

**Version 6**  
**23rd September 2019**



## **Common Allocation Policy**

## **Part 1 General Information**

### **1. Introduction**

This document explains the Northumberland Homefinder Allocations service. A partnership between Northumberland County Council and Registered Providers in Northumberland has agreed a common housing allocation policy.

The policy is available on <http://www.northumberland.gov.uk/>

Northumberland Homefinder is a Choice Based Lettings (CBL) scheme offering increased options for housing by including private rented properties and low cost home ownership properties.

### **2. Legislative Framework**

The legislative framework is set out in the Housing Act (1996) as amended by the Homelessness Act (2002) and the associated statutory codes of guidance. All partners have agreed to adopt the legislative framework and this policy forms an “allocation scheme” described in the Act.

The legislative framework applies to the Council although it requires Registered Providers to cooperate in offering accommodation and to assist the council to discharge its statutory duties to homeless people.

An allocation includes where the Council selects a person to be a secure or introductory tenant of council housing or makes a nomination to a housing provider including registered social landlords.

The policy will be used to make nominations to other housing providers who are not partners in Northumberland Homefinder.

Where an allocation by a Registered Provider follows the policy it will be a nomination and meet the requirements of any quota set in any nomination agreement made with the Council.

An allocation can be made outside the allocation policy by a Registered Provider but not by the Council.

### **3. Reasonable Preference**

The legislative framework requires the policy to give reasonable preference to some groups. Where this policy refers to housing need, it also means reasonable preference.

The current statutory reasonable preference categories are set out in s.167(2) of the 1996 Act. These were rationalised in the Homelessness Act 2002 (and further refined by the Housing Act 2004) to ensure that they are squarely based on housing need. The reasonable preference categories are:

- a) people who are homeless (within the meaning of Part 7 of the 1996 Act); this includes people who are intentionally homeless, and those who do not have a priority need for accommodation:
- b) people who are owed a duty by any local authority under section 190(2), 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any local authority under section 192(3)
- c) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
- d) people who need to move on medical or welfare grounds, including grounds relating to a disability
- e) people who need to move to a particular locality in the district of the local authority, where failure to meet that need would cause hardship (to themselves or to others)

The legislative framework also restricts who can be considered as eligible to be allocated housing and allows financial resources, behaviour and local connection to be taken into account.

### **4. Equality Statement**

This lettings policy will not discriminate, directly or indirectly, harassment and victimisation on the grounds of age, disability, pregnancy and maternity, race, religion or belief, sex, sexual orientation and transsexuality, HIV status or disability and will comply with the Commission for Racial Equality's Code of Practice in Rented Housing.

The scheme will ensure that its policies and practices are non-discriminatory and will aim to promote equal opportunity. This policy has been developed with regard to codes of guidance issued to local housing authorities in England, in exercising functions under 167(1A) and 167(2E) of the Housing Act 1996.

The Policy will meet the requirements of appropriate Housing and Equality Legislation and guidance.

## **5. Scheme Objectives**

The key aims of Northumberland Homefinder are to:

- Increase housing choice and meet housing need;
- Create a single point of access, through a common housing register, to all social housing, including accredited private sector properties and low cost home ownership options in Northumberland;
- Provide an open, fair and transparent housing allocations system that is easily understood, accessible and easy to use;
- Ensure consistency in the way in which applicants access accommodation;
- Help to prevent and tackle homelessness in Northumberland; and
- Create sustainable communities.

**We will deliver these aims by:**

- Using a Common Housing Register and Common Allocation policy across Northumberland;
- Operating a banding scheme where applicants are placed in one of five bands according to their level of need;
- Advertising all available homes weekly;
- Providing support and advice for vulnerable customers when they need it;
- Improving understanding and confidence in choice based lettings;
- Providing applicants access to straightforward and realistic information on supply and demand and the prospect of re-housing;
- Facilitating mobility regardless of tenure; and
- Promoting equality of opportunity regardless of sex, race, age, disability, sexuality, colour, nationality or ethnicity.

## **6. Our Commitment to Sustainable Communities**

A key aim of the partnership is to create communities that are balanced, safe, inclusive and sustainable, whilst encouraging community cohesion. To achieve this, a proactive approach will be adopted where areas have the potential to fail. If sustainability of a location is threatened, the relevant landlord will consider all evidence.

This will mean that some properties may be limited to a specific type of tenant, for example to applicants over a certain age. The partner landlord will retain the evidence and the outcomes will be made available when the lettings results are published to ensure openness and transparency.

## **7. Local Lettings Plans**

Landlords may draw up Local Lettings Plans where local tenants, staff, or other key stakeholders have identified that it would benefit the community. Local Lettings Plans

may be used to achieve a wide variety of policy objectives such as to address imbalances in the community or to ring fence new developments.

Each new proposal will be evidence based and will require consultation with local residents and stakeholders before a formal report is submitted outlining the results.

Properties will be advertised through Northumberland Homefinder and where preference is to be given to a specific type of applicant, this will be clearly stated. The outcomes will be published as per any general needs property.

## **8. Rural Allocations Criteria**

Northumberland Homefinder recognises that there may be a lack of affordable homes in rural parishes and aims to support rural communities by awarding additional preference to families with a strong local connection.

A rural allocations criteria may be used to let homes in rural parishes where the landlord, or a Section 106, indicates that this is appropriate.

A close connection to the rural parish is defined as the applicant meeting one of the following criteria:

- Living in the parish continually for at least 3 years immediately prior to the date of selection for an offer;
- Been in continuous full or part-time work (excluding seasonal work) in the parish parish for at least the last 3 years immediately prior to the date of selection for an offer (part-time work means a minimum of 16 hours per week);
- Lived continuously in the parish for at least 3 years immediately prior to being accepted as homeless but have been placed in temporary accommodation outside of the parish for up to 2 years;
- Having parents, adult children or siblings who have lived continually in the parish for at least 3 years immediately prior to the date of selection for an offer.

Properties subject to the rural allocation criteria will be offered to applicants in the following order;

1. To applicants with a connection to the parish or adjoining<sup>1</sup> rural parish in bands P, 1, 2 or 2R.
2. To any applicant in bands P, 1, 2 or 2R.
3. To applicants with a connection to the parish or adjoining\* rural parish in

---

<sup>1</sup> Where there is no accommodation in the adjoining rural parish we will consider applicants in other local rural parishes.

band 3.

4. To any applicant in band 3.

## **9. Exceptional Circumstances**

To ensure fairness, the policies in the document are applied consistently.

The individual circumstances of each applicant are considered in every case using the information provided by the applicant on their Housing Register application form and subsequently in any ensuing additional information that is requested and/or provided.

The policy allows for any provision to be considered and waived in exceptional circumstances and at the discretion of a Senior Officer who has responsibility for managing the Housing Register.

## **10. Advice, Assistance and Support**

Northumberland Homefinder officers can provide advice and support on issues relating to the allocation process or make a referral to another organisation that would be better placed to offer relevant advice.

Northumberland Homefinder will work in partnership with other local authorities, Registered Providers and voluntary organisations to meet housing need. We will also work with support services (such as Health Authorities, Social Services, Police, Probation or voluntary organisations) we will ensure that housing, care and support needs of vulnerable people are met.

The scheme will not unduly influence an applicant's choice of accommodation when providing advice or support. The scheme will offer a number of means of supporting applicants who are identified as requiring additional assistance through the allocations process including placing bids on customer's behalf or identifying advocates acting on their behalf.

## **11. Notification of Decisions and the Right to a Statutory Review of a Decision**

Applicants for housing have the following rights in law. The right to:

- Obtain free advice and assistance about making an application for housing;
- Request general information about what preference is likely to be given and whether appropriate housing to meet their need is likely to become available;
- Be notified in writing if preference will not be given because of unacceptable behavior;

- Request that Northumberland County Council is informed of the facts of the case that are being taken into account in deciding to allocate housing; and
- To be informed of the reasons for any decision.

Northumberland Homefinder will allow a review of any decision made under this policy. Applicants will be provided with one right of review which must be made within 21 days of receiving notification of the original decision.

A review will be considered by an Officer who was not involved in the original decision and who is more senior than the original decision maker.

Where the applicant remains dissatisfied, the decision can be challenged through the complaints procedure of the organisation that made the original decision.

## **12. Monitoring**

There will be a process in place to monitor various aspects of the scheme within Northumberland County Council. This will be to ensure that the scheme is operating in the most effective way and that any issues are identified and addressed as early as possible.

## **13. Policy Review**

The Northumberland Homefinder Allocations policy will be reviewed on an annual basis. Any changes to the Common Allocation Policy will only be implemented following consultation with partners and Elected Members.

## **Part 2 Applying to join Northumberland Homefinder**

### **14. Common Housing Register**

Northumberland County Council will operate a single housing register on behalf of itself and its partners. This means that applicants only need to complete one application form to join the scheme and access the properties that are made available by housing providers participating in the scheme.

### **15. Who can apply**

All applications to join the Housing Register will be considered, including existing council and other housing provider tenants, provided that the application has been made in accordance with this scheme and in accordance with Section 166(3) of the 1996 Act.

The Register is open to anyone aged 16 or over, unless they are specifically ineligible. Some Registered Providers (RPs) due to their internal policies on minimum age of tenants may be unwilling to consider applicants under the age of 18; this will be clearly labelled on property adverts.

Registration does not bind the Council or any of its partners to offer the applicant a particular property or any property at all.

To be registered with the scheme a Homefinder application form must be completed.

### **16. Applicants not eligible for housing or nomination**

People are eligible only if they meet the requirements of section 160ZA of the Housing Act 1996 (and any subsequent legislation), which sets out the immigration status of people who have come to the United Kingdom from abroad.

