Notes that the commissioning and procurement plan for young people's advice and supported accommodation services will be aligned with objectives within the Brighton and Hove Pledge to Children and Young People in Care, the Housing and Support Commissioning Strategy for Young People 2013, the Homelessness Strategy 2014-19, the Rough Sleeping Strategy 2016, and the Council's priorities for the integration of social care and health through Better Care.

3. CONTEXT/ BACKGROUND INFORMATION

3.1 Joint Commissioning

The Council commissions services in line with the 'Positive accommodation and support pathways to adulthood' framework, a national good practice model developed by St Basil's youth homelessness charity and the Department of Communities and Local Government, which aims to enable positive outcomes for young people.

Our Housing and Support Commissioning Strategy for Young People aged 16-25, launched by Children's Services and Housing in 2013, aims to:

- Increase the numbers of young people who are prevented from homelessness
- Enable a more positive transition to adulthood through the provision of an accommodation and support pathway
- Improve use of resources through a joint commissioning approach

The Strategy introduced formal protocols for partnership working between Children's Services, Housing, and specialist agencies. Integrated working has ensured that a young person's social, health and housing needs are considered together, enabling agencies to provide the most appropriate support and achieve better outcomes.

3.2 Access to housing advice and supported accommodation services for young people between the ages of 16 and 25 – the current position

Young people enter the pathways either on referral from Children's Services or through the commissioned gateway Housing Advice Service. A drop-in service operates 5 mornings a week, and the service also receives young people who present as homeless and are referred from Housing Options.

The Housing Advice Service offers a wide range of advice and support including:

- referral to family mediation for all young people under 18 years and their parents/carers to prevent homelessness
- advice & support regarding education, training & employment
- health services, eg, counselling, substance misuse, sexual health
- life skills & income maximisation advice

3.2.1 Joint assessment protocol

If after mediation support, a young person is still unable to remain at home, they will receive a joint home visit by a social worker and housing officer. Under 18 year olds considered at risk will be provided a safe place at Sussex Nightstop or in emergency accommodation.

3.2.2 Referral to Supported Accommodation

Where the young person is unable to live independently, supported accommodation is accessed in the following ways:

- Families, Children & Learning accommodation - direct placement
- Nightstop – via the Housing Advice Service
- Supported lodgings and pathway accommodation – Children's Placement Team or the Housing Advice Service make a referral to the Young

People's Supported Accommodation Panel, a multi-agency weekly meeting chaired by the Housing Allocations manager.

Priority is given to young people who need support to prevent homelessness, are excluded from the 'family' home, transitioning out of foster or residential placement, or seeking asylum.

3.3 Development of the model for advice and supported accommodation services for young people between the ages of 16 and 25

In order to develop the model, Adult Social Care commissioners have consulted with a range of stakeholders, service users, national leads and other local authorities. They have also taken into account changes in service user demographics and national good practice.

The aims of the model are:

- To reduce family breakdown and tenancy failure
- To reduce the number of young people in unsettled accommodation or rough sleeping
- To improve outcomes for young people and support young people to develop the skills for their wellbeing
- To support young people to recover from homelessness, offending, substance misuse, mental ill health
- To reduce the number of young people experiencing revolving door (repeat) homelessness

The following provides an overview of the key drivers for the new model of advice and supported accommodation services:

3.3.1 Housing Advice service

The provision of a single front door service with co-located specialists has enabled an appropriate and fast response to risk of homelessness.

The service has a wide-ranging remit including reconnection of young rough sleepers, support to access the private rented sector, and as advisor on homelessness to fellow professionals.

An additional requirement to offer peer education in schools has proved a difficult fit with the daily demands on the service. This will be removed as a requirement; we are exploring ways of delivering this through the existing connections of other youth services in the City.

3.3.2 Family Mediation and joint assessment

Since the joint assessment protocol was introduced (see 3.2.1) we have seen far fewer placements of young people in B&B, due both to successful mediation and to the established pool of hosts. The joint approach to holistic assessment and support was commended by Ofsted in 2015, and will continue in the new model.

3.3.3 Support needs

Evidence from contract monitoring and feedback across the sector indicates rising needs particularly in regard to mental health and with this, behaviours

around substance misuse and offending. Our single homeless hostels currently accommodate around 40 adults below the age of 26 who present too high a risk for young people's accommodation. Service feedback and case studies frequently refer to extreme childhood trauma; 60% of clients in our 24-hour supported accommodation need support in relation to their mental health.

