

Walsall Metropolitan Borough Council Housing Allocation Scheme Policy

2019

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1.0 Overview

1.1.0 Introduction

- 1.1.1 Walsall Metropolitan Borough Council is a local authority area in the West Midlands, incorporated on 01 April 1974.
- 1.1.2 Walsall Metropolitan Borough Council does not own or manage any social rented housing, nevertheless, there is a legal requirement for all English local housing authorities to have a scheme for the allocation of social rented housing.
- 1.1.3 Walsall Metropolitan Borough Council's housing allocations functions are regulated by the Local Government and Social Care Ombudsman.
- 1.1.4 This Policy explains how people can register for an allocation of social rented housing in Walsall, how Walsall Metropolitan Borough Council will allocate social rented housing, plus the extent of choice applicants will be offered.

1.2.0 Purpose of this Policy

- 1.2.1 The Housing & Regeneration Act 2008 defines social housing as homes for rent and sale to people whose housing needs cannot be met by the general housing market. This Policy shall demonstrate how Walsall Metropolitan Borough Council will allocate social rented housing to persons applying to become a social housing tenant, as well as secure tenants seeking to move to another dwelling house ('transfer applicants'), let under secure tenancies. Walsall Metropolitan Borough Council intends to allocate homes in a fair, transparent and effective way, that is lawful and makes best use of the homes available.
- 1.2.2 This Policy explains the rules for determining priority between applicants, plus the procedures for nominating applicants for homes to let owned by private registered providers of social housing, which own and/or manage social rented housing in the local authority area of Walsall Metropolitan Borough Council. A summary of the rules explained in this Policy is available. A copy of this Policy has been sent to the Local Government & Social Care Ombudsman.
- 1.2.3 This Policy has been framed with consideration to the housing requirements of current and future potential tenants. Applicants will be afforded choice in the lettings offered to them, plus address any issues of overcrowding and under-occupation.

1.3.0 Principles of this Policy

- 1.3.1 This Policy has been formulated having had regard to the law and regulatory requirements, including:
 - 1. Housing Act 1996, Part 6
 - 2. Homelessness Act 2002
 - 3. Housing and Regeneration Act 2008
 - 4. Localism Act 2011
 - 5. Armed Forces Act 2006

6. Asylum and Immigration Act 1996
7. Immigration and Asylum Act 1999
8. Children Act 2004
9. Equality Act 2010
10. Data Protection Act 2018
11. The regulatory framework for Private Registered Providers of social housing in England published by the Homes and Communities Agency, in particular the Tenancy Standard, published April 2012.

1.3.2 This Policy has been formulated having had regard to case law judgments made in the English and Welsh Courts.

1.3.3 This Policy is specific only to the allocation of social rented housing in the local authority area of Walsall Metropolitan Borough Council, this extends to:

1. Affordable rent social housing
2. General needs social housing

1.3.4 For the purpose of this Policy, an allocation is defined as occurring when Walsall Metropolitan Borough Council nominate a person to be a secure or introductory tenant of social rented housing held by a private registered provider of social housing.

1.3.5 Actual entry by an applicant into a tenancy agreement for a particular property is beyond the scope of this Policy. Regulations instruct private registered providers of social housing to adopt a policy that explains how lettings will be agreed with a tenant. Applicants should consult individual private registered providers of social housing for their policies concerning letting social rented housing.

1.3.6 Exceptions to the position set out above in 1.3.4 will apply in the situations detailed below. In none of the following cases will there have been an allocation as defined by this Policy, private registered providers of social housing hold their own policies for these matters, they should be referenced for further details:

1. Forming a tenancy without security of tenure (e.g. a 'family intervention tenancy').
2. Granting a tenancy to a person who is currently and lawfully occupying a property held on a family intervention tenancy.
3. The vesting of succession of an assured shorthold or assured tenancy on the death of a current tenant.
4. The devolution of an assured shorthold or assured tenancy on the death of a tenant.
5. The assignment of an assured shorthold or assured tenancy as part of a mutual exchange.
6. The assignment of an assured shorthold or assured tenancy to a person who would have been qualified to succeed to the tenancy on a tenant's death.
7. The vesting or disposal of an assured shorthold or assured tenancy pursuant to a court order made under the following specified provisions family law statute:
 - a. Section 24 of the Matrimonial Causes Act 1973 (property adjustment orders in connection with matrimonial proceedings),
 - b. Section 71 of the Matrimonial and Family Proceedings Act 1984 (property adjustment orders after overseas divorce),
 - c. Paragraph 1 of schedule 1 of the Children Act 1989 (orders for financial relief against parents),

- d. Schedule 7, Part 2 of the Family law Act 1996 (orders for moving a tenancy from an existing tenant to a new tenant).
 8. An order made under Part 2 of schedule 5, or paragraph 9(2) or (3) of schedule 7, to the Civil Partnership Act 2004 in relation to an assured shorthold or assured tenancy.
 9. A transfer initiated by a Private Registered Provider of social housing of an assured shorthold or assured tenancy (i.e. not initiated by the making of an application for a transfer by the tenant).
 10. A tenancy being granted as part of a surrender and re-grant procedure available where two social housing tenants in England wish to exchange their homes and one tenant holds a flexible tenancy or an assured shorthold tenancy.
 11. Where a tenant has been displaced from his or her previous accommodation and has been provided with suitable alternative accommodation under the Land Compensation Act 1973
- 1.3.7 When drawing up this Policy, Walsall Metropolitan Borough Council has consulted with other local housing authorities, public authorities, voluntary organisations, private registered providers of social housing and other persons, plus previous, current and future potential tenants. Regard was had to:
1. Walsall Homelessness Strategy, 2018 – 2022
 2. Black Country Tenancy Strategy, 2012
- 1.3.8 Walsall Metropolitan Borough Council will take such steps as it considers reasonable, within a sensible period of time, to bring any alterations made by the policy to the attention of those likely to be affected by it, of any subsequent alteration to this Policy that would affect the relative priority of a large number of applicants, or any significant alteration to the associated procedures for administering this Policy.
- 1.3.9 Elected Councillors of Walsall Metropolitan Borough Council, are prohibited from taking part in any individual allocation pertaining to a person who is, or wishes to be, resident in their electoral ward area. Elected Councillors may seek to obtain general information about the allocation of housing, plus should participate in making decisions about the overall content of this Policy. Elected Councillors should consider whether Walsall Metropolitan Borough Council's Code of Conduct requires them to declare an interest before participating in such deliberations. If in any doubt, the advice of Walsall Metropolitan Borough Council's Monitoring Officer should be obtained.
- 1.3.10 Copies of this Policy are made available to any person who requests one. People will be informed about their rights to information, advice and assistance concerning Walsall Metropolitan Borough Council Housing Allocation Scheme. For further information see section 2 of this Policy.
- 1.3.11 People will be excluded from joining Walsall Metropolitan Borough Council's Housing Register if they are either not eligible for social housing, or are of a class of person matching the disqualification criterion, set out in this Policy. For further information see section 3 of this Policy.

- 1.3.12 Applicants will be prioritised for an allocation of social rented housing by housing need, then the date they joined Walsall Metropolitan Borough Council's Housing Allocation Scheme. For further information see section 4 of this Policy.
- 1.3.13 Applicants will be allowed to express a preference of the homes available to let. This will be subject to certain limitations. Applicants will be penalised for refusing reasonable offers. For further information see section 5 of this Policy.