- Applications from the following groups cannot join the housing register;
- People who are subject to immigration control unless they have refugee status; or they have exceptional or indefinite leave to remain; or they are the subject of a sponsorship undertaking; have been in the UK for over 5 years and the sponsor has died;
- Some EEA nationals that are not eligible for social housing; and
- Anyone not habitually resident in the Common Travel Area unless they are exempt.

EU nationals required to leave the UK by the UK government are also ineligible.



The Allocation of Housing and Homelessness (Eligibility) (England) Regulations 2006 also state who we can help.

An allocation from the local authority housing register is exempt from the Right to Rent legislation introduced by central government in 2016. Eligibility for social housing through Northumberland Homefinder is checked and verified in line with section 160ZA of the Housing Act 1996, as described above. This means our applicants are not disadvantaged by the fact that the Right to Rent legislation does not apply to them.

### **17. Applicants who do not qualify for housing**

Everyone who is eligible for social housing will qualify to join the Northumberland Homefinder housing register except applicants (or households) who fall into one of the groups below. The Localism Act 2011 (s.160ZA (6) and (7)) enables the council to disqualify the following groups:

- The applicant will not qualify to join the register if we are satisfied that the applicant or a member of their household who will live with them has been guilty of unacceptable behaviour that is serious enough to make the person unsuitable to be offered housing and, when we consider the application, we believe that the person remains unsuitable to be offered housing because of that behavior;
- There may be circumstances where an applicant's income or assets are such that you are able to meet your own housing needs in the private sector. In which case, applicants will not qualify for social housing. Applicants with an annual income of over £60,000 or assets worth £100,000 or over will not qualify for housing. This may be waived in exceptional circumstances;
- Applicants who have been assessed as not eligible for the Housing Register in accordance with the Eligibility Matrix at [Appendix 1](#).

The test is whether you or a member of your household was guilty of behaviour serious enough to make you unsuitable to be a tenant of the Council irrespective of who your landlord was at the time.

See [Appendix 2](#) for further information.

\* People who already have a secure or introductory tenancy or an assured tenancy of accommodation allocated by a Local Authority will be eligible for an allocation (subject to the assessment and references).

## **18. Non-qualifying applicants who wish to re-apply to join the Housing Register**

Ineligible or non-qualifying applicants will be advised of the reasons for the decision and, where applicable, of the requirements that need to be demonstrated before they can re-apply to the housing register or ask for the decision to be repealed.

The applicant will also be provided with an indicator of when a new application would be reconsidered. Applicants must demonstrate that their previous behaviour has improved and there are no further incidents of unacceptable behaviour, or that their circumstances have sufficiently changed as to warrant a “fresh” application.

Applicants who do not qualify because of household income are not eligible to re-apply unless a change of circumstances mean they now qualify.

## **19. Applications from employees / Members and their close relatives**

Registrations can be accepted from employees of Northumberland County Council and their partner organisations including Elected Members.

They will be subject to the rules in Schedule 1 of the Housing Act 1996 or subsequent regulations/regulatory framework. Applicants must disclose any such relationship at the time of applying. Failure to do so may result in the application being suspended or closed. Approval must be given prior to an offer of accommodation within the procedures of the relevant partner landlord.

## **20. Application form**

There is one application form to join the scheme. If an applicant chooses not to, or fails to complete the questions in the application to enable verification or an assessment of housing need, including the ability to afford to purchase, then the application may not be able to be registered and may be returned without being processed.

Registration or effective dates will not usually be recognised or backdated in cases where incomplete applications are returned.

It is the applicant's responsibility to ensure that an online application is submitted. Applications in an “online incomplete” status will not be progressed by the Homefinder team and effective or registration dates will not be backdated.

Online applications that remain incomplete for a period of 3 months or more may be deleted.

## **21. Joint applications**

Joint applications are encouraged and can be made so long as both parties are eligible.

Joint applicants can only make one application. In the case where two sole applicants wish to become joint applicants, one of the applications must be withdrawn and the other amended to reflect the joint circumstances.

## **22. Verification**

Applicants will be required to provide any reasonable information requested in connection with the application for housing at the point of application and at offer stage. This must be provided either as part of their application or upon reasonable request. Such information will be used to check the accuracy of the information provided and enable a full assessment of the application.

We may seek certain references from existing or previous landlords or information from relevant agencies including but not limited to Police, Probation, Social Services, Education and Health Authorities and Land Registry, to decide whether or not an applicant is eligible.

## **23. Changes in circumstances**

An applicant is required to advise the scheme of any changes in personal circumstances that affects their housing application or eligibility to remain on the housing register. Such changes may affect the priority band in which the applicant is placed and include but are not limited to members leaving the household, members joining the household, new addresses and changes in economic status.

Applicants will be required to complete a new application form and existing applications will usually be suspended whilst circumstances are re-assessed. The reassessment will result in the applicant being placed into the priority band which reflects their current housing need and circumstances.

Changes of circumstances that are identified at the point of offer will prompt a reassessment of the application for housing as above. Applications may be suspended while the reassessment is undertaken.

Applicants who have a change of address or change from a sole to joint application will have to complete a new form, for other changes contact the Homefinder team for advice

## **24. Keeping the Register up to date**

Applications will be reviewed regularly to ensure that records are accurate and that all applicants are still in need of housing and wish to remain on the register.

If an applicant fails to respond to the annual review the application will be cancelled. Consideration may only be given in exceptional circumstances to reinstating the original date of registration if a reapplication is made within 12 months of the original review date.

A housing application will be cancelled where the applicant:

- Accepts a sole or joint tenancy of a council, registered provider, private landlord or housing association property offered to them through Northumberland Homefinder;
- Becomes a joint tenant with an existing tenant;
- Is assigned a tenancy;
- Is granted a new tenancy on succession; or
- Becomes a homeowner.

## **25. Giving false information or deliberately withholding information**

It is an offence for anyone applying for housing to knowingly or recklessly give false information relating to:

- Their application for housing;
- Subsequent review information;
- Other updating mechanisms e.g. change of circumstances; or
- Knowingly withhold information which has been reasonably requested.

Appropriate action may be taken against any applicant who knowingly provides false information or as a result of a false statement provided by a person acting at the tenant's instigation. This could include prosecution and/or taking action to recover possession of the property allocated.

## **Part 3 Assessing Housing Need**

### **26. Reasonable preference**

All applicants will be placed in the appropriate Housing Needs Band based on an assessment of their needs. This will ensure that the Council and the Partner Organisations (Registered Providers) let homes to those in the highest assessed need and ensure that they meet their legal obligations. The scheme may award reasonable preference to applicants who meet the requirements as defined by statutory requirements and the relevant Code of Guidance on allocations.

Northumberland Homefinder defines their reasonable preference bands as Band P, 1, 2 and 2R. The bands are categorised as:

- Priority Band P for those with an urgent and severe housing need;
- Band 1 for those who are in high housing need;
- Band 2 for those who are in medium housing need;
- Band 2R for those in reasonable preference categories but whose priority is reduced; and
- Band 3 for those who are adequately housed

### **27. Multiple needs and preference**

Where an applicant's housing needs falls into more than one reasonable preference category they will be awarded the priority that reflects the highest category of need. No additional priority will be awarded for multiple needs.

The law sets out five categories of applicants to whom the Housing Allocations Policy must give reasonable preference:

- Applicants who are homeless (within the meaning of Part 7 of the Housing Act 1996) or threatened with homelessness and have been assessed by the council as being owed the duty arising under s195(2) of the Housing Act 1996 ('the prevention duty'), and the council has not brought that duty to an end.
- Applicants who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by such authority under section 192(3).
- Applicants occupying unsanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions.
- Applicants who need to move on medical or welfare grounds (including grounds relating to a disability).

- Applicants who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

## **28. Local connection**

An applicant does not need to have a local connection with Northumberland to join the Northumberland Homefinder scheme; however, preference will be given to those with a local connection.

The applicant, their partner or a person who might reasonably be expected to reside with the applicant will be defined as having a local connection to Northumberland if they meet one or more of the following criteria:

- They are normally resident in Northumberland and have lived here for 6 out of the past 12 months or 3 out of the past 5 years;
- They are currently employed in Northumberland and the employment is not of a casual nature. Applicants will only be considered to have a local connection in these circumstances, if it is unreasonable to expect them to commute to their place of work from their existing home; or
- They have close family connection to Northumberland. A close family connection is defined as parent, non-dependent child, grandparent, or adult sibling who has lived in Northumberland continuously for the past five years.

Only in exceptional circumstances would the residence of relatives other than those listed above be taken to establish a local connection. The residence of dependent children in a different district from their parents would not be resident of their own choice and therefore would not establish a local connection with Northumberland.

## **29. Local connection (special circumstances)**

Where the council has a statutory duty to rehouse, local connection criteria may not be required; this is dependent upon the individual's circumstances.

There are special circumstances which the authority may consider to establish a local connection with Northumberland. This may be particularly relevant where the applicant has been in prison or hospital and his or her circumstances do not conform to the criteria above.

Where, for example, an applicant seeks to return to Northumberland where he or she was brought up or lived for a considerable length of time in the past, there may be grounds for considering that the applicant has a local connection with Northumberland because of special circumstances.

Northumberland Homefinder will need to exercise its discretion when considering whether special circumstances apply:

- The applicant is a person who is serving in the regular forces or has done so in the five years preceding their application for an allocation of housing accommodation;
- Is a bereaved spouse or civil partner of those serving in the regular forces where their spouse or partner's death is attributable (wholly or partly) to their service and the bereaved spouse or civil partner's entitlement to reside in Ministry of Defence accommodation then ceases; or
- Is a seriously injured, ill or disabled reservist (or former reservist) whose injury, illness or disability is attributable wholly or partly to their service.

An applicant who is assessed as being in a Reasonable Preference category but who has no local connection will usually be awarded Band 2R.