3.3.4 Practice and innovation

In response to the rising support needs described in 3.3.3, all services will need to engage in emerging best practice in working with homelessness. This includes:

- Strength-based working - empowering the Service User by focusing on what they can do
- Trauma-informed care - ways of working that support the environmental and psychological needs of both staff and service users.

As described by the National Coalition for the Homeless, USA:

“an overarching structure and treatment attitude that emphasizes understanding, compassion, and responding to the effects of all types of trauma. Trauma Informed Care also looks at physical, psychological, and emotional safety for both clients and providers, and provides tools to empower folks on the pathway to stability.”

Ref : <http://nationalhomeless.org/trauma-informed-care/> .

All tenders in this proposal will include a set of common requirements to ensure a consistent approach to quality and outcomes.

3.3.5 Unaccompanied Asylum Seeking Children (UASC)

The numbers of young people arriving in the City unplanned have steadily increased in the last 12 months, and at the end of July 2016 we had 36 under 18s (Looked After Children) and 19 Care Leavers. We anticipate the numbers will continue to grow, requiring an increase in supported and semi-independent accommodation for this cohort, conservatively estimated to be a further 5-10 beds in the next year.

The use of a Dynamic Purchasing System will assist the Council to respond to changes in demand with quality-assured services.

3.3.6 Bedspaces

The waiting list managed by the Supported Accommodation Panel consistently approaches 30 young people, 80% of whom are assessed as high priority need. On average, 20% of people on the waiting list are Care Leavers, but this is expected to decrease.

While the hostels are in high demand, the lower support beds are becoming hard to fill. All agencies are requesting more medium level support, to enable earlier freeing-up of high support beds and a more gradual adjustment for service users. To meet this, the recommission will specify flexible support with a higher proportion of medium support beds. (See section 3.5 for impact on provision overall).

3.3.7 Alternatives at the end of the Pathway

In addition to the general shortage of accommodation, options for young people will be further limited by the introduction of the shared room rate. While those who have had a hostel stay will be exempt, affordable tenancies for young people

with low or no support needs, eg, asylum seekers, are increasingly hard to come by.

We will set aside funding for a post to facilitate access to student-style accommodation where young people can move on to live independently. The Move On Facilitator will work with young people in the final stage of move-on readiness, put households together and maintain light contact (eg, occasional house meeting).

3.3.8 Spot purchased accommodation

In order to be compliant with procurement requirements, increase value for money and provide equal opportunity across the marketplace, we need to replace these arrangements with new contracts following a competitive tendering process.

3.3.9 Information Technology

All newly commissioned services will be provided with access to a recently procured IT system which will support referral processes, information sharing and client data collection. The system will enable Commissioners to monitor services, trends, client journeys, and identify gaps in service provision.

3.4 **Proposals for the re-procurement of advice and supported accommodation services in 2016/17**

This section describes how advice and supported accommodation services will be tendered in response to the considerations above.

Not included are the following services which have already been re-procured:

- Nightstop accommodation
- Tenancy support service
- Housing First
- Supported Lodgings service

The current and proposed service provision and procurement route are set out below:

ADVICE & MEDIATION SERVICES	
<i>Current service provision</i>	<i>Proposed new service provision and procurement route</i>
<p>Housing Advice Service Homelessness prevention service and gateway to accommodation services for homeless young people. Drop-in, triage and casework service working with young people presenting at the drop-in or referred from Housing Options. Key agency in partnership with Families, Children & Learning and Housing in supporting 16-17 year olds.</p> <p>Current provider: YMCA DownsLink Group; more than 200 cases open at any</p>	<p>Recommission – new contract The service’s position as a hub and its lead role in joint working has proved an effective model in preventing homelessness.</p> <p>The service will be recommissioned with minor changes to improve outcomes.</p> <p><i>Procurement of a new contract, to be awarded to single provider for 3-year term with optional extension period of up to 2 years</i></p>

ADVICE & MEDIATION SERVICES	
<i>Current service provision</i>	<i>Proposed new service provision and procurement route</i>
one time	
<p>Family Mediation Supports families to prevent the young person from leaving the home, or assists them to leave when it is safe to do so. Also aims to rebuild relationships where links have become broken, and to support parents/carers in effective parenting skills.</p> <p>Current provider: YMCA DownsLink Group; supporting up to 25 families</p>	<p>Recommission – new contract This service is very effective in preventing family breakdown, and has helped to reduce the number of 16-17 year olds needing to access the accommodation Pathway.</p> <p>The service will be recommissioned in its current form with continued combined funding from Housing Related Support and Families, Children & Learning.</p> <p><i>Procurement of a new contract, to be awarded to a single provider for 3-year term with optional extension period of up to 2 years</i></p>