1.4.0 Consultation

- 1.4.1 Walsall Metropolitan Borough Council carried out consultation on how the local authority intends to prioritise the allocation of social rented housing. Applicants on Walsall Metropolitan Borough Council's Housing Allocation Scheme, plus other persons, such as advocates for people from all the protected characteristics groups, as the Local Authority deemed appropriate, were consulted before making this policy.
- 1.4.2 Walsall Metropolitan Borough Council has published a report on the consultation of this Policy, on the outcomes of the consultation, plus changes that have been made to the local authority's Housing Allocation Scheme Policy.
- 1.4.3 A variety of consultation methods such as focus groups and online surveys were used to solicit opinions. Walsall Metropolitan Borough Council has taken in to account the needs of specific groups, such as persons with a disability, or learning and support need.
- 1.4.4 This Policy will be reviewed regularly in conjunction with applicants and other appropriate persons or organisations.
- 1.4.5 Any major changes to this policy that has affected the relative priority of a large number of people, has been communicated by letter to potential applicants that might be affected.

2.0 Information, Applications and Decision-Making

2.1.0 Information

- 2.1.1 A summary of this Policy will be provided free to any person who asks for one. The whole of this Policy will be kept available for inspection by any person at the principle offices of Walsall Metropolitan Borough Council. A copy will be provided to anyone who asks for one. This Policy will also be published on the website of Walsall Metropolitan Borough Council. Additionally, information will be provided about:
1. The procedures associated with initial consideration of an applicant's application, plus the treatment of any nomination made by Walsall Metropolitan Borough Council for social rented housing to a private registered provider of social housing
 2. Potential stock availability.
 3. Eligibility, qualification and prioritisation criterion for joining the housing register and being offered a nomination of social rented housing.
- 2.1.2 General information will be provided, profiling the social housing stock in the local authority area of Walsall Metropolitan Borough Council. For any given dwelling, the following information will be provided, wherever it is available:
1. Type (e.g. house, flat, bungalow, etc), size (e.g. number of bedrooms, bathrooms, etc) and location (e.g. by electoral ward)
 2. Whether it is already accessible for people with disabilities, or could be adapted to be so
 3. Whether there is access to a shared or private garden
 4. How old it is
 5. An indication of how frequently it is like it is to become available
 6. The cost of running it
- 2.1.3 Information will be provided in translated and alternative formats (e.g. Braille, large print, audio etc) as needed and/or upon request. The special needs of specific groups of prospective applicants (e.g. the housebound, prisoners, gypsies and travellers, etc), will be taken account of when making any arrangement to access and provide information and advice. Information will be made available using a variety of media, including printed hard copy form, on the website of Walsall Metropolitan Borough Council and via the telephone.
- 2.1.4 Every person will be provided with information and advice, about their rights to make an application for an allocation of social rented housing. Furthermore, assistance will be provided by Walsall Metropolitan Borough Council, free of charge, as required, to any person who is likely to have difficulty in making an application.
- 2.1.5 Every applicant will be provided with the following general information (as applicable), accompanied by a copy of a free published summary of this Policy:
1. How their application is likely to be treated.
 2. Whether or not they have been accepted as eligible for an allocation of housing accommodation and the reasons for such decision.
 3. Whether or not they qualify for an allocation of housing accommodation and the reasons for such decision.
 4. The type of property they are likely to be allocated

5. The method that will be used in assessing their needs
6. The number of other applicants with equal or greater priority
7. An assessment of the likely time that they will have to wait to receive an offer by reference to average waiting time or the number of allocations of similar properties in the previous 12 months and/or 3 months
8. Any facts taken in to account when making decisions as to whether to make a nomination of social rented housing
9. The right to request a review of any decision that they are not eligible and/or do not qualify to join Walsall Metropolitan Borough Council's Housing Allocation Scheme, or concerning a nomination of social rented housing
10. The review decision, along with the grounds for that review decision in a written acknowledgement
11. The right to seek an appeal in court on any point of law where this Policy (or the administration of it) is irrational, illegal, or fails to follow public law procedural requirements

2.1.6 All persons will be advised that Walsall Metropolitan Borough Council will collect equalities information, to enable a better understanding of peoples' needs, to ensure that no one is discriminated against as a result of this Policy, or the associated administration of the Policy. People will be informed as to how such data will be used, handled, and stored.

2.1.7 Walsall Metropolitan Borough Council is subject to the information disclosure requirements of the Data Protection Act 2018. The administration of this Policy will ensure compliance with this legislation. For further information please reference Walsall Metropolitan Borough Council's *Data Protection Policy*. Applicants will be advised of their right to make a complaint to the Office of the Information Commissioner (IOC) if they believe Walsall Metropolitan Borough Council has failed to fulfil its obligations and responsibilities as set-out in the Data Protection Act 1998. Concerns can be reported by telephoning the IOC's helpline on 0303 123 1113 or online at <https://ico.org.uk/concerns/>

2.1.8 All persons making an application to join Walsall Metropolitan Borough Council's Housing Allocation Scheme, have the right to confidentiality. An application will not be divulged to any other party without an applicant's consent. Where consent is given, this only extends to those (e.g. employees of health, social care, criminal justice, social housing organisations, etc) who can provide evidence that can help to determine whether the facts of an application. Exempt from this policy position is an application that gives rise to a safeguarding concern. For further information please reference Walsall Metropolitan Borough Council's *Information Sharing Protocol*.

2.2.0 Applications

2.2.1 All applications must be made using the prescribed form published by Walsall Metropolitan Borough Council. Copies can be downloaded from the Local Authority's website or be requested (in person, by phone, or in writing) at the main office of Walsall Metropolitan Borough Council. Applications can only be made by a sole individual. Applications are welcomed from persons which lives at two separate address, but which wish to live together at one single address. Anyone who might usually reside with an applicant, or who might reasonably be expected to reside with an applicant can feature as part of the application. A usual household member will constitute as a person who primarily (that is for

at least 50% of the time), or exclusively lives with an applicant, or they usually live with the applicant but are temporarily absent due to circumstances beyond their control. Separate guidance exists to aid the completion of an application, for further information please reference *Guidance for Making an Application for Social Housing to Walsall Metropolitan Borough Council*.

- 2.2.2 In addition to the application, the following documents (where available) must be submitted as evidence to verify the information provided by the main applicant, plus any other person who might reside with the applicant:
1. Passport, to help determine eligibility to rent social housing in England.
 2. Birth certificate, to help determine qualification to join Walsall Metropolitan Borough Council's Housing Register.
 3. A utility or Council Tax bill from the past three months, to help determine eligibility to rent social housing in England.
 4. Details of any relevant unspent convictions, to help determine qualification to join Walsall Metropolitan Borough Council's Housing Register.
 5. All bank or building society financial statements for the past three months, to help determine qualification to join Walsall Metropolitan Borough Council's Housing Register.
 6. Any other information that helps to determine eligibility to rent social housing in England and/or qualification to join Walsall Metropolitan Borough Council's Housing Register.
- 2.2.3 Walsall Metropolitan Borough Council will receive applications from any person, regardless of their location of where they presently reside, this extends to persons of no fixed abode. All applicants will be required to renew their applications annually, on the anniversary of being accepted on to Walsall Metropolitan Borough Council's Housing Allocation Scheme. Failure to renew an application will result in an applicant being removed from Walsall Metropolitan Borough Council's Housing Allocation Scheme. Applicants will be reminded 56 days prior to their renewal deadline of this requirement. This reminder, along with the consequences for not complying with this aspect of this Policy, will be provided in the form of an email or letter. When necessary, a subsequent reminder will be sent 28 days prior to the renewal date.
- 2.2.4 Every applicant will be provided with an oral and/or written warning about offences in relation to applications, prior to making an application. Applicants will be disqualified, and might be prosecuted for fraud, if they deliberately withhold information, provide misleading information, or do not notify Walsall Metropolitan Borough Council of any change in circumstances (e.g. change in income, change in household formation). A person guilty of such an offence could be liable to pay or a fine of between £200.00 - £5,000.00
- 2.2.5 Every applicant will be provided information and advice about their rights to make an application for an allocation of social rented housing. Furthermore, assistance will be provided free of charge to any person who is likely to have difficulty in making an application (e.g. due to mental or physical impairment, or because of any other special characteristic). This assistance will be extended to those whom might require help to express a preference for an available property to-let. Walsall Metropolitan Borough Council local authority is subject to the Equality Act 2010, this statute has been duly considered when formulating this Policy (and any associated policies, procedures and processes). A separate Equality Impact Assessment has been completed, copies can be requested from Walsall Metropolitan Borough Council, or downloaded from the local authority's website.