### **30. Band P Urgent and severe housing need**

Applicants with an urgent and severe housing need will usually be awarded Band P.

Band P applicants will be given priority for all advertised vacancies unless one of the following criteria applies:

- a) Local Lettings Policy;
- b) Rural allocations criteria;
- c) Specific allocations criteria;
- d) Section 106 is in place where additional criteria is required to be met; or
- e) Where a direct let is to be made due to management reasons. Where this is the case, the advert will clearly state the additional criteria that an applicant is required to meet.

Applicants awarded Band P must bid on all properties that would be considered to be a reasonable offer (e.g. of appropriate size and in an appropriate location). Band P applicants who have not bid on suitable properties, and are unable to offer a reasonable explanation as to why they have been unable to do so, will have their priority status withdrawn and their application re-assessed.

Band P urgent and severe housing need status can be awarded for up to three months, except for homeless priority households owed a full housing duty in which case it is four weeks after the date notification is given to the applicant.

This may be extended having regard to the specific circumstances of the applicant and availability of accommodation within that time scale to meet the needs of the household. Assisted bidding may be offered.

An extension of time-limited priority may be authorised where:

- The applicant has been active in expressing an interest in appropriate properties but no suitable accommodation has become available;
- They have not come top of the list for any specific properties for which they have expressed an interest
- Personal circumstances have prevented them being proactive e.g. after effects of threats of or actual violence or because of severe health reasons;
- The applicant could not reasonably be expected to understand what they were expected to do under the scheme; or
- The applicant was incapable of accessing the scheme, without advice and assistance and this was not available.

An extension of time-limited priority will not usually be authorised in any other circumstances.

### **31. Band P Armed Forces Personnel**

Applicants who fall into any of the categories below and who have been assessed as being in Band P (urgent housing need) will be awarded additional preference by means of backdating the effective date by one calendar month. For example, a qualifying applicant who is awarded Band P on 1st December 2018 will have their effective date backdated to 1st November 2018.

Applicants who will be awarded this additional preference will meet the following criteria:

- Be assessed as being in Band P
- And** meet any of the following criteria:
- Is serving in the regular forces and suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service;
  - Has formerly served in the regular forces (Veterans ;)
  - Has recently ceased, or will cease to be entitled, to reside in accommodation provided by the Ministry of Defence following the death of that person's spouse or civil partner who has served in the regular forces and whose death was attributable (wholly or partly) to that person's service; or
  - Is serving or has served in the reserve forces and is suffering from a serious injury, illness or disability which is attributable (wholly or partly) to the person's service.

### **32. Homeless priority and other statutory duty to rehouse**

To enable priority rehousing to applicants who are either already homeless or threatened with homelessness within 56 days the Homelessness and Housing



Options Service will carry out assessments that will determine which of the following duties are owed under Part VII of the Housing Act:

- Duty to prevent homelessness (s.195)
- Duty to relieve homelessness (s.189B(2))
- Main homelessness duty (s.193)

Homeless priority will be determined by a Homelessness and Housing Options Officer and where the council accepts a duty to provide secure accommodation, under the Housing Act 1996 s 193(2) and 195(2) or other statutory duties a time-limited priority of **28 days** applies.

Applicants who are awarded Band P because they are homeless must bid on all properties that would constitute a reasonable offer during that period. If no suitable properties have been available during this period, the award will be reviewed after a further four weeks.

Assisted bidding will be offered to all applicants to enable them to receive an early offer, acknowledging their choice of area and accommodation.

At the end of their time-limited priority and where they have not been successful in securing suitable accommodation, or suitable accommodation which meets their household's needs has not been advertised then one offer of suitable accommodation will be made, as a direct offer, which will be regarded as discharging the Council's duty under s 206(1) of the Housing Act 1996.

Applicants will be advised of the consequences of refusal and of their right to request a review of the suitability of the accommodation.

A refusal of accommodation considered as suitable offer may be deemed an unreasonable refusal and may lead to the duty being discharged under s 206(1) of the Housing Act 1996.

### **Discharge of Homelessness Duty to the Private Rented Sector**

The Localism Act allows Local Authorities to fully discharge their full housing duty by a 'private rented sector offer' (s193 (7AA)-(7AC) Housing Act 1996 as amended by s.148 (5)-(7) Localism Act 2011). This must be an offer of an Assured Shorthold Tenancy with a minimum fixed term of one year.

Applicants may not decline the offer as a final discharge, although they will retain the right to request a review of suitability whether or not they accept the offer.

Where homelessness duty is discharged to the Private Rented Sector, applicants who are subsequently given a section 21 notice to leave within two years of the offer being accepted, then, where the applicant is eligible for assistance and not intentionally homeless, the homelessness duty to secure further suitable accommodation is revived. The duty revives even if the applicant no longer has a priority need, but it only applies to the first incidence of homelessness within the two-year period.

Northumberland County Council will retain this ability to discharge their duty to the private rented sector as one of several options.

### **33. Priority Band Definitions**

Categories within the priority bands are defined in the sections below.

#### **Band P Categories**

##### **P1 Main homelessness duty (s.193)**

Households who are owed a full housing duty under section, 193(2) (in priority need and unintentionally homeless or 195(2) (in priority need and unintentionally threatened with homelessness) (or under section 65(2) or 68(2) of the Housing Act 1985) of the Housing Act 1996. One or more of the following criteria will apply:

- A person who we have a legal responsibility to house. For example, they are accepted as homeless and in priority need, assessed as eligible for assistance, and qualify to join the scheme;
- If a person has been assessed as homeless and receives an offer as a result of a bid that they have placed, and it is suitable to their needs, the local authority will have fulfilled their legal duty. The applicant will be advised of this in writing. If the applicant does not accept the offer their housing need will be reassessed and they will be placed in another band based on this assessment;
- If the applicant is placed in temporary or emergency accommodation provided by the council's Homeless and Housing Options Team, we may make a single suitable offer of accommodation. This will be because (a) the applicant has not expressed interest in available properties, or (b) demand is being placed on temporary or emergency accommodation;
- Refusing a suitable offer will result in the applicant's housing need being reassessed and they will be placed in the relevant band. They would normally have to leave the temporary accommodation but may bid through the general scheme;

- In some circumstances the applicant may be placed in Band P if the temporary accommodation they are placed in is urgently required for other homeless families;
- If the applicant is not living in temporary or emergency accommodation, we reserve the right to make a specific offer to them if there are good housing management reasons for doing so; or
- If an applicant has been accepted as homeless, and the authority has a s.193 duty to house them but they do not qualify to join the scheme they will be made one specific offer of suitable accommodation to discharge the duty.

### **P1.1 Duty to relieve homelessness (s.189B(2)) and applicant placed in temporary accommodation**

Any household placed in temporary accommodation under the relief duty who has been assessed as priority need, unintentionally homeless and who we would normally owe a main duty to can be placed in Band P for a period of 28 days.

After 28 days of being in this band, we may make a single suitable offer to discharge our legal duty. If the offer is not accepted their housing need will be reassessed and their application will be placed in another band based on the outcome of this assessment.

### **P2 Statutory Duty to Rehouse**

Where there is a Statutory Duty to house someone not specified below.

### **P3 Decants, Demolition and Regeneration**

Where the duty to house arises as a result of the requirement to decant. This includes council tenants, registered social landlords tenants, private tenants and owner occupiers living within the boundary of a defined regeneration area who are required to move.

In cases where there are more than one tenant decanted from the same scheme at the same time, or where there are multiple schemes in the same area that are affected, the date that notice to quit was given to residents and current tenancy length will be used to in order to differentiate between priority order.

### **P4 Compulsory Purchase Order**

Where the duty to house is because of a Compulsory Possession Order.

P5 People who need to move on medical, welfare or hardship grounds  
Including but not limited to:

- There is a severe long-term limiting illness, whether physical or mental, or permanent and substantial disability where an urgent and immediate move is

necessary because there is an immediate or substantial risk to life in their current home and adaptation is not practical or existing adaptations are no longer effective;

- Or it is impossible for the applicant to live in their current home and adaptation is not practical or existing adaptations are no longer effective;
- Witnesses of crime who are on witness protection and immediate or urgent re-housing is confirmed by the National Witness Mobility Scheme;
- The applicant is in hospital or residential care, awaiting discharge to a suitable home and the present home is unsafe or discharge is prevented by their housing situation;
- There is a strong likelihood of a child being accommodated by the local authority if rehousing is not made available and this is confirmed by a social care professional;
- There is a strong likelihood of admission to residential care of an applicant or member of his household if re-housing is not made available;
- A Children Act (2004) referral that requires an urgent and immediate move;
- Applicants with a diagnosed mental health condition and the applicant is living in conditions which are contributing to a critical deterioration in their mental health and there is a serious risk of committing suicide or harm to themselves or other people in their present accommodation;
- Prospective adoptive parents who need to move due to their current accommodation being unsuitable or who, as advised by Social Services, need to move to a different location to safeguard or promote the well-being of the child or children they have adopted or are planning to adopt. "Prospective" means those who have the support of Social Services and whose application has been approved; or
- People who are fostering children as part of a long-term arrangement and who need a larger home. This means those who have the support of Social Services and whose application has been approved

### **P6 Supported Housing Move On/Leaving Care**

Where an applicant is in Supported Housing, and has been for a sustained period of time, and has been assessed as ready for independent living and they are occupying a space that is required for another person in need of that support.

#### **Or**

Where a young person (up to the age of 21) is leaving care and being supported by Social Services or a recognised care or support professional to do so and an appropriate ongoing care or support service is in place.

For the purposes of this award "Supported Housing" does not include crash pad type accommodation or temporary accommodation. As the purpose of this award is to assist young people transition from care for the first time, it will not usually be given

to a young person who has already moved on from care.