SUPPORTED ACCOMMODATION SERVICES	
<i>Current Service Provision</i>	<i>Proposed Service Provision</i>
<p>Families, Children & Learning placements</p> <p>Spot purchased supported accommodation for Care Leavers, Unaccompanied Asylum Seekers and young people with needs too high for the mainstream pathway, and who decline foster/residential placement.</p> <p>Current providers include: Greenways Guest House, Next Step Care Management, OwnLife, Pathways To Independence Housing, Seven Ways</p>	<p>Recommission under a Dynamic Purchasing System</p> <p>All accommodation will be re-commissioned under a common framework to encourage competitive pricing and a consistent standard of service. Services will operate flexible levels of support where young people can move fluidly between them.</p> <p>Common service specification with HRS High Support Accommodation.</p> <p><i>DPS will be used to call off contracts for individual placements of varying durations, depending on the needs of the service user.</i></p>
<p>HRS High Support Accommodation 24-hour support for single young people. The young person may be: currently excluded from the 'family' home / a Looked After young person transitioning out of foster or residential placement / a young person under a Youth Offending order in need of support / a young person assessed as needing support to improve their quality of life.</p> <p>Current providers: YMCA DownsLink Group, Impact Initiatives. 33 mixed gender and 8 women-only units.</p>	<p>Recommission under a Dynamic Purchasing System</p> <p>Recommission 30-35 mixed high support units and 8 women only units.</p> <p>Specification will include the required working practices as outlined in 3.3.4.</p> <p>Common service specification with Families, Children & Learning placements.</p> <p><i>DPS will be used to call off block contracts for the duration of the DPS.</i></p>

SUPPORTED ACCOMMODATION SERVICES

<i>Current Service Provision</i>	<i>Proposed Service Provision</i>
<p>Medium & low support accommodation A medium level of support offers up to 5 hours of one-to-one support a week, support staff on site in office hours, night / weekend concierge and/or sleep-in staff.</p> <p>A low level of support offers 1-2 hours of one-to-one support a week, with visiting staff.</p> <p>Both levels provide a stepdown from higher support, also a short term solution for young people with moderate needs.</p> <p>Current commission includes only one scheme providing both medium and low support. Providers are:: Sanctuary Housing Association, YMCA DownsLink Group, Impact Initiatives.</p> <p>Total of 9 women-only low support units; 87 mixed gender units of which 20-30 units are medium support.</p>	<p>Adjust supply and recommission under a Dynamic Purchasing System</p> <p>Increase the proportion of medium level support, to enable earlier freeing-up of high support beds and a more gradual adjustment for service users.</p> <p>Provide a greater variation of cover in smaller projects.</p> <p>Commission a flexible model of 70-80 mixed gender and around 8 women-only beds, where the majority offer medium support.</p> <p>Specification will include the required working practices as outlined in 3.3.4.</p> <p><i>DPS will be used to call off block contracts for the duration of the DPS.</i></p> <p><i>Providers will be required to offer a flexible support model, weighted towards medium support.</i></p> <p><i>10 low support beds will be assigned to direct referrals from Families, Children & Learning.</i></p>
<p>Teenage Parents accommodation Supported accommodation for 16-21 year old young parents.</p> <p>Service Users supported to move on to independent living; develop work and learning opportunities; improve health and wellbeing. Co-supported by Social Workers, Health Visitors and other specialists.</p> <p>Current provider: Family Mosaic, supporting 22 young families.</p>	<p>Recommission under a Dynamic Purchasing System</p> <p>The need for this type of service is evidenced by a continued waiting list.</p> <p>Some vulnerable young parents require a higher level of support.</p> <p>Tender for 20-24 units of accommodation for teenage parents which will include enhanced night staffing and support.</p> <p><i>DPS will be used to call off one block contract for the duration of the DPS.</i></p>