The Equality Impact Assessment has identified any potential impact on people with a protected characteristic, showing these as positive, negative or negligible, plus includes actions to mitigate any such negative impacts. This policy aligns with Walsall Metropolitan Borough Council's Strategic Equalities Plan. To ensure compliance with public sector equality duties, the following arrangements will be considered for each individual applicant and property:

1. Informing an applicant of a property's accessible features
2. A mechanism to identify the requirements of disabled applicants
3. A mechanism to allow extra time for disabled applicants if they need it to accept an offer
4. A mechanism for providing support in making applications.

2.2.6 Processing applications will involve a preliminary assessment. Firstly, consideration will be given to whether the applicant is eligible for social rented housing under the terms of the statute and this Policy. The matter of qualification will then be decided. For further information on definition of eligibility and qualification see section 3 of this Policy. Detailed scrutiny will take place when an applicant is due to be nominated for a particular property, this will determine whether the applicant:

1. Is still eligible
2. Is still a qualifying person
3. Meets any specific lettings criteria for the particular property
4. Household size matches any size criteria for the property
5. Can afford to pay the housing costs of the property.

2.2.7 Applications will be processed within a reasonable period of time. If progress is considered to be unduly slow, an applicant will be entitled to make a complaint using Walsall Metropolitan Borough Council's complaint procedure. If the outcome of this proves unsatisfactory, an applicant may seek the help of the Local Government & Social Care Ombudsman. Complaints can be made by:

1. Telephone: 0300 111 3000
2. Online: <http://www.housing-ombudsman.org.uk/resolve-a-complaint/getting-help-from-the-housing-ombudsman/#.Vp0WGDZ0rdk>

2.2.8 Applications from current tenants of private registered providers of social housing, for transfers (transfer applicants) to alternative social rented housing available in the Walsall Metropolitan Borough Council local authority area, whether this be as an assured or assured shorthold or other type of tenancy, have the right to:

1. Make applications
2. Have their applications considered
3. Be notified as to their rights to information and review
4. Protection of the confidentiality of the fact of their application

2.2.9 Transfer applicants will initially be treated in the same way as all other applicants, except that Walsall Metropolitan Borough Council will not make inquiries into their eligibility. This is because all current tenants of social housing are eligible for a further allocation of social housing accommodation regardless of their immigration or habitual residence status. Transfer applicants will be prioritised in the same way as new applicants (e.g. by housing need and then date of registration). Transfer applicants will not be offered an allocation that would result in them under-occupying the dwelling (against the definition used by the

Department of Work Pensions to determine claims for help with housing costs), being overcrowded or being unable to afford any possible rental or service charges. Transfer applicants will be required to satisfy the qualification criterion set out this Policy, this means transfer applicants who are not entitled to a reasonable preference for an allocation of housing accommodation, will not qualify to join Walsall Metropolitan Borough Council's Housing Register.

- 2.2.10 Procedures for handling applications will be covered by provisions contained in this Policy. Any application where there is a reason to believe a person may be homeless or threatened with homelessness, will trigger inquiries as to what duty of assistance, if any is owed under Housing Act 1996, Part 7 (as amended).
- 2.2.11 Specific procedures have been published for administering the following matters:
1. *Assessing new applications or amending an existing application for an allocation*
 2. *Processing applications for an allocation*
 3. *Dealing with applications for an allocation from overcrowded households*
 4. *Exercising discretion when making allocations decisions*
 5. *Reviewing allocations decisions*
- 2.2.12 Decisions about whether an applicant is eligible and qualifies to join Walsall Metropolitan Borough Council's Housing Allocation Scheme will be made in strict accordance with the rules established in this Policy and any associated procedures. Reviews will be carried-out in strict accordance with the rules established in this Policy and any associated procedures. The power to award discretion to an applicant in respect of qualification to join the Housing Allocation Scheme and prioritisation for a nomination of social rented housing is limited to the [insert position(s), e.g. head of division, and/or manager of service, and/or team leaders of service] of Walsall Metropolitan Borough Council. The aforementioned senior employee(s) will be responsible for minimising the risk of employee fraud and errors, including the vetting of junior employees and randomly checking and validating decisions on applications. Consideration of an application will be based on the information provided on the application form, plus any evidence supplied by an applicant (e.g. proofs of identity, etc), or information gained from other relevant persons (e.g. employees of adult social care services, children services, health services, etc).
- 2.2.13 Unsuccessful applicants, who have been declared not eligible or disqualified, can make a further application whenever they believe there has been a material change to their circumstances.

2.3.0 Decision-Making

- 2.3.1 Decisions on applications will be notified in writing (either in the form of an email, or a letter when the applicant has not supplied an email address), regardless of whether they are adverse or successful. Where the notification is signalling a successful decision, applicants will also be told when realistically they might be selected for a nomination of social rented housing.
- 2.3.2 Notifying a decision that an applicant is ineligible or disqualified to join Walsall Metropolitan Borough Council's Housing Allocation Scheme will be made in writing. Applicants will be given reasons for the decision based on the relevant facts of the case. Additional

arrangements will be made for applicants who might have difficulty understanding the implications of the decision to be informed orally (e.g. via a telephone call or in person). Copies of all adverse decisions will be made available for a reasonable period of time for collection by the applicants, or by someone on their behalf, at the main offices of Walsall Metropolitan Borough Council, when an applicant does not receive the decision notice.

- 2.3.3 Decisions about applications made by employees of Walsall Metropolitan Borough Council, will be made as per the rules set-out in this Policy. However, all such decisions will be verified a senior officer with responsibility for managing housing allocation functions for the local authority. A will be asked at the point of making an application, whether they (or anyone who lives with, might reasonably be expected to live with them) are employee of the local authority. Where a person affirms on their application that they (or a usual household member), is an employee of Walsall Metropolitan Borough Council, they will be notified of the process set-out in this section of this Policy, to deal with any conflicts of interest. The same principle will be applied to relatives of persons who are employed by Walsall Metropolitan Borough Council.

2.4.0 Reviews

- 2.4.1 Applicants will be informed of their right to request a review of any of the decisions shown below:
1. That an applicant is not eligible for an allocation of social rented housing, due to being subject to immigration control or being an ineligible person from abroad
 2. That an applicant is not within a class of persons qualifying to join Walsall Metropolitan Borough Council's Housing Allocation Scheme
 3. The preference they have been afforded under Walsall Metropolitan Borough Council's Housing Allocation Scheme, including any changes made to the degree of preference they are entitled to
 4. Concerning the facts of their case which are likely to be, or have been, taken in to account when deciding whether to make a nomination to a private registered provider of social housing
 5. The type of social rented for which an applicant will be considered under Walsall Metropolitan Borough Council's Housing Allocation Scheme
 6. The extent of an applicants' household
 7. Whether an nomination constitutes a final offer
- 2.4.2 The review will be a re-consideration of all the relevant facts of statute at the date the review is carried-out. The review will be carried-out by [insert position(s), e.g. head of division, and/or manager of service, and/or team leaders of service] of Walsall Metropolitan Borough Council, whom was not previously involved in making the original decision. A separate document details the procedures on an internal review, please reference *Reviewing Housing Allocations Decisions made by Walsall Metropolitan Borough Council*.
- 2.4.3 Notification of all review decisions will be made in writing by email or letter.
- 2.4.4 Applicants will be informed of their right to pursue an appeal to the court, where they believe there is evidence that a decision is irrational, illegal or fails to follow public law procedural requirements. This includes a refusal to take an application to join Walsall Metropolitan Borough Council's Housing Allocation Scheme. If applicants are dissatisfied

with how their application and any subsequent complaint has been handled by the Local Authority, they will be informed of their right to make a claim of maladministration to the Local Government & Social Care Ombudsman (see 2.2.7).