### **P7 Statutory Overcrowding**

The household being statutorily overcrowded in their current home.

### **P8 Severe Disrepair**

The applicant is living in unsanitary, overcrowded, or unsatisfactory housing conditions by virtue of applicants living in accommodation judged to be prejudicial to health as defined by the Environmental Protection Act, or category 1 under the Housing Health and Safety Rating System Regulations, where it is agreed by the Council's Environmental Health Service that the most appropriate course of action is to rehouse the household and they are unable to afford to remedy the problem or they are vulnerable.

## **Band 1 Categories**

### **Band 1.1 Duty to prevent homelessness (s.195)**

If an applicant is assessed as being threatened with homelessness within 56 days Band 1 can be awarded for a period of 28 days.

During this period the application will be monitored on a weekly basis and amended accordingly if the applicant is not bidding on, or refusing properties that are suitable to their needs.

If the applicant is rehoused during this period then the homeless prevention duty will come to an end. If this applicant is not rehoused by the end of the 28 day period then the relief duty is triggered.

### **Band 1.2 Duty to relieve homelessness (s.189B(2))**

If an applicant is assessed as being homeless they can be awarded Band 1 for a **period of 56 days**. To give additional preference the Band effective date can be adjusted by 2 weeks.

During this period the application will be monitored on a weekly basis and amended accordingly if the applicant is not bidding on, or refusing properties that are suitable to their needs.

If rehoused during this period then the homeless relief duty ends. If the applicant is not rehoused by the end of the 56 day period then a s.184 decision has to be made.

### **B1.3 High medical/welfare need**

People who need to move on medical or welfare grounds because their quality of life

or health is seriously affected by the accommodation occupied.

The applicant or a member of the household or for whom the applicant provides care has a serious long term limiting illness or permanent and substantial disability where their quality of life or health is seriously affected by the accommodation occupied or by the place in which they live and re-housing will alleviate this situation but an immediate need to move not indicated.

An established medical need must be demonstrated such as mental illness or disorder, physical or learning disability, progressive or chronic medical condition. Examples include but are not limited to:

- Someone is housebound or cannot reasonably access the essential facilities in their home and adaptation to the home is not possible;
- There are serious concerns about safety for example through risk of falling due to difficulties with access and adaptation to the home is not possible;
- The current home does not reasonably allow essential health treatment to be carried out e.g. renal dialysis and adaptation to the home is not possible;
- Applicants with a diagnosed mental health condition living in conditions which are contributing to deterioration in their mental health where a move would prevent deterioration, relapse or exacerbation in their mental health; or
- Their quality of life is seriously affected by the accommodation occupied or by the place in which they live and re-housing will alleviate this situation but an immediate need to move not indicated.

Examples include but are not limited to applicants whose ability to live in the community is at risk without suitable accommodation, a secure base from which a care leaver or other vulnerable person can build a stable life or vulnerable people (with or without care and support needs) who could not be expected to find their own accommodation.

#### **B1.4 People living in Severe Overcrowded conditions**

The current household of the applicant is overcrowded and, according to the property eligibility criteria are 2 or more bedrooms short.

Or

The applicant has permanently resident child/children and currently occupies a bedroom with them and there is not another bedroom available to them, irrespective of how many bedrooms they are short of

Or

The applicant is a Transfer Applicant (i.e. tenants of Northumberland County Council, Bernicia, or Karbon Homes) who currently occupy 1 or 2 bedroom homes and who are at least 1 bedroom short according to the property eligibility criteria.

This award will not apply to applicants who are 1 bedroom short in homes that have 3 bedrooms or more.

### **B1.5 People served notice to quit tied accommodation**

People occupying tied accommodation that have been served with a valid notice to quit. This includes, but not limited to people living in accommodation provided as a condition of employment such as those in:

- HM Forces;
- Licensed premises;
- Caretakers or wardens; or
- Farm workers accommodation.

### **B1.6 Under occupation**

If an applicant is occupying social housing within Northumberland, provided by the Council or a Registered Provider and is under occupying their home by at least two bedrooms, and they are prepared to take a smaller home that they are eligible for under the Northumberland Homefinder letting criteria. Priority may be awarded provided that:

- A move would create a vacancy that meets an identified need;
- The rent account is clear and there are no outstanding housing related debts; or
- There have been no breaches of tenancy, including ongoing investigations for anti-social behaviour.

It should be noted that an under occupation award is not a foregone conclusion. Where there is little or no demand for the property type that will be made available landlords retain the right not to award band 1.

Examples include but are not limited to:

- Properties that have been adapted to meet the specific need of the current tenant;
- Homes for which there has been little or no demand from applicants in housing needs; and
- Due consideration will be given to the reasons for applying for a move (e.g. affordability).

### **B1.7 People living in disrepair/lacking facilities, lacking (not sharing) a bathroom, kitchen or inside toilet.**

Where the council's Environmental Health Service has deemed that the applicant is living in unsanitary or overcrowded or unsatisfactory housing conditions:

- And that the most appropriate course of action is to rehouse the household;
- And they are unable to afford to remedy the problem; or

- They are vulnerable but there is not an urgent or immediate need to move.

### **B1.8 People who need to avoid hardship**

Band 1 will only be awarded where the care receiver has no other means of support in the locality, and who without the continued support of the caregiver (the care receiver) would be eligible to be awarded Band 1 status.

Applicants who are required to be able to access specialised medical treatment, or to take up particular education, employment or training within a particular locality, without which would affect the health and quality of life of the applicant.

Applicants who are suffering from the effects of anti-social behaviour that is severely affecting their health and quality of life.

A specific area will be identified when a priority is awarded. However the priority may be withdrawn if the applicant is successful in their application for a property that would mean they were not able to fulfill the requirements for which the priority was awarded.

### **B1.9 Split Families**

Families with permanently resident children who would usually be expected to reside as a single family unit but who through no fault of their own, are unable to live together and there is no other accommodation available to them. This award can only be given to families with resident children aged 16 years and under.

## **Band 2 Categories**

### **B2.1 People who are intentionally homeless**

Applicants who are homeless or threatened with homelessness as defined under Part VII of the Housing Act 1996, are not owed a duty to secure accommodation by the Council and who are determined to be intentionally homeless. This includes households that are intentionally homeless, in priority need, and are occupying accommodation secured under section 190(2) of the Housing Act 1996.

### **B2.2 Medium medical or welfare grounds**

The applicant or a member of the household has a medical or welfare need (as defined in Band 1 Medical/Welfare) that could be eased or improved by re- housing but the severity is not so great as to merit placement in Band 1.

Short term or minor conditions will not be regarded as need for the purposes of this priority band.



### **B2.3 Sharing Facilities**

The applicant is sharing kitchen, toilet and bathing facilities with someone not part of the applicant's household.

This award would not usually be made to the following applicants:

- Applicants living with family members such as parents, siblings or grandparents;
- Applicants whose relationship has broken down and they remain in the former home; or
- Applicants who could otherwise resolve their own housing need.

### **B2.4 Overcrowding**

The current household of the applicant is overcrowded and, according to the property eligibility criteria are 1 bedroom short.

### **B2.5 Hardship**

The applicant or a member of the household has a hardship need (as defined in Band 1 Medium Hardship) that could be eased or improved by re-housing but the severity is not so great as to merit placement in Band 1.

A financial assessment has been undertaken by a recognised agency, for example:

- Citizens Advice;
- Money Advice Trust;
- National DebtLine; or
- An independent and qualified agency associated the applicants creditors) and the action plan indicates that rehousing is necessary in order to alleviate the financial hardship.

### **B2.6 Key Workers**

The applicant or a member of the household is a key worker who needs to move to a part of Northumberland to be nearer employment provided within the County boundaries.

A key worker is someone whose employment is vital to meet the objective of sustaining local communities. A key worker qualifies as needing to move if their employer can demonstrate that they are unable to recruit someone from the locality or someone who cannot reasonably travel to their place of work.

The Council will consider typical travel to work patterns and individual circumstances when assessing travel. Key workers who can afford to secure alternative accommodation will normally not have a need for social rented housing but will be assessed for low cost or shared ownership options or key worker housing schemes.

### **Band 2R Reduced Priority**

Band 2R will be awarded to applicants who would otherwise be in Bands P, 1 or 2 but priority is reduced because of any of the reasons below:

- They have no connection to Northumberland, as detailed in Section 28;
- They are a property owner,
- They have a financial interest in a property,
- They have transferred ownership of a property;
- They have an ongoing right to occupy a property;
- They have criminal convictions or a history of anti-social behaviour but are eligible for the Housing Register because they have been assessed as low risk;
- They are a transfer applicant and their current home is in an unacceptable condition to the extent that it could not be let immediately to a new tenant;
- The applicant has deliberately worsened their living conditions. (See Section 35)
- They, or a member of their household, has significant financial resources and would be able to secure alternative accommodation at market rent.  
Financial resources include equity in a property, savings and income.

Any lump sum received by a member of the Armed Forces as compensation for an injury or disability sustained on active service will not be taken into account.

### **Band 3 Categories**

#### **B3 Households who are adequately housed and do not have a housing need**

Applications will be placed in Band 3 if they do not meet any of the criteria for Priority Band P, Band 1, Band 2 and Band 2R.

#### **34. Financial Resources**

Property owners who are adequately housed or with the resources to obtain suitable accommodation would normally not attract any preference under this scheme.

Property owners who have been assessed as being in housing need will usually be placed into band 2R.

However the applicant's household needs relating to vulnerability due to age or disability will be taken into account and applicants will be placed in the band that reflects their current housing needs where they cannot afford to buy on the open market or their age or disability requires specific accommodation.

If an applicant chooses not to, or fails to complete the questions in the application to

enable an assessment of the ability to afford to purchase, then the application cannot be registered because it is incomplete.