ADDITIONAL SUPPORT

<i>Current Service Provision</i>	<i>Proposed Service Provision</i>
<p>Peer Support No current provision. The support of an older young person has proved valuable in helping young people to engage, eg, attend an external appointment, which can be the first obstacle in addressing an issue.</p>	<p>Commission Families, Children & Learning and Health & Adult Social Care will co-fund peer mentoring across services to encourage ability to engage.</p> <p><i>Combine with funding from Single Homeless budget to jointly develop peer mentoring for all age groups.</i></p>
<p>Alternatives at the end of the Pathway There are few accommodation options at</p>	<p>Shared accommodation and Move On Facilitator post</p>

ADDITIONAL SUPPORT	
<i>Current Service Provision</i>	<i>Proposed Service Provision</i>
<p>the end of the pathway and no commissioned services.</p> <p>Access to shared accommodation is identified in the “Positive Accommodation and support pathways to adulthood” framework.</p>	<p>Tender for a part-time post to facilitate access and sustainment of shared accommodation.</p> <p>Aims will be to mitigate accessible housing shortage, social isolation, and free up low support beds.</p> <p><i>This role will be developed and tendered following the launch of the new accommodation model.</i></p>

3.5 Impact

The overall impact the proposals will have on capacity and budgets is as follows:

3.5.1 Housing related support

While the increase in the ratio of medium support to low support will have an effect on the total number of HRS units, the impact will be lessened by Families, Children & Learning who will fund 10 low support beds under the new arrangements:

Tender / Service	Current units	Future units
24-hour High Support	33	30-35
Medium support	25	40-45
Low support	62	30-35
Total units	120	100-115
Women Only 24 hour High Support	8	8
Women only medium support	0	3-4
Women only low support	9	4-5
Women only Total units	17	15-17
Teenage Parents supported accommodation	22	20-24
Total accommodation units	159	135-156
Housing Advice	220-250	230
Mediation (Homeless Prevention)	25	25-27
Peer Support	0	tbc
Move On Facilitator	0	tbc

3.5.2 Families, Children & Learning

Unit costs for 24-hour support in HRS accommodation range up to £12,000 per year. The high needs accommodation for 16-17 year olds is procured on a spot purchase basis, meaning that costs are significantly higher. Costs can vary greatly depending on the type of accommodation, but the average cost is currently £22,000 per year.

The intention is that a competitive process will achieve savings on the current arrangements.

3.6 Procurement

Families, Children & Learning and Health & Adult Social Care are working closely with Procurement and Legal Services to develop a Dynamic Purchasing System (DPS) for the supported accommodation services.

A DPS has aspects that are similar to an electronic framework agreement, except that during its lifespan new providers can apply to join the DPS thus stimulating market competition. The DPS will need to be set up in accordance with the Public Contracts Regulations 2015. There will be no limit to the number of providers who can join the DPS provided they meet the selection criteria set by the Council.

The DPS will allow for call off contracts to be awarded under two categories. The first category will cover block contracts with call-offs which are expected to last, with optional extension periods, for the duration of the DPS. The second category will cover individual placements with call-offs for varying durations depending on the needs of the service user.

Having two categories under the DPS allows for the option of calling off individual placement contracts or block contracts to fit the need during the life of the DPS, if this offers better value for money. Where demand for a service is expected to continue, a block arrangement is usually more cost-effective, as staff can be hired on a permanent footing.

The plan is to launch a procurement process for the DPS in January 2017 with initial admissions of providers to the DPS and awards of call off contracts scheduled for July/August 2017.

The Young People's Housing Advice and Family Mediation services will be tendered separately as contracts with a 3 year term and an optional extension period of up to 2 years.

The Peer Mentoring and Move On Facilitator roles will be developed and piloted in partnership with Single Homeless and Children's Services commissioners. Contracts will be awarded depending on outcomes from the pilots, for a 3 to 5 year term.

A waiver under Contract Standing Orders will be requested to bridge the gap between the end of the current contracts in March 2017 and the start of the new contracts. The request will be for contract variations to extend the existing contracts.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

4.1 The current advice and accommodation contracts have been in place for 5 or more years and need to be tendered to comply with procurement regulations.

4.2 Although services are performing well, support needs have changed since the existing contracts were awarded, and if we do not seek to innovate and adapt the model, outcomes for young people are put at risk.