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3.0 Eligibility and Qualification

3.1.0 Eligibility

3.1.1 The following classes of persons will be eligible to join Walsall Metropolitan Borough Council's Housing Register:

1. British citizens (England, Scotland and Wales)
2. Commonwealth citizens with a right of abode in the UK immediately before 01 January 1983 (excluding citizens from Pakistan and South Africa, but inclusive of citizens from Gambia and Zimbabwe)
3. Irish citizens (Northern Ireland and Republic of Ireland)
4. Isle of Man citizens
5. Channel Islands citizens
6. EEA nationals with extended rights of residence:
 - a. Jobseekers
 - b. Workers
 - c. Self-employed persons
 - d. Self-sufficient persons
 - e. Students
 - f. Family members of persons referred to above
7. EEA nationals with permanent rights of residence:
 - a. EEA nationals in UK for a continuous period of 5 years
 - b. Family members of persons referred to above
 - c. Workers or self-employed persons who have ceased activity
 - d. Family members of persons referred to above
 - e. Persons who were a family member of persons referred to above who has died and resided with them previously
8. Persons exempt from immigration control (e.g. diplomats and their family members based in the UK, some military personnel)
9. Persons granted refugee status by the UK Government
10. Persons granted exceptional leave to enter or remain in the UK with condition that they and any dependents have resource to public funds (e.g. humanitarian or compassionate circumstances)
11. Persons with current leave to enter or remain in the UK with no condition or limitation, and who are habitually resident in the Common Travel Area (a person whose maintenance and accommodation is being sponsored, must be resident in the Common Travel Area for five years since date of entry or date of sponsorship, unless the sponsor has died)
12. Persons who have humanitarian protection granted under the Immigration Rules (e.g. a person whose asylum application has failed but they face real risks of harm if they returned to their state of origin)
13. Persons who are Afghan citizens with limited leave to enter or remain in the United Kingdom, who are habitually resident in the Common Travel Area

3.1.2 The following classes of person will not be eligible to join Walsall Metropolitan Borough Council's Housing Register:

1. Persons not habitually resident in the Common Travel Area, which consists of:
 - a. United Kingdom of Great Britain & Northern Ireland

- b. Republic of Ireland
 - c. Isle of Mann
 - d. Channel Islands (Guernsey & Jersey)
 - 2. EEA nationals (job seekers or their family members) who have only an:
 - a. Initial right of residence for 3 months
 - b. Derivative right of residence because the person is the primary carer of a British citizen
 - c. Right to reside as a result of the persons deportation, expulsion or other removal by compulsion of law from another country to the UK (including EEA nationals exercising EU Treaty rights, who were previously settled in the UK prior to deportation)
 - 3. Persons whose only right to reside in the UK is an initial right for no more than three months, including those who would become an unreasonable burden on the social assistance system of the UK
 - 4. Persons who are excluded by section 115 of the Immigration and Asylum Act 1999 to entitlement to universal credit under Part 1 of the Welfare Reform Act 2012 or to housing benefit
- 3.1.3 The granting of a tenancy agreement will be determined by each private registered provider of social housing, in accordance with their respective lettings policy. Notwithstanding this, a joint tenancy cannot be granted to two or more people if any one of them is not eligible for an allocation of housing accommodation let by a private registered provider of social housing. If one person is eligible, a tenancy may be granted to the eligible person.
- 3.1.4 Eligibility provisions do not apply to applicants who are already secure, introductory, or assured tenants of a Private Registered Provider of social housing seeking to transfer. Confirmation of immigration status of an applicant from abroad will be obtained, where necessary, from the Home Office by emailing EvidenceandEnquiry@homeoffice.gsi.gov.uk
- 3.1.5 Only persons who are habitually resident in the United Kingdom will be eligible for an allocation of housing accommodation. The following tests will be carried out to confirm if an applicant is habitually resident:
- 1. The degree of permanence in the persons residence in the United Kingdom of Great Britain & Northern Ireland, Republic of Ireland, Isle of Mann, or the Channel Islands
 - 2. The association between a person and the place of residence
 - 3. Whether a person has accumulated a continuous period of residence prior to making their application
 - 4. Visits abroad for holidays or to visit relatives and other temporary periods of absence will be disregarded
 - 5. Exemptions from the habitual residence test include EEA national and their family members who are workers or self-employed, or have certain permanent rights of residence, or have been removed from another country to the UK
- 3.1.6 Persons who are subject to immigration control or being an ineligible person from abroad, will not be eligible for an allocation of social rented housing.
- 3.1.7 Walsall Metropolitan Borough Council will carry out appropriate checks on an applicant's eligibility to be allocated social rented housing, but will ensure these checks are not

discriminatory on the basis of race, nationality, ethnic origins, or any other protected characteristic as defined by the Equality Act 2010. Walsall Metropolitan Borough Council will monitor performance in screening housing applications for immigration status to ensure that members of ethnic minorities, who are eligible for an allocation of social rented housing, do not experience unreasonably long delays while their application is being considered. Where there is any uncertainty about an applicant's immigration status, Walsall Metropolitan Borough Council shall contact the Home Office. Before doing so, applicants will be advised that such inquiries will be made. Walsall Metropolitan Borough Council employees who are employed to administer housing allocation functions, will be given training about housing allocation law and practice, plus duties and responsibilities under the Equality Act 2010. Walsall Metropolitan Borough Council shall ensure that language and interpretation support is available, for applicants who have difficulty reading or speaking English.

- 3.1.8 Local authorities are not subject to the duty arising from the Immigration Act 2014, part 3, chapter 1, to carry-out a 'right to rent' check on each letting. Therefore, Walsall Metropolitan Borough Council will perform its own checks on the eligibility of any applicant to rent social housing, as per sections 3.1.1 – 3.1.17 of this policy.