If the applicant can demonstrate a good reason for not completing the financial questions, then the application will be registered and assessed in line with the applicants housing need.

### **35. Applicants who have deliberately worsened their living conditions**

Where there is evidence that an applicant has deliberately worsened their circumstances, within the last 12 months, in order to qualify for a higher band under the scheme, their priority will be reduced or no additional priority will be given.

Where an applicant has reasonable preference but it is considered that they have worsened their housing conditions they will be placed in Band 2R.

If the applicant can demonstrate 'good reason' the restriction will be removed.

## **Part 4 Property Eligibility**

### **36. Bedroom Calculations**

In assessing the size and type of property that an applicant is eligible to apply for we will usually allocate one bedroom each to:

- A person aged 16 or over
- A couple of either sex
- A pair of same sex children under 16
- A pair of opposite sex children under 10
- Any additional child
- A non-resident carer providing 24/7 care

The aspiration of Northumberland Homefinder in letting homes will be to match household requirements with property type. Landlords may choose to make their properties available to a wider audience however, where that is the case, they may specify that preference will be given first and foremost to households who meet the maximum bedroom capacity.

Some properties will be designated for a particular use, for example for older persons, for those with medical needs or for applicants who are disabled. Where this is the case, the eligibility criteria will be clearly stated in the advert.

On some occasions there may be a need to allocated disabled adapted properties outside of the policy to an applicant whose needs can be met by the available property. Where this is the case, it will be clearly stated in the advert and it will be processed as a direct let.

There may be occasions where households require larger properties for example to accommodate live in carers, equipment or other facilities or where there is a medical need for an additional bedroom.

Single person households who are identified as being vulnerable, and who need to be rehoused in an area where there is a lack of one bedroom properties may be allowed to apply for two bedroom flats.

Sheltered housing is normally allocated to people aged over 60 and then to people who are assessed as needing sheltered accommodation. Eligible single people may be able to bid for larger sheltered housing flats but couples will be given preference.

Some properties can be designated for people with disabilities or needs requiring level access accommodation, however if there is no demand they may be let to general needs applicants.

### **37. Access to Children**

Bedroom eligibility of applicants who have staying/overnight access to children aged 16 and under will be assessed on the basis that there is one additional child in the household, irrespective of the number of children. Supporting evidence may be requested from other agencies or the court depending on the individual circumstances. Applicants who have access to children will be eligible for a maximum of one additional bedroom. (Where the household makeup is such that no additional bedroom is required none will be awarded).

### **38. Definitions of a Household**

Northumberland Homefinder defines households as follows:

- A child is a person under 16;
- A couple is two people living together as spouses or partners of either sex;
- A single parent household is entitled to the same size accommodation as a two parent household with the same number of children;
- Households that include a pregnant woman will have their property eligibility criteria assessed on the birth of the child unless the bedroom calculations would not be affected by the sex of the unborn child. Where the bedroom calculations would be affected by the sex of the unborn child, bedroom calculations will be reassessed once the sex of the newborn is confirmed; or

- An older person can be defined as someone who is “of pensionable age” or in some cases may need to be defined as 60 years of age or over. For couples, only one of the partners has to meet the age requirement.

Households with a disability refers to households where at least one of the members has a medical or mobility need that they require an adapted property to meet those needs.

### **39. Adapted properties for people with disabilities**

Adapted properties are homes that have been designed for or significantly adapted to meet the needs of people with physical or sensory disabilities.

Adapted properties will be advertised as part of the scheme to ensure that applicants assessed as needing this type of accommodation are given the widest possible choice.

Applicants with an assessed need for adapted accommodation will be given priority for adapted accommodation over others in the same Priority Band without that need and the property advert will make this clear. The advert will describe the accessible features as far as they are known to the landlord.

In selecting an applicant for an adapted property from the shortlist of qualifying applicants, the full circumstances of each case will be considered when deciding who will be offered the property.

In some circumstances priority may be given outside of band or date order, if the vacancy is particularly suitable for the needs of an applicant.

## **Part 5 Allocations**

### **40. Advertising Properties**

Generally speaking, all available properties of the Homefinder scheme partners will be advertised on a weekly basis.

Northumberland Homefinder will also advertise non-partner Registered Providers properties, private landlord properties and properties that are available for shared ownership. Landlords may apply their own policies when allocating their properties.

Properties will be advertised in the following places:

- [www.northumberlandhomefinder.org.uk](http://www.northumberlandhomefinder.org.uk)
- [www.northumberland.gov.uk](http://www.northumberland.gov.uk)
- All partner offices
- Northumberland County Council Information Centres
- In some public buildings such as libraries and Citizens Advice Bureaux

### **41. Placing a bid**

In order to be considered for a property, applicants are required to express an interest for any properties they wish to be considered for. This process is known as bidding. Applicants will only be able to bid for properties that they are eligible for.

Applicants can place bids at any time during the advertising cycle via the following outlets:

- [www.northumberlandhomefinder.org.uk](http://www.northumberlandhomefinder.org.uk)
- An automated telephone number 0845 270 1997
- In person or by telephone at any partner office
- Through an advocate or support worker
- Through automated means in cases requiring a high level of support
- By Email
- At any Northumberland County Council Information Centre

Bids can only be placed during the lettings cycle. Bids received outside the lettings cycle will not be considered in any circumstances.

Applicants can place up to three bids per advertising cycle.

## **42. Short-Listing and Selection**

At the end of lettings cycle bidders will be short listed in order of:

- Applicants with a ground floor need where the property is restricted to bidders who have a ground floor need;
- Band (P being the highest band, 3 being the lowest);
- Effective Date; and
- Registration Date.

Where additional qualifying criteria have been advised shortlists will be adjusted accordingly with the stated additional criteria, including but not limited to; those meeting the property's maximum capacity, connection to a parish or age, being the primary shortlisting criteria, followed by band and effective/registration date.

Landlords will be entitled to carry out an affordability assessment to ensure that the tenancy will be sustainable. Where the Landlord feels that this is not the case they will be able to withdraw the offer of accommodation.

If an applicant is ranked first for more than one property the applicant will be contacted to decide which property they prefer. If the applicant cannot be contacted within one working day to determine this choice the offer will usually be made on the first property bid on. The applicant is not able to put on 'hold' more than 1 property at any given time.

**Shortlist position does not guarantee an offer.**

### **42.1 Effective Dates**

It is recognised that an applicant's circumstances may change during the life cycle of their application. If at any time an applicant moves up a band (for example from 3 to 2) they will be awarded an effective date that is based on the date that the new increased band was awarded.

Applicants moving down to a band other than Band 3 will retain their existing effective date.

Applicants moving down to Band 3 will be awarded an effective date that is the same as their original registration date.

This will ensure that offers are made to applicants who have been in the most housing need for the longest time.

Applicants registered prior to the effective date of Issue 4 of the policy (10 June

2013) will retain their existing effective date until their circumstances change and a reassessment is required in which case the above will apply.

#### **43. Verification of circumstances on offer**

When an applicant has been shortlisted or selected for a property the landlord's representative will confirm present circumstances and make the necessary reference checks. This may involve a home visit. Landlords will usually undertake additional eligibility checks at this point, including current landlord references where applicable.

Applicants will need to ensure that any current rent arrears are reduced (or cleared) to a level agreed by both the current and/or prospective landlord.

Landlords have the right to reject a nomination, or refuse to make an offer in accordance with the eligibility criteria as detailed in [Appendix 2](#) or as above. In this instance the application will need to be subject to a reassessment in line with the requirements of the policy. Applications may be suspended pending further investigation or assessment.

#### **44. Viewings**

Applicants will be invited to view a property that they have been offered at a mutually agreeable time.

#### **45. Time allowed for accepting an offer**

Applicants will be allowed up to 1 working day after viewing a property to make a decision about accepting the property. If there are justified reasons, for example due to a vulnerability or support need, the landlord may decide to allow a longer decision time. All individual and household circumstances will be taken into account when making this decision.

#### **46. Suitable accommodation/reasonable offers**

An offer will be regarded as suitable where:

- The accommodation is affordable having regard to the financial resources available to the applicant and the cost of the accommodation as determined under Homelessness (Suitability of accommodation) Order 1996;
- The accommodation is of an appropriate size and type to meet the reasonable requirements of the household and satisfies the need for special features to meet any limiting illness or disability that exist within the household;
- Its location does not deny reasonable access to receive support due to vulnerability or disability or a specialist medical or health facility where a member of the household has a severe long-term limiting illness or permanent or substantial disability where their quality of life or health would otherwise be severely affected;



- Its location does not deny reasonable access to a specialist educational establishment for a member of the household who has particular special educational needs which would otherwise result in a severe deterioration in that person's wellbeing;
- Its location is not in close proximity to a perpetrator who has threatened or caused violence or domestic violence to a household member whose life or safety would otherwise be threatened;
- Its location is not in close proximity to a perpetrator who has caused intimidation or harassment to a household (e.g. due to race, nationality, sexuality, gender, religion or belief, age or disability);
- Its location takes account of access to employment and educational requirements of the household in addition to family support networks; and established links to schools; doctors, social workers and other key services and support essential to the wellbeing of the household.

#### **47. Refusing offers**

Applicants who refuse 3 or more reasonable offers will have their application reviewed. Landlords will advise applicants at the time of their refusal if they consider it to be unreasonable and will explain why. Where 3 unreasonable refusals are recorded the application will be suspended pending a review.

Applicants will be advised in writing of the outcome of the reassessment. If 3 refusals are found to be unreasonable the application will usually be closed and applicants will not usually be eligible to reapply for 12 months from the date that the application is closed. Applicants have the right to appeal any decision as per section 11 of this policy.