- 4.3 Three years into the joint strategy officers are not looking at a fullscale redesign. Formalised joint working has delivered considerable improvements in homelessness prevention, and will continue to be reviewed and enhanced. The proposed retendering will be used more to re-balance services in response to changing need and the housing and welfare prospects for young people.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Full consultation was undertaken as part of the development of the Housing and Homelessness Strategies and the Housing and Support Commissioning Strategy for Young People, which included service users and stakeholders.
- 5.2 Consultation has been undertaken with partners, stakeholders and providers to identify service demand, gaps and barriers. This consultation has continued through working groups and with individuals on the model and proposed tender process.
- 5.3 Consultation and engagement is part of an ongoing process and will continue after the tender process as services mobilise and develop.
- 5.4 We use the following resources in identifying the changing needs and demographics of young people who are homeless or at risk of homelessness:
- Needs Analysis for Housing and Support Commissioning Strategy for Young People aged 16-25, September 2013
 - Annual demographics data collection
 - Rough Sleeping Strategy 2016
 - Colleagues, partners and agencies working with young people
 - Other local authorities and St Basil's charity, national lead on youth homelessness
 - Independent consultation with service users facilitated by CGL
 - Events at drop-in centres

6. CONCLUSION

- 6.1 The existing contracts for advice and supported accommodation for young people all expire with effect from the 31st March 2017 and retendering is required under procurement regulations and in order to comply with the Council's Contract Standing Orders.
- 6.2 The recommission of new contracts will complete the savings required on the HRS budget agreed by Policy & Resources Committee in January 2015, and achieve savings on Families, Children & Learning budget through competitive processes.
- 6.3 This joint approach to procurement will enable Commissioners to pursue common objectives in service delivery and value for money.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The contracts for the Young People's Housing and Support Pathway total £1.594m for 2016/17. These form part of the Adult Social Care Housing Related Support contracts for which the 2016/17 budget is £5.307m. The contracts are included within the 4-year Housing Related Support budgets agreed by Policy & Resources Committee in January 2015. In addition there are a number of spot purchased contracts for care leavers which total £1.238m however the available budget for these services is £0.913m. It is anticipated that the new tenders proposed in this report will be delivered from within existing budgets.

Finance Officer Consulted: David Ellis

Date: 28/10/16

Legal Implications:

- 7.2 The Council has a duty to provide advice and information about homelessness, and the prevention of homelessness in accordance with section 179 of the Housing Act 1996.
- 7.3 Under the council's constitution, the Housing and New Homes Committee has responsibility for exercising the council's functions for the commissioning of housing related support services. The recommendations at section 2 fall within the committee's powers.
- 7.4 Further, the Council's Contract Standing Orders (CSOs) require that before expressions of interest can be invited from potential bidders for a contract/s valued at £500,000 or more, approval must be obtained from the relevant committee, which in this instance is Housing and New Homes Committee.
- 7.5 The aim of the DPS is to enable the council to provide sufficient and appropriate supported accommodation services for young people between the ages of 16 and 25. The DPS must be let in accordance with the Public Contracts Regulations 2015. The DPS should enable the council to procure block contracts and individual supported accommodation placements in a legally compliant manner.

Lawyer Consulted:

Name Isabella Sidoli

Date: 07/11/2016

7.6 Equalities Implications:

An Equalities Impact Assessment has been completed and will remain under regular review in relation to the tender process. There is an acknowledged need for more high support provision particularly for vulnerable young men, but this is being explored outside the scope of this proposal. However, the recommission does recognise the increasing challenges for services, and the need to update our practice and responsiveness. No equalities gaps have been identified but services will continue to work together to address exploitation and any barriers to disclosure.

The full Equalities Impact Assessment is available as additional information.

7.7 Sustainability Implications:

Procurement processes will take into account the sustainability of organisations in the City and the principles of social value in order to achieve best value for money and sustainability of services.

7.8 Any Other Significant Implications:

With the retendering of supported accommodation comes the risk that a number of individuals will need to move between services. We have planned extra time between contract award and launch of new services, to enable us to support partners and service users through the transition.

With regard to the reduction in overall bedspaces, we do not anticipate extensive impact, given the current over-capacity of low support beds, and the introduction of a more responsive support model. The DPS should enable flexibility and choice.

The recommission of the advice and mediation services is anticipated to need less time to embed, but will require managed communication with service users and stakeholders.

SUPPORTING DOCUMENTATION

Appendices:

None.

Documents in Members' Rooms

1. Equalities Impact Assessment

Background Documents

- Housing and Support Commissioning Strategy for Young People aged 16-25, September 2013
- Rough Sleeper & Single Homeless Needs Assessment 2013
- Homeless Health Audit 2014
- Homelessness Strategy 2014-19
- Rough Sleeping Strategy 2016

Document is Restricted