3.2.0 Qualification

- 3.2.1 The following rules apply to new applicants and transferring tenants.
- 3.2.2 The following arrangements explain those applicants who are disqualified under the terms of this Policy from the joining Walsall Metropolitan Borough Council's Housing Allocation Scheme:
- 3.2.3 Persons not having a reasonable preference for an allocation of social rented housing, as per section 166, of Part 6 of the Housing Act 1996. Persons who would only have a reasonable preference for an allocation of social rented housing, when a person who is not eligible for social rented housing is taken in to account, will not qualify.
- 3.2.4 Persons incapable of holding a tenancy agreement, this extends to:
1. Persons defined as a child in UK law (anyone aged 0 - 17 years of age, inclusive). An applicant who is a child aged 16 or 17 years of age, who is applying a single person (who might also feature another person(s) aged 16 or 17 years as a usual household member(s)) , that has an adult who will act as a trustee and hold a legal tenancy until the legal incapacity to hold a tenancy ends, will be able to qualify to join Walsall Metropolitan Borough Council's Housing Register.
 2. Persons defined as a child in need as a result of a statutory assessment carried out in accordance with Children Act 1989, section 17.
 3. Person lacking mental capacity
- 3.2.5 Persons (be it the applicant, or anyone who usually lives with them, or might reasonably be expected to live with them) who are guilty of unacceptable behaviour that makes them unsuitable to be a tenant, behaviour which if they previously had been or were presently a tenant, a landlord would have or could be able to secure an outright possession order. For the purpose this Policy, a hypothetical approach will be taken to decide if an applicant is guilty of unacceptable behaviour. Only behaviour that is serious enough to entitle Walsall

Metropolitan Borough Council to obtain an outright possession order, had the applicant been a tenant of the Local Authority at the time the unacceptable behaviour was carried-out, will be considered as unacceptable behaviour. The meaning of unacceptable behaviour for the purpose of this Policy will encompass a past action or activity on the part of an applicant, but will also include an omission, failure to act, passivity or inactivity. This extends to any person who is presently living, or likely to be living, with an applicant, including persons from the past who may live with an applicant again in the future. Walsall Metropolitan Borough Council will only consider an applicant unsuitable to be a tenant if there has been no improvement in their behaviour, since when the unsuitable behaviour occurred, to the date when a decision is made about their application to join Walsall Metropolitan Borough Council's Housing Allocation Scheme and/or allocation of social rented housing accommodation is due to be made. Unacceptable behaviour is defined as:

1. Been given an order made in a civil court that is linked to a property or the locality of a property, for example under the Anti-social Behaviour, Crime and Policing Act 2014, Environmental Protection Act 1990, Housing Act 1985,
2. Perpetrators of domestic violence who are subject to a non-molestation order, an injunction order, an occupation order or a restraining order
3. Having an unspent criminal conviction committed in the locality of a property
4. Having committed an act of fraud, withheld, falsified or misrepresented any information pertaining to access to public funds and/or services
5. Having displayed threatening, violent or otherwise abusive behaviour towards an employee or contractor of Walsall Metropolitan Borough Council, or any private registered provider of social housing with which the Local Authority has a nomination agreement.

3.2.6 Persons (be it the applicant, or anyone who usually lives with them, or might reasonably be expected to live with them) who have outstanding liabilities (such as rent or service charge arrears) attributable to the tenancy of a house which an applicant was the tenant, which remain outstanding, which are more than 1/12th of the annual amount payable (or which was payable) by an applicant to a landlord in respect of the tenancy, will be taken account of and result in disqualification for an allocation of social rented housing. When determining a realistic repayment agreement, there will be an emphasis on an applicant's willingness to address the debt and to come to an agreement to do so. Any agreement will be based on the affordability of an applicant rather than the level of debt. Efforts will be made to take into consideration why the arrears have arisen. The urgency of an applicant's housing need will also be of paramount importance. For the purpose of this Policy, outstanding rent arrears or debts which fall within the following categories will be disregarded:

1. Any outstanding liability (such as rent arrears) attributable to the tenancy of a house of which the applicant or anyone who usually lives with them, or might reasonably be expected to live with them) is not, and was not when the liability accrued, the tenant
2. Any rent or other liability which is outstanding but where the amount outstanding is less than 1/12th of the annual amount payable (or which was payable) by the applicant to a landlord in respect of a tenancy, or the applicant has both (i) agreed payments with a landlord for paying the outstanding liability, and (ii) made payments in line with that arrangement for at least three months and is continuing to make such payments
3. Any outstanding liability of an applicant or anyone who will live with them, which does not relate to the tenancy of a property.

4. Any outstanding liability that has been declared statute barred.

3.2.7 Persons (be it the applicant, or anyone who usually lives with them, or might reasonably be expected to live with them) who or have been evicted for any breach of tenancy conditions, regardless of tenure. Breach tenancy conditions are defined as:

1. Sub-letting some or the whole of their property without permission
2. Failing to report repairs
3. Failing to allow contractors to enter their property to carryout maintenance
4. Running a business from their property without permission from the landlord
5. Allowing their property to be used for illegal or immoral purposes.

3.2.8 Persons who are not resident in the Walsall Metropolitan Borough Council local authority area, and do not have a minimum of two years continuous connection to Walsall Metropolitan Borough Council local authority area, due to any of the following factors (Disregards apply to applicants who have survived domestic abuse and Armed Forces personnel, see sections 3.2.12 and 3.2.13):

1. Residence - decisions made about local connection will be based on an applicant's (or any person who lives with them, or might be expected to) only or main place of residence being within the Walsall Metropolitan Borough Council local authority area for a minimum period of two years.
2. Employment and/or education– a connection established by employment will be limited to the usual place of work. Applicants who need to move to take-up an offer of employment or maintain existing employment, which they could not take-up or maintain otherwise without moving in to the Walsall Metropolitan Borough Council local authority area, will be exempt from local connection requirements. Applicants will need to demonstrate proof of an offer of employment. Furthermore, proof will be required that the offer of employment could not be taken-up unless the applicant was able to move into the Walsall Metropolitan Borough Council local authority area. Applicants who can prove they are presently, or are due to, undertake training, or higher or further education, within the Walsall Metropolitan Borough Council local authority area, which they could not take-up otherwise without moving in to the Walsall Metropolitan Borough Council local authority area, will be exempt from local connection requirements.
3. Family associations – a connection established by family relationships will be limited to immediate relatives (e.g. parents/other guardians, siblings, children), and their residence being within Walsall Metropolitan Borough Council local authority area for a minimum period of two years. Applicants who can prove they have a continuing caring responsibility for someone who is resident in the Walsall Metropolitan Borough Council local authority area, and that this care could not be provided unless they were resident in the borough, will be exempt from local connection requirements
4. Other special reason - applicants who have been looked after, accommodated or fostered by any local authority as part of the performance of its children social care duties, in the Walsall Metropolitan Borough Council local authority area (regardless of whether this has been under the care of Walsall Metropolitan Borough Council or any other local authority), will be exempt from local connection requirements. This will only apply when a children services section of a local authority can confirm a person is preparing to leave the care arrangements with their consent.

- 3.2.9 Persons (be it the applicant, or anyone usually lives with them, or might reasonably be expected to live with them) who are homeowners, encompassing anyone who has a mortgage for the whole or part of their home who are not in negative equity and people who own their home outright. This also includes land as well as anything built on land, and can be property currently owned or that has previously been owned in the UK or abroad (disregards apply to applicants who have survived domestic abuse, see sections 3.2.12). Applicants who own property will be able to qualify for an allocation of social rented housing, in the following circumstances:
1. Where the property has not been let, but the owner cannot secure entry to the property, for example due to it not being safe to enter the property due to severe structural faults, or there are squatters living in the property
 2. Where it is probable that occupying the property will lead to abuse from someone living in the property
 3. Where it is probable that occupying the property will lead to abuse from someone who previously resided with the applicant whether in that property or elsewhere
 4. Where occupation of the property may endanger the health of the occupants and there are no reasonable steps that can be taken by an applicant to prevent that danger (e.g. where it is not possible to adapt a property due to the physical arrangements of a dwelling, or the cost of adaptations is prohibitive, or an applicant is in negative equity),
- 3.2.10 Persons (be it the applicant or anyone who usually lives with them or might reasonably be expected to live with them) with financial resources consistent with the UK Government's upper limit for savings set out in the common rules of the DWP Benefit and Pension Rates (Disregards apply to Armed Forces personnel, see sections 3.2.13).
- 3.2.11 Consideration as to whether an applicant qualifies to join Walsall Metropolitan Borough Council's Housing Allocation Scheme, will be taken at both the time of the initial application and then again when an allocation is made. A decision that an applicant is disqualified will be notified in writing with the grounds for that decision. Applicants will be notified of their right to request a review of such a decision, plus be notified in writing of the grounds of any review decision made. Following the conclusion of a review, applicants will be notified of their right to make an appeal to the Courts on any point of law. Applicants will be notified of their right to make a complaint using Walsall Metropolitan Borough Council's standard procedures, plus, if they remain dissatisfied upon completion of any complaint made, ask the Local Government & Social Care Ombudsman to investigate claims of maladministration.
- 3.2.12 Applicants who are victims of domestic abuse or threats of domestic abuse, or escaping domestic abuse, will be exempt from local connection requirements. Property ownership conditions will also be disapplied.
- 3.2.13 Applicants (or their bereaved spouse or civil partners, who are leaving military accommodation where the death of the spouse can be partially or wholly attributed to the Armed Forces) who are, or were formerly, serving in, the Armed Forces or the Reserve Forces, who are either employed or resident in the Walsall Metropolitan Borough Council local authority area will be exempt from local connection requirements. When considering applications from serving or former members of the Armed Forces, who are not currently employed or resident in the Walsall Metropolitan Borough Council local authority area,