Examples of unreasonable refusals are, but not limited to:

- The area being unsafe or unsuitable if the applicant could reasonably be expected to have previous knowledge of the area (for example because they live in the vicinity);
- Bedrooms too small/too large if they are of a standard size for the property type;
- The applicants can't afford to move;
- The applicant's circumstances have changed so the property is no longer suitable but they have not advised Homefinder of those changes;
- The applicant does not like the property décor;
- The condition of the property is not satisfactory but it has been deemed as so by the landlord;
- The applicant does not respond to contact regarding the offer;
- The garden is unsuitable if it is of a standard size for the property type;
- The neighbours (unless there is a risk of serious harm);

- The property is excluded from right to buy;
- The property is not close enough to shops/school/work if the applicant could reasonably be expected to have previous knowledge of the area or made adequate enquiries before applying;
- The applicant cannot afford the rent if the rent was stated in the advert;
- The property is too far from family/friends if the applicant could reasonably be expected to have previous knowledge of the area or made adequate enquiries before applying;
- The applicant has arrears or housing debt which precludes them from an offer and they were aware of this at the time of their application for the property;
- Pets not being allowed if the restriction was stated in the advert;
- The applicant requires upper/lower floor and the information about the location of the property is provided in the advert; or
- Location if previous offers in the same area have been refused.

Particularly where a high level of priority (for example Band P or Band 1) is awarded applicants are expected to bid regularly and realistically as this should lead to housing.

It is not expected that applicants will refrain from submitting bids or refuse offers in the hope of obtaining the ideal property.

Therefore, where an applicant in a high band is not bidding or is refusing offers then the Council may fulfil its obligation to the applicant by making a direct offer, enforcing an offer of a property for which the applicant has successfully bid, or by reviewing and reducing the priority of the applicant as outlined above.

#### **48. Restricting choice**

Some applicants may be restricted in terms of the properties they may bid for. This could be to protect the applicant, the local community or in cases where a priority band is awarded only to facilitate a move to a specific locale.

Applicants subject to restricted choice will be advised of the areas and/or property types they may apply for. Should an application be made for properties outside of the specified area then landlords may refuse an offer on that basis.

On occasion, reasons for restricting the area that an applicant might apply for may not become apparent until the point of offer.

Where this occurs the landlord may refuse to make an offer however, they will advise the applicant of the reasons why and the applicant will then be advised of the areas that they may be considered for. Applications may be suspended if further enquiries

are required.

Applicants who are assessed as being high-risk offenders could have their choice of accommodation restricted making use of the multi-agency approach.

#### **49. Difficult to let properties**

If a property has been advertised and there have been no bids from suitable applicants the landlord may relax the property eligibility criteria in order to allow applicants with one bedroom requirement less than the property would usually allow. In cases of age designated properties, the age requirement might be reduced.

Where the same type of property in the same location has previously been advertised within a rolling 3 month period, it may be advertised with the reduced bedroom calculations immediately. In these cases the landlord would carry out an affordability assessment..

#### **50. Making direct offers without advertising – direct letting**

Under certain circumstances, it may be necessary to make a direct allocation of a property to an applicant. Those circumstances are:

- Where required in order to discharge of homeless duty;
- Where there are exceptional circumstances and/or where urgent and immediate housing is required;
- Where an emergency plan has been activated; or
- Where a management move is required and a similar property to that which would otherwise be made available will be allocated through Homefinder.

Direct lets must be approved by a senior officer and made through the CBL system.

If a reasonable offer of suitable accommodation is refused by the applicant, partners may reserve the right not to review whether a further direct allocation will be offered.

#### **51. Nominations to Registered Providers and Private Landlords**

The Registered Providers within Northumberland are expected to be participating members of the scheme, and must advertise their properties via Northumberland Homefinder in order to achieve their nomination quota.

Nominations made to Registered Providers and Private Landlords will comply with this Common Allocation Policy. Lets to applicants by private nominations that do not comply with the policy will not count as a nomination.

## **Appendix 1 - Eligibility**

The Allocation of Housing and Homelessness (Eligibility) Regulations 2006 explain how a person subject to immigration control (PSIC), and person not subject to immigration control (PNSIC), can be eligible for an allocation from a local authority.

### **Person subject to immigration control (PSIC)**

A person subject to immigration control (PSIC) is defined as a person who requires leave to enter or remain in the UK (whether or not such leave has been given).

Broadly speaking, this includes people from outside the European Economic Area (EEA) and EEA nationals who do not have the right to reside.

### **The following are eligible for accommodation:**

- Those granted refugee status (Class A). (Often granted as Leave to Remain for 5 years);
- Those granted exceptional leave to remain which is not subject to restrictions on recourse to public funds (Class B);
- Those with settled status (Class C) (indefinite leave to remain, residence) which is not subject to any limitation or condition, except:
  - a) those who do not pass the habitual residence test
  - b) those who arrived as sponsored immigrants subject to an undertaking and the undertaking or the arrival was less than five years ago unless the sponsor has died (in which case they have the same rights as other settled people);
- A person who has humanitarian protection granted under the Immigration Rules. (Class D);

Those granted limited leave to enter as a relevant Afghan citizen who are habitually resident in the Common Travel Area (CTA) (United Kingdom, the Channel Islands, the Isle of Man or the Republic of Ireland) (Class E);

- A person who has limited leave to enter or remain in the United Kingdom with no conditions as to recourse to public funds including:
  - Those granted leave to remain on the basis of family or private life in the UK. This may include being a family member of a British or settled person or of a child who has lived seven years in the UK, or those granted leave on the basis of long residence in the UK.
  - Under paragraph 276BE(1), which grants leave to the dependents of Afghan citizens covered by Class E above.

Paragraph 276DG which grants leave to remain to people who would normally get indefinite leave to remain but have not got it because they cannot pass the English/life in the UK tests or because of criminal offences.

- A person who has been granted a Destitution Domestic Violence concession from the UK Border Agency;

**Any person allocated accommodation by the Council prior to 31 January 2003 is not affected by these rules regardless of their immigration status.**

## **2. Person not subject to immigration control (PNSIC)**

The following do not need leave to enter or remain and so are not treated as Persons

Subject to Immigration Control, however they may not be eligible for allocation of Accommodation:

- British citizens who are not habitually resident in the UK, Channel Islands, the Isle of Man or the Republic of Ireland. (CTA, Common Travel Area).
- Commonwealth Citizens with the right of abode who are not habitually resident in the UK, Channel Islands, the Isle of Man or the Republic of Ireland
- EEA nationals whose only right to reside in the UK is derived from their status as a jobseeker or the family member of a jobseeker;
- Since 8 November 2012, those whose only right to reside is the initial right to reside for a period not exceeding three months under Regulation 13 of the EEA regulations.
- Those whose only right to reside is as the parent of a UK citizen child who has no other rights to reside in the UK. This is given to the sole carer/s of a UK citizen child who would otherwise have to leave the UK and is granted under regulation 15A (4A) of the EEA regulations as amended on 8 November 2012. (However they could be eligible if applied before 8/11/2012).

## **3. Person not subject to immigration control (PNSIC) cont'd**

The following people do not need to pass the habitual residence test and are eligible for accommodation:

- EEA workers\*;
- EEA self-employed persons;
- Workers from Croatia who are working under the authorisation scheme during the first twelve months of their employment;
- A family member of one of the above groups\*;

A person who has a permanent right to reside in the UK because they are:

- An EEA worker or a self-employed person who has ceased economic activity. This will arise where someone has reached retirement age or (for workers only) taken early retirement and they have lived in the UK continuously for

more than three years prior to termination and they were economically active for the 12 months leading up to the termination.

- An EEA worker or self-employed person who has stopped work as a result of permanent incapacity and either he resided in the UK continuously for more than two years prior to the termination, or the incapacity arose from an accident at work or occupational disease which entitled him to a pension payable in the UK;
- A family member of a worker or self-employed person who has ceased Activity;
- An EEA national has lived continuously in the UK for three years but is now economically active in another EEA state, but has retained a place of residence in the UK which s/he returns to at least once a week;
- The family member of a worker or self-employed EEA national, where the EEA national has died, the family member was resident with them before their death, and either they had worked in the UK continuously for the two years prior to death, or their death was the result of an accident at work or occupational disease;
- A person who is in the UK after deportation, expulsion or removal from another country is exempt from this requirement. There are also occasional exemptions relating to those fleeing civil conflicts.

## **5. Parents with care of an EEA child**

Any EEA citizen – including a child – has the right to live in any EEA member state.

In order for a child to exercise that right it follows that their parent or (carer) must also be able to live there, even if that parent is not himself/herself an EEA national. If the child is an EEA national (not a UK citizen) then the parent/carer is not entitled to housing or benefits, since they are required to have sufficient resources for the child 'not to become a burden on the public finances of the host Member State'.

**An EEA national may lose worker status whilst being registered on Northumberland Homefinder. Eligibility checks will be carried out before an offer of property is made.**

**Changes in Housing Benefit rules mean that not all applicants will be awarded benefit even if eligible for accommodation. If an applicant does not have the ability to make rental payments they will not be offered a property.**

## **6. EEA Worker and Housing Benefit**

Not all EEA workers will be awarded Housing Benefit, therefore ability to meet rental costs will be taken into account before an offer of property is made.

What is Habitual Residency and the Habitual Residency Test (HRT)?

There is no comprehensive definition of the term 'habitual residence', however there are two elements to the phrase 'habitual residence':

- 'Residence': the person must be actually resident – mere intention to live here is not sufficient nor is mere presence;
- 'Habitual': there must be a degree of permanence about the residence - it implies a settled state in which the person is making their home here.

## **7. Gaining habitual residence**

A person who leaves another country with the intention to settle in the UK does not become habitually resident immediately on arrival. Instead there are two main requirements:

- Residence must be for an 'appreciable period of time';
- There must be an intention to settle in the UK.

When deciding whether a person is habitually resident, consideration will be given to all the facts of each case including the following:

- The test focuses on the fact and nature of residence and not the legal right of abode;
- A person who is not resident in this country at all cannot be habitually resident;
- Residence is a more settled state than mere physical presence in a country. To be resident a person must be seen to be making a home. It need not be the only home or a permanent home but it must be a genuine home for the time being. For example a short stay visitor or a person receiving short term medical treatment is not resident;
- It is a question of fact whether a person who has established residence in a country has also become habitually resident; this must be decided by reference to all the circumstances of the particular case;
- The most important factors for habitual residence are the length, continuity and general nature of actual residence;
- The practicality of a person's arrangements for residence is a necessary part of determining whether it can be described as settled and habitual;
- Established habitual residents of this country who have periods of temporary or occasional absence of long or short duration may still be habitually resident during such absences.

## **Losing habitual residence**

Habitual residence can be lost in a single day, for example if someone leaves the UK with the intention to settle long-term in another country.

## **Temporary absence and returning residents**

Once habitual residence has been established the following points apply about temporary absence:

- For a UK or EEA national it resumes immediately on return from work in another EEA member state; and
- In all cases it resumes immediately on return from a single short absence (e.g. a holiday).

In deciding whether habitual residence is regained after a longer absence or after a series of absences, a decision will depend on the circumstances in which the person left and returned to the UK; their intentions concerning the absence (was it intended to be temporary); and any continuing links with the UK.

## **The Habitual Residency Test**

### **1. Applicants returning to the UK**

If the applicant is returning to the UK after a period spent abroad, if it can be established that the applicant was previously habitually resident in the UK and is returning to resume their former period of habitual residence, then they are immediately habitually resident. For example someone returning from working abroad/extended visit may regain their Habitual Residency immediately.

We will need to establish and verify:

- When the applicant left the UK / (CTA - Common Travel Area)?
- How long did the applicant live in the UK before leaving?
- Why did the applicant leave the UK?
- How long did the applicant intend to remain abroad?
- Why did the applicant return?
- Did the applicant's partner and children, if any, also leave the UK?
- Did the applicant keep accommodation in the UK?
- If the applicant owned property, was it let, and was the lease timed to coincide with the applicant's return to the UK?
- What links did the applicant keep with the UK?
- Have there been other brief absences? If yes, obtain details;
- Why has the applicant returned to the UK?;
- If the applicant is returning for another reason then we need to establish their reasons as detailed below.

### **2. If the applicant has arrived in the UK within the previous two years and is not resuming a period of habitual residence**

We need to consider their reasons for coming or returning to the UK



a. If the applicant states they have work and has a genuine offer of permanent work in the UK full or part time this would give them habitual residence status. We will need to establish and verify:

- How many hours do/will they work?
- Is the work short term employment, e.g. au pair, seasonal work?
- Is the applicant on a short term contract with a current employer?
- Has the applicant had a succession of casual or short term jobs either in the UK or the previous country? Be aware that a history of working in short term jobs does not always mean an applicant is not habitually resident
- What is the name and address of the employer – are they well known for employing casual labour?
- Has the applicant worked in the UK previously? If so:
  - how long ago
  - for what period, either casual or short term
- Has the applicant work prospects?  
If the applicant has come to the UK to seek work:
  - Has a job been arranged?
  - Who has the job been arranged with?
  - If a job has not been secured, have enquiries been made about a job?
  - Who were the enquiries made with?
  - Does the applicant have qualifications to match their job requirements?
  - Does the applicant, in your opinion, have realistic prospects of finding Work?
  - Are prospects of finding work in the UK any better than in the country they have left?

### **b. Joining Family or Friends**

If the applicant has come to the UK to join or rejoin family or friends establish and Verify:

- Has the applicant sold or given up any property abroad?
- Has the applicant bought or rented accommodation or are they staying with friends?
- Is their move to the UK permanent?

### **c. Applicant's Plans**

The fact that a person may intend to live in the UK for the foreseeable future does not, of itself, mean that habitual residence has been established. However, the applicant's intentions along with other factors, for example the purchase of a home in the UK and the disposal of property abroad may indicate that the applicant is

habitually resident in the UK. An applicant who intends to reside in the UK for only a short period, for example on holiday, to visit friends or for medical treatment, is unlikely to be habitually resident in the UK.

- If the applicant plans to remain in the UK, is their stated plan consistent with their actions?
- Were any arrangements made for employment and accommodation before the applicant arrived in the UK?
- Did they buy a one-way ticket?
- Did they bring all their belongings with them?
- Is there any evidence of links with the UK, e.g. membership of clubs?

#### **d. Length of Residence in another Country**

It is possible that a person may own a property abroad but still be habitually resident in the UK. A person who has a home or close family in another country would normally retain habitual residence in that country. A person who has previously lived in several different countries but has now moved permanently to the UK may be habitually resident here.

We will need to establish and verify the length and continuity of an applicant's residence in another country:

- How long did the applicant live in the previous country?
- Have they lived in the UK before, if so for how long?
- Are there any remaining ties with their former country of residence?
- Has the applicant stayed in different countries outside the UK?

#### **e. Centre of Interest**

An applicant is likely to be habitually resident in the CTA, despite spending time abroad, if their centre of interest is located in the CTA.

People who maintain their centre of interest in the UK, for example a home, a job, friends, membership of clubs, are likely to be habitually resident in the UK. People who have retained their centre of interest in another country and have no particular ties here are unlikely to be habitually resident in the UK. We will need to establish and verify:

The centre of interest:

- Home
- family ties
- club memberships
- finance accounts

If the centre of interest appears to be in the CTA but the applicant has a home abroad, consider the applicant's intentions regarding that property.

In certain cultures, e.g. the Asian culture, it is quite common for a person to have property abroad which they do not intend to sell, even if they have lived in the CTA for many years and do not intend to leave. This does not mean that an applicant's centre of interest is anywhere but in the CTA.

Misc.

### **What happens if the applicant is eligible but members of the household are Ineligible?**

If an applicant is eligible but members of their household are ineligible, the ineligible persons' must still be taken into account for rehousing purposes i.e. property size and type.

However band status A, B and C cannot be given if the reason for the band status is solely reliant on the ineligible members housing need.

If eligible members of the household have a housing need which warrants Band P, 1 or 2, then the application should be placed within the appropriate band.

#### **Definitions**

**1. British Citizen  
(Common travel area)**

**UK  
Isle of Man**

**Channel Islands  
Republic of Ireland**

#### **2. EEA Citizen**

**Austria  
Belgium  
Denmark  
Finland  
France  
Germany  
Greece  
Iceland  
Ireland  
Czech Republic  
Estonia  
Hungary  
Latvia  
Bulgaria  
Croatia**

**Italy  
Liechtenstein  
Luxembourg  
Netherlands  
Norway  
Portugal  
Spain  
Sweden  
UK  
Lithuania  
Poland  
Slovakia  
Slovenia  
Romania**

#### **3. Commonwealth**

**Antigua and Barbuda  
Australia  
The Bahamas**

**Nauru  
New Zealand  
Nigeria**

**Lesotho  
UK  
United Republic of Tanzania**

Bangladesh	Pakistan	Malaysia
Barbados	Papua New Guinea	Malawi
Belize	Rwanda	Maldives
Botswana	St Kitts and Nevis	Malta
Brunei Darussalam	St Lucia	Mozambique
St Vincent & the Grenadines	Cameroon	Mauritius
Canada	Samoa	Namibia
Cyprus	Seychelles	Vanuatu
Dominica	Sierra Leone	Zambia
Fiji Islands	Singapore	
The Gambia	Solomon Islands	
Ghana	South Africa	
Grenada	Sri Lanka	
Guyana	Swaziland	
India	Tonga	
Jamaica	Trinidad and Tobago	
Kenya	Tuvalu	
Kiribati	Uganda	

**Main types of immigration status against eligibility for housing and the proof of status required:**

<b>Class of applicant</b>	<b>Conditions of eligibility</b>	<b>Proof of status</b>
Existing social tenant (allocated accommodation by LA)	None	
British citizen	Must be habitually resident in the Common Travel Area (CTA)	Passport or birth certificate
EEA citizen (and dependents)	Must be habitually resident in CTA, unless: Applicant is a worker, self-employed, is a family member of an EEA citizen who is a worker or self-employed.	Passport or national identity card
Person Subject to Immigration Control - granted refugee status (usually Leave to	None	Stamp in passport or Home Office letter. Immigration Status Document for more recent grants of leave.

Remain 5 years)		Convention travel document.
Person Subject to Immigration Control - granted exceptional leave to remain (ELR) or discretionary leave to Remain (DLR)	Applicant must not be subject to a condition requiring him/her to maintain him/herself and dependents	Stamp in passport or certificate of identity. Home Office letter. Immigration Status Document for more recent grants of leave.
Person Subject to Immigration Control - granted humanitarian protection	None	Home Office document
Person Subject to Immigration Control - granted indefinite leave to remain	Must be habitually resident in CTA And, if ILR was granted on undertaking that a sponsor(s) would be responsible for maintenance & accommodation and 5 years have not elapsed since the date of entry to the UK or the undertaking no sponsor remains alive	Stamp in passport or Home Office letter.
Person Subject to Immigration Control granted limited leave in the UK via the Afghan resettlement programme.	Must be habitually resident in CTA	Stamp in passport or Home Office letter.
Person who is an Asylum-seeker whose claim for asylum is recorded by the secretary of state as having been made before 3rd April 2000.	Must either : • On arrival (other than re-entry) in the UK from a country outside the UK, Channel Islands, Isle of Man or Republic of Ireland.	