consideration will be given as to whether they have a local connection through previous residence in the district as a result of a former posting in the area while serving in the Armed Forces. Any compensation for an injury or disability sustained on active service with the Armed Forces will be disregarded when calculating financial resources.

3.3.0 Determining eligibility and qualification

- 3.3.1 An applicants' eligibility and qualification to join Walsall Metropolitan Borough Council's Housing Allocation Scheme will be considered when they initially apply, plus (assuming satisfaction of the tests at that stage) again when an allocation of a specific property is made. This will allow Walsall Metropolitan Borough Council to be aware of any changed circumstances that might have occurred subsequent to the initial application, which might render an applicant not eligible or disqualified for an allocation of social rented housing.

3.4.0 Notifications of decisions and right to a review

- 3.4.1 All applicants found to be not eligible or disqualified will be provided written notification and the grounds for the decision (see 2.3.1 to 2.3.2). Information will also be provided on any rights they have to request an internal review. (see 2.4.1 to 2.4.4).

3.5.0 Renewed applications

- 3.5.1 Applicants may at any-time make a further application to join Walsall Metropolitan Borough Council's Housing Allocation Scheme, if they have cause to believe they should no longer be treated as ineligible and/or disqualified, because their circumstances or behaviour has changed. There is no limit on the number or frequency of renewed applications a person makes. No person shall be excluded from making an application.

4.0 Allocations

4.1.0 Adopting this Policy

- 4.1.1 This Policy has been subject to an impact assessment required under equalities legislation, carried-out in accordance with Walsall Metropolitan Borough Council's own equalities policies and procedures. Local housing authorities, other public authorities, voluntary organisations, private registered providers of social housing, plus other persons and organisations were afforded a reasonable opportunity to comment on a draft version of this Policy. Prior to adopting this Policy, views were elicited from former, current and future potential applicants.
- 4.1.2 Walsall Metropolitan Borough Council will review this Policy at least every five years, however amendments will be made as result of any significant change in legislation and/or regulations. Any major change to this Policy will subject to further consultation. Not all changes will be consulted on, as this would entail disproportionate costs.
- 4.1.3 All applicants registered under any previous allocations scheme administered by Walsall Metropolitan Borough Council and/or any third-party agent previously appointed to carry out the administration, will be required to re-register to join Walsall Metropolitan Borough Council's Housing Allocation Scheme, if they wish to be considered for an allocation of social rented housing under the rules of this Policy.
- 4.1.4 An annual report will be published about allocations made as result of this Policy. This report will inform if when administering this Policy, the purpose and principles set-out in section one of this Policy are being accomplished. The report will consider matters such as:
1. The quantity of allocations made (e.g. by property type, by bedroom number, by lettings type)
 2. The number of applicants newly registered (including those who are transfer applicants) and those who did not re-register or who were determined to be not eligible or disqualified
 3. The number of allocations refused by applicants
 4. The number of successful allocations made to applicants
 5. The number of nominations accepted and rejected by Private Registered Providers of social housing
- 4.1.5 All employees involved with the operation of this Policy will receive training on how to administer the Policy prior to its introduction, or within six months of being appointed into post. This training will be revisited at least annually.

4.2.0 Determining priority for an allocation for housing

- 4.2.1 Applicants will be prioritised for an allocation of social rented housing according to:
1. Their need to be re-housed.
 2. Where two or more applicants might be applicable for a nomination, then by date they were accepted on to the Housing Allocation Scheme
 3. Where two or more applicants still might be applicable for a nomination, then by whether they are making a community contribution.

- 4.2.2. Allocations for social housing accommodation will be prioritised strictly as set-out below:
1. Applicants whom have been awarded an additional preference, in addition to the requirement to be afforded a reasonable preference for an allocation of social housing accommodation, in the order set-out in section 4.2.3. of this Policy
 2. Applicants whom statute stipulates must be afforded a reasonable preference for an allocation of social housing accommodation, in the order set-out in section 4.2.4. of this Policy
 3. Applicants whom have exhausted their right to refuse an allocation of social rented housing, as set-out in section 4.2.5 of the Policy
- 4.2.3 Band A will consist of applicants which will be awarded additional preference, in addition to being entitled to a reasonable preference for an allocation of social housing accommodation. These applicants are defined for the purpose of this Policy as persons whom are:
1. Victims of domestic abuse
 2. Victims of racial harassment amounting to violence or threats of violence
 3. Victims of hate crime amounting to violence or threats of violence due to their age disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, sexual orientation.
 4. Witnesses of crime, or victims of crime, who would be at risk of intimidation amounting to violence or threats of violence if they remained in their current homes
 5. Those whose condition is expected to be terminal and re-housing is required due to unsuitable accommodation, or to provide a basis for the provision of suitable care
 6. Those whose condition is life threatening and an applicant's existing accommodation is a major contributory factor
 7. Those who planned discharge from hospital is imminent and there is no accommodation available to them which is reasonable for them to occupy
 8. People with a reasonable prospect of an accommodation offer within a relatively short period who suddenly loses their existing home as a result of a disaster
 9. Families in severe overcrowding which poses a serious health hazard
 10. People under-occupying social housing and wanting to transfer to a smaller property
 11. Foster carers and those approved to adopt, who need to move to a larger home in order to look after a child under the care of a children services local authority
 12. Those escaping serious anti-social behaviour
 13. Homeless as defined by the Housing Act 1996, Part 7, section 175, extending to those owed a section 189(B) duty.
 14. Members of the Armed and Reserve Forces, such as:
 - a. Former members of the Armed Forces, whom have been discharged from active service within the past five years.
 - b. Serving members of the Armed forces 6 months prior to discharge
 - c. Serving members of the Armed Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service
 - d. Bereaved spouses and civil partners or members of the Armed Forces leaving Services Family Accommodation following the death of their spouse or partner

- e. Serving or former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service

4.2.4 Band B will consist of applicants entitled to a reasonable preference for an allocation of social housing accommodation. These applicants are defined for the purpose of this Policy as persons whom are:

1. Owed a duty under Housing Act 1996, Part 7, specifically, those who are:
 - a. Intentionally homeless and have a priority need for accommodation, owed the section 190 duty
 - b. Not intentionally homeless and have a priority need for accommodation, owed the s.193 duty
 - c. Threatened with homelessness, owed the s.195 duty
2. Occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions, such as:
 - a. Lacking a bathroom or kitchen
 - b. Lacking inside WC
 - c. Lacking cold or hot water supplies, electricity, gas, or adequate heating
 - d. Overcrowding, the following persons are entitled to a bedroom each
 - i. married or cohabiting couple
 - ii. Adult aged 21 years or more
 - iii. Pair of adolescents aged 10-20 years of the same gender
 - iv. Pair of children aged under 10 years regardless of gender
 - e. Sharing a living room, kitchen, bathroom/WC
 - f. Property in disrepair
 - g. Property unfit
 - h. Poor internal or external arrangements
 - i. Under-occupation
3. Needing to move on medical or welfare grounds (including grounds relating to a disability), such as:
 - a. A mental illness
 - b. A physical or learning disability
 - c. Chronic or progressive medical conditions (e.g. MS, HIV/AIDS)
 - d. Frailty due to old age
 - e. The need to give or receive care
 - f. The need to recover from the effects of violence (including racial attacks) or threats of violence, or physical, emotional or sexual abuse
 - g. Restricted ability to fend for self
 - h. Experiencing or at risk of abuse, harm or self-neglect
 - i. Young people at risk
 - j. People with behavioural difficulties
 - k. Need for adapted housing and/or extra facilities, bedroom or bathroom
 - l. Need improved heating (on medical or social care grounds)
 - m. Need sheltered housing (on medical or social care grounds)
 - n. Need ground floor accommodation (on medical social care grounds)
 - o. Need to be near friends/relatives or medical/social care facilities on medical or social care grounds
 - p. Need to move following hospitalisation or long-term care on medical or social care grounds

- q. Leaving care of children services
- r. Moving on from drug or alcohol recovery programme
- s. Moving on from a short-term supported housing and hostels
- 4. Needing to move to a particular locality in the district of the authority, where failure to meet this need would cause hardship (to themselves or others), in order to:
 - a. Access specialised medical treatment
 - b. Take-up a particular employment, education or training opportunity

4.2.5 Band C will consist of applicants from Band A or B, who have exhausted their right to refuse an allocation of social rented housing. Applicants will remain in Band C for a period of no more or less than 12 months, from date of final refusal.

4.2.6 For the purposes of this Policy applicants being involved or participating in a community is defined as:

- 1. Engaged in paid or unpaid employment for a minimum of 16 hours per week for a minimum of 6 months
- 2. Engaged in further or higher education, either part-time or full-time, for a minimum of one term.

4.2.7 Those applicants who are unable to be involved or participate in their community due to an illness, disability, age or other characteristic, will also be treated with the same favour as those who are actively involved or participating in their community.

4.2.8 Applicants whose circumstances change once they've been accepted on Walsall Metropolitan Borough Council's Housing Allocation Scheme must notify the Local Authority of such changes. A failure to do so could result in an applicant become disqualified and facing prosecution for fraud. If as result of a change in circumstances, an applicant gains a higher banding preference for re-housing, their acceptance date will be amended to reflect the date of the change. If as result of a change in circumstances an applicant is assed as having the same banding preference, the original acceptance date will remain in force. If as result of a change in circumstances an applicant is assed has having less banding preference, their acceptance date will be amended to reflect the date of the change. If as result of a change in circumstances an applicant becomes ineligible or disqualified, then they will be removed from the housing register.

4.3.0 Local lettings schemes

4.3.1 Private registered providers of social housing can use local lettings schemes to achieve a wide variety of housing management and policy objectives, including:

- 1. Creating more mixed and/or sustainable communities
- 2. Dealing with a concentration of deprivation
- 3. Ensuring properties that are particularly suited to being made accessible (e.g. ground floor flats) are prioritised for those with access needs
- 4. Relocating essential workers such as teachers, nurses and police officers within a reasonable travelling distance from their work
- 5. Supporting people in work/volunteering or who are seeking work or seeking volunteering opportunities

6. Dealing sensitively with lettings in rural areas to sustain communities by giving priority to those with a local connection of more than two years (see 4.2.1).
7. Taking in to account the needs of mobile workers such as those in the armed forces
8. Where a child to adult ratio could be lowered on an estate where there is high child density or, conversely, young single people could integrate into an estate where there is high ratio of older persons
9. Where there are reasons to positively discriminate due to age, for example accommodation is only suitable for applicants under the age of 35 years, or over the age of state pension entitlement
10. Letting of new build properties for the first time

4.3.2 Upon identification of particular types or clusters or locations of housing for particular types of applicants, a local lettings scheme will be used to deal with letting of these homes. Local lettings policies will set out the following:

1. A clear definition of the objective(s) to be achieved, backed up by evidence
2. A method which is likely to achieve the objective(s)
3. An equality impact assessment
4. How the scheme will be monitored and who will be involved
5. Mechanisms of reporting and reviewing the scheme
6. How the views of local communities have shaped the scheme
7. A clear exit strategy

4.4.0 Avoiding discrimination and enhancing equality of opportunity

4.4.1 An equality duty is imposed on Walsall Metropolitan Borough Council by the Equality Act 2010, section 149. Regard has been made to this public-sector equality duty when formulating this Policy, furthermore it will inform decision-making on individual cases. Allocations of social rented housing will be monitored to determine whether equal opportunities obligations are being met.

4.4.2 This Policy intends to ensure that at all times non-discriminatory decisions will be made about the allocation of social rented housing.

4.4.3 When formulating this Policy, an equality impact assessment was undertaken to avoid discrimination, plus be able to demonstrate compliance with the public-sector equality duty. Any substantial variation to this Policy will also be subject to an equality impact assessment. For further information please see *Housing Allocation Equality Impact Assessment* published by Walsall Metropolitan Borough Council.

4.4.4 Walsall Metropolitan Borough Council will provide regular, accurate and generalised information on how the Housing Allocation Scheme is managed, to actively dispel any misconceptions arising about the allocation of social rented housing and immigration.

4.5.0 Best interests of children

4.5.1 When formulating this Policy, Walsall Metropolitan Borough Council has regard to the need to safeguard and promote the welfare of children.

4.5.2 When making decisions about individual applications for an allocation of social rented housing, the best interests of any children involved will be treated as a primary (but not overriding) consideration. Active involvement from Walsall Metropolitan Borough Council's Children Services department will sought when making decisions about housing allocations. Suitable regard will be made to the joint working protocol between the housing department and the children services department. A discussion about the prioritisation of applicants will take place prior to the introduction of the scheme. If there is some uncertainty about whether an applicant should qualify specifically due to matters relating to children services duties, the department will be consulted.

4.6.0 Discretion

4.6.1 Discretion about qualification or the allocation of social rented housing will be exercised only by senior officers. A separate document details the procedures for exercising discretion, *Awarding discretion when making allocations decisions*.

4.7.0 Challenges about this Policy

4.7.1 Applicants will be informed of their right to pursue a judicial review on any point of law about this Policy. Applicants will be entitled to make a complaint using Walsall Metropolitan Borough Council's own complaint procedures. Upon the conclusion of considering any complaint, applicants will be informed of their right to seek the help of the Local Government & Social Care Ombudsman Service (see 2.2.7).