	<ul style="list-style-type: none"> <li>• Within three months from the day on which the secretary of state made a relevant declaration and the applicant was in GB on the day on which the declaration was made.</li> <li>• On or before 4th February 1996 by an applicant who was on 4th February 1996 entitled to benefit under regulation 7A of the Housing Benefit Regulations 1987</li> </ul>	
Commonwealth Citizen	Right of abode	Passport Immigration documents
Person Subject to Immigration Control - granted Destitution Domestic Violence (DDV) concession	This is only valid for 3 months	Home Office Document

## Appendix 2 Qualification

### 1. Persons not qualifying for the scheme due to anti-social behaviour

There will be no “blanket vetting” of housing applications. Each application will be considered on its own merits and, where required, a risk assessment undertaken in accordance with the process defined below. Additional eligibility indicators are defined in the table 1.5 below.

#### Risk assessments and Safer Estates Checks

There will be no “blanket vetting” of housing applications. Each application will be considered on its own merits and, where required, a risk assessment undertaken. Risk assessments will usually be undertaken on all applicants who have declared criminal convictions or those applicants for whom a safer estates check has been requested (see below).

The risk assessment may include a safer estates check which will be undertaken in accordance with the Safer Estates Agreement as exists between Northumbria

Police, the Council and Registered Providers operating in Northumberland. This provides the mechanism of information exchange through nominated contacts to ensure confidentiality and consistency of application of the agreement. A copy of the agreement is available from the Northumbria Police website or on request.

A risk assessment or safer estates check may be undertaken at any time.

### **The Risk Assessment Process**

Each case will be assessed as being high, medium or low risk. Factors determining the overall risk are:

1. The nature of the offence and sentence passed.
2. Any protective factors that are in place.
3. Frequency of offending and recent behaviour.

Each factor will be considered in order to arrive at an overall risk assessment. Each factor will be considered on its own merits however the frequency of offending, how recently the offence occurred and how long improved behaviour has been sustained will probably bear the most significant influence the final assessment.

### **2. The Nature of the Offence**

In categorising these crimes, specific consideration has been given to impact in the context of a social housing environment.

#### **High Risk Offences**

High risk offences are those that are serious enough in their nature that they intended to cause death or injury (physical or psychological) which is life threatening and/or traumatic and from which recovery is expected to be difficult, incomplete or impossible.

Examples include but are not limited to:

- Offences against the person such as making threats to kill, GBH, malicious wounding, assault with intent to resist arrest, ABH;
- Firearms offences (including possession of firearm with intent to cause fear of violence);
- Robbery;
- Aggravated burglary;
- Burglary with intent to inflict grievous bodily harm on a person, or do unlawful damage to a building or anything in it;
- Arson (reckless or with intent);
- Violent Disorder and Affray;
- Harassment (by putting people in fear of violence);

- Racially or religiously aggravated assaults or any other hate crime;
- Any sexual offence;
- Serious public order offences such as rioting and violent disorder; or
- Drug offences such as production, supply or possession of illegal substances.

### **Medium Risk Offences**

Medium risk offences are those that were likely to cause harm (either physical or psychological) which is traumatic for the victim or those involved or those that may have had a significant impact on the immediate or wider community.

Examples of medium risk offences include but are not limited to:

- Aggravated vehicle-taking;
- Taking a motor vehicle without consent;
- Handling stolen goods;
- Going equipped for stealing;
- Obtaining property or money by deception;
- Making off without payment;
- Affray;
- Intentional harassment, alarm or distress;
- Harassment, alarm or distress;
- Nuisance;
- Public nuisance;
- Cheating the public revenue;
- Fraud and deception; or
- Drug offences such as production, supply or possession of illegal substances.

### **Low Risk Offences**

Low risk offences are those that have less impact on the immediate or wider community and could be termed as low level offending.

Examples of low level offences include but are not limited to:

- Some public order offences;
- Some theft offences such as shoplifting;
- Some criminal damage offences;
- Drug offences such as possession of illegal substances.

To assist in assessing the seriousness of the offence, consideration will be given to the nature of the sentence awarded for the relevant offence. A custodial sentence, for example, may indicate a higher risk than a community order or a fine.



### **3. Protective Factors**

Protective factors are conditions or attributes that, when present, mitigate or eliminate risk. Examples include but are not limited to licence conditions, formal support packages, stable employment and family or cohort influences.

#### **High Risk**

There are no protective factors in place to mitigate risk.

#### **Medium Risk**

There are some protective factors to mitigate the risk. The applicant has demonstrated a willingness to comply with risk management strategies and/or comply with treatment and has some capacity to self-risk manage.

#### **Low Risk**

The balance of protective factors now substantially outweighs any risk factors. There are no current indicators of risk of serious harm.

### **4. Frequency of Offending and Recent Behaviour**

In assessing risk consideration will be given to recent behaviour and to the frequency of offending. For example, low level offending over a long period of time with numerous incidents and convictions recorded may result in an overall medium risk.

#### **High Risk**

There is no recent evidence of changed behaviour or there has been no opportunity to test changed behaviour in an unregulated environment.

Police, Probation or Youth Offending have recently categorised the offender as very high or high risk or other agencies such as Children's or Adult Services have identified the applicant as very high or high to their client group.

The applicant would require long-term or ongoing risk management and intervention to sustain a tenancy.

#### **Medium Risk**

There is some evidence of changed behaviour although this has not been sustained over long periods of time or without regulation or presence of protective factors.

The applicant may require some intervention to sustain a tenancy.

#### **Low Risk**

The applicant has demonstrated changed behaviour over a sustained period of time, usually not less than 12 months.

Applicants who are subject to MAPPA Level 2 or 3 will not be considered under this procedure. A separate multi agency public protection agreement (MAPPA) protocol already exists for this. See full MAPPA protocol for further details.

### **Eligibility Indicators**

An assessment of eligibility will be made at the point of application and prior to any offer of accommodation and may be made at any time during the lifetime of the application when circumstances arise that might prompt a re-assessment (examples include but are not limited to the annual review of an application, on receipt of new information or when a change of circumstances occur).

This is not a blanket exclusion policy and each case will be considered on its own merits.

Discretion may be applied to individual circumstances. Examples where discretion could apply include, but are not limited to:

- Applicants who have been accepted by the Local Authority as being priority homeless;
- Where rent arrears have accrued because of reasons outside the applicants influence or control. For example a pending benefits claim;
- Those affected by Welfare Reform;
- Where an applicant has shown a sustained commitment to addressing outstanding rent arrears;
- Where an applicant has demonstrated improved behaviours over a sustained period of time;
- Where an applicant has a significant support package in place aimed at reducing risk;
- Applicants in urgent housing need.

Conversely, it should not be assumed that discretion will be applied to those meeting any of the criteria outlined above.

### [Link to Qualifying Indicators](#)

### **Appendix 3 Spent Convictions and Rehabilitation of Offenders Act 1974**

The 1974 Act covers simple cautions (which become spent immediately) and conditional cautions (which become spent after three months).

Reprimands and warnings were abolished in April 2013 and a reprimand or warning given before that date is now to be treated as a youth caution which, as with adult cautions, is spent immediately.

Fixed Penalty Notices and Penalty Notices for Disorder do not constitute a conviction or caution (though they may be recorded on local police systems should the force consider it necessary to do so) and they therefore are not covered by the 1974 Act (but see below in relation to a FPN issued for certain road traffic offences and where an endorsement is imposed).

Under the Rehabilitation of Offenders Act 1974 criminal convictions can become spent or ignored after a rehabilitation period, although they remain on the Police National Computer.

The rehabilitation period varies depending on the sentence or order imposed by the court - not the offence. Custodial sentences of more than two and a half years can never become spent. The following sentences become spent after fixed periods from the date of conviction:

<b>Sentence/disposal</b>	<b>Buffer period for adults (18 and over at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).</b>	<b>Buffer period for young people (under 18 at the time of conviction or the time the disposal is administered). This applies from the end date of the sentence (including the licence period).</b>
Custodial sentence* of over 4 years, or a public protection sentence	Never spent	Never spent
Custodial sentences of over 30 months (2 ½ years) and up to and including 48 months (4 years)	7 years	3½ years
Custodial sentence of over 6 months and up to and including 30 months (2 ½ years)	4 years	2 years
Custodial sentence of 6 months or less	2 years	18 months

Community order or youth rehabilitation order**	1 year	6 months
---	--------	----------

Custodial sentence includes a sentence of imprisonment (both an immediate custodial sentence and a suspended sentence), a sentence of detention in a young offender institution, a sentence of detention under section 91 of the Powers of Criminal Courts (Sentencing) Act 2000, a detention and training order, a sentence of youth custody, a sentence of corrective training and a sentence of Borstal training.

\*\*In relation to any community or youth rehabilitation order which has no specified end date, the rehabilitation period is 2 years from the date of conviction.

The following table sets out the rehabilitation period for sentences which do not have “buffer periods” and for which the rehabilitation period runs from the date of conviction:

<b>Sentence/disposal</b>	<b>Rehabilitation period for adults (18 and over at the time of conviction or the time the disposal is administered).</b>	<b>Rehabilitation period for young people (under 18 at the time of conviction or the time the disposal is administered).</b>
Fine	1 year	6 months
Conditional discharge,	Period of the order	Period of the order
Absolute discharge	None	None
Conditional caution and youth conditional caution	3 months or when the caution ceases to have effect if earlier	3 months
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)

Binding over order	Period of the order	Period of the order
Attendance centre order	Period of the order	Period of the order
Hospital order (with or without a restriction order)	Period of the order	Period of the order
Referral order	Not available for adults	Period of the order
Reparation order	Not available for adults	None

***Important Note: This is intended as general guidance only. It is not legal advice and must not be regarded as a definitive interpretation of the 1974 Act. Anyone in doubt should seek legal advice.***