5.0 Being Allocated a Property

5.1.0 Choice

- 5.1.1 Applicants will be informed of their right to choose the property which they are allocated.
- 5.1.2 Applicants who may have a difficulty in understanding the system will be identified and supported.
- 5.1.3 Applicants will be able to have a choice of three social rented homes, which reflect the housing needs of an applicant (and any other persons who usually reside with them, or might be expected to reside with them).
- 5.1.4 Some applicants will not be afforded any choice, these being those who:
1. Have been awarded additional preference, which encompasses most applicants in Band A, other than the exceptions described in 5.1.5,
 2. Owed a duty under Housing Act 1996, Part 7, specifically, those who are:
 - a. intentionally homeless and have a priority need for accommodation, owed the section 190(2) duty
 - b. Not intentionally homeless and have a priority need for accommodation, owed the s.193(2) duty
 - c. Threatened with homelessness, owed the s.195(2) duty
- 5.1.5 There are 3 groups of applicants in Band A that will be afforded choice as described in 5.1.3, these being:
- People under-occupying social housing and wanting to transfer to a smaller property
 - Foster carers and those approved to adopt, who need to move to a larger home in order to look after a child under the care of a children services local authority
 - Members of the Armed and Reserve forces (described in full at 4.2.3)
- 5.1.6 Applicants described in section 5.1.4 will be made one nomination of suitable accommodation.
- 5.1.7 An applicant's right to-choice does not extend to any social rented housing that is intended specifically for persons with specific characteristic, e.g. older persons.
- 5.1.8 When an applicant has refused three reasonable offers of social rented housing made by a private registered provider of social housing, they will be given reduced preference for a period of 12 months.
- 5.1.9 Applicants will be informed of their right to seek a review that an offer of social rented housing they refused was a reasonable offer, or that the final offered refused was a suitable offer. Following review, an applicant will be informed of their right to seek appeal in the courts on any point of law.

5.2.0 Direct Lets

- 5.2.1 This Policy does not contain any rules that would allow for a direct let of social rented housing, beyond those already stated above.

5.3.0 Other General Points

- 5.3.1 Following a nomination of social rented housing by Walsall Metropolitan Borough Council, applicants will be given a reasonable period to consider whether to accept it. There will be no set specific timeframe, rather this will be based on the personal circumstances of each applicant. The actual letting will be handled by a private registered provider of social housing, who will sign up the new tenant following the offer and acceptance of a tenancy agreement.
- 5.2.3 Refusal of reasonable allocations will be capped. Upon refusal of a final allocation applicants will be reduced preference for a period of 12 months, resulting in a demotion from either Band A or B, down to Band C.
- 5.3.3 Applicants will not be offered a property that would result in them being statutorily overcrowded. Applicants will not be offered a property that would result in them under-occupying it. Applicants who receive support from a carer, who does not live with them, will have their need for a spare room taken in to account whenever possible. Properties on the ground floor, with an accessible bathroom or an additional bathroom or toilet will be offered to applicants who have a medical need for such a dwelling. The extent and circumstances of an applicant's household will be taken in to account, as to whether they would be eligible or qualify in their own right or not. Bedrooms will be allocated to each:
1. Couples or are married, have a civil partnership or cohabiting
 2. adult aged 21 years or more
 3. single or pair of adolescents aged 11-20 years, of the same gender
 4. single or pair of children from aged 1-10 years, regardless of gender
- 5.3.4 Applicants will not be made an offer of a property in a locality in which he or she has previously been the perpetrator or victim of anti-social behaviour, hate crime, violence or domestic abuse.
- 5.3.5 The letting of a property, including whether a joint tenancy will be granted is beyond the scope of this Policy. Private registered providers of social housing have their own letting policies that dictate how lettings will be agreed.
- 5.3.6 This Policy has been drawn up having had regard to Tenancy Strategy of the Walsall Metropolitan Borough Council (known as the Black Country Tenancy Strategy). Tenancies offered by Private Registered Providers of social housing, should be made in strict accordance with this document.
- 5.3.7 Applicants will be informed by the relevant private registered provider of social housing, at the point of an allocation, if the property will be furnished or unfurnished.
- 5.3.8 Applicants will be provided with an opportunity to view it prior to accepting or rejecting whatever is being offered. Applicants can expect properties to be fit for occupation at the date of the letting, or that any repairing obligations imposed on a private registered provider of social housing, will be met within a reasonable time of commencement of the tenancy.

- 5.3.9 Transfer applicants will be made an offer that ensures they do not inadvertently lose accrued right. Arrears of rent outstanding on a previous tenancy can be transferred to the new one, subject to agreement as to how those arrears will be cleared (compliance with the arrears agreement will be a term of the new occupancy agreement).
- 5.3.10 Applicants will not be offered a property whereby they cannot afford to pay all related potential rental and service charges. Applicant income, expenditure, debt, loans, and savings will be considered by Walsall Metropolitan Borough Council and/or private registered providers of social housing. Applicants will need to be able to demonstrate that they will be able to pay all applicable housing charges.
- 5.3.11 Walsall Metropolitan Borough Council has not developed a specified position on pets in social rented housing. Private registered providers of social housing are expected to set out their priorities clearly in tenancy agreements.

6.0 Other Arrangements

6.1.0 Applications to private registered providers of social housing

- 6.1.1 Private registered providers of social housing have a duty to maintain a lettings policy. The contents of lettings policies should reflect the regulations found in the Tenancy Standard, published by the Regulator for Social Housing. Information about lettings policies and procedures of private registered providers of social housing, are available directly from these organisations. Applicants that have a dispute about direct lettings policies of private registered providers of social housing will be informed of their right to make a complaint directly to the organisation, and if they remain dissatisfied to the Housing Ombudsman.
- 6.1.2 People who make an application to Walsall Metropolitan Borough Council for social rented housing, are in no way restricted from also making a separate additional applications directly to private registered providers of social housing, where their own letting policies allows this.

6.2.0 Nominations

- 6.2.1 A nominations agreement has been agreed between Walsall Metropolitan Borough Council and private registered providers of social housing, that own and/or manage social rented housing in the Walsall Metropolitan Borough Council local authority area. All such agreements prescribe the portion of lettings that any private registered provider of social housing will make available to Walsall Metropolitan Borough Council. The agreements also have a criterion for how private registered Providers of social housing can accept or reject a nomination, plus describe how any disagreements about nominations will be resolved.
- 6.2.2 A system has been adopted to monitor the effectiveness of the nominations agreements, to allow Walsall Metropolitan Borough Council to satisfied itself that it is fulfilling its legal obligations to allocate social rented housing. An annual report on nominations agreements will be presented to elected councillors of Walsall Metropolitan Borough Council, plus be shared with private registered providers of social housing who have entered into a nomination agreement with the Local Authority..
- 6.2.3 Walsall Metropolitan Borough Council and private registered providers of social housing, have decided not to enter into a common or housing allocation scheme and/or policy. Some private registered providers of social housing has agreed to enter into a common housing application with the Local authority.

6.3.0 Transfers

- 6.3.1 Private registered providers of social housing have published rules governing cases where secure tenants wish to move from one dwelling to another. Copies of such rules are available directly from these organisations.
- 6.3.2 Only transfer applicants that have a reasonable preference for an allocation of social rented housing will qualify for an allocation of social rented housing under the rules of this Policy.

6.4.0 Contracting-out

- 6.4.1 Any arrangements by which Walsall Metropolitan Borough Council has contracted-out the administration of housing allocation functions to a private registered provider of social housing are subject to separate contractual terms, which fall outside the scope of this Policy.

6.5.0 Complaints, appeals and legal challenges

- 6.5.1 A person will be informed of their rights to make a complaint about a private registered provider of social housing's decision to reject a nomination for an allocation of social rented housing. The method by which complaints can be made, are be set-out in lettings policies published by private registered providers of social housing. Applicants that have a dispute about direct lettings policies of private registered providers of social housing will be informed of their right to make a complaint directly to the organisation, and when still dissatisfied after their complaint has been investigated, to the Housing Ombudsman. Applicants will also be informed of their right to seek judicial review on any point of law of a private registered provider of social housing's decision to reject a nomination of social rented housing.
- 6.5.2 Applicants will be informed of their right to invoke the jurisdiction of the Administrative Court to review a private registered provider of social housing's decision-making on a nomination for social rented housing. Additionally, applicants who consider that there has been unlawful discrimination or infringement of human rights will be informed of their right to seek assistance from the Human Rights Commission.