

Merthyr Tydfil County
Borough Council



Housing Allocation Policy

‘Housing Choice’



January 2015

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1. INTRODUCTION

1.1 'Housing Choice' is a service that enables people seeking social rented housing to exercise choice of when and where they will be offered a tenancy, and has been developed in the context of:

- Relevant legislation and guidance
- Our local Housing Strategy
- The current need for, and demands on, social housing within Merthyr Tydfil
- Equality legislation

1.2 The administration of this scheme is the responsibility of Merthyr Tydfil County Borough Council. All home-seekers within Merthyr Tydfil will be assessed on the same basis and can apply for those vacancies, which are advertised across the County Borough.

Members of the 'Housing Choice' Choice Based Letting Partnership

1.3 The following are members of the 'Housing Choice' choice-based letting partnership

- Merthyr Tydfil County Borough Council
- Merthyr Valleys Homes
- Hafod Housing Association
- Wales & West Housing
- Merthyr Tydfil Housing Association

All of the housing bodies listed above have adopted the Council's allocation policy so that there is a common allocation policy ensuring that applicants within Merthyr Tydfil County Borough Council who apply to the council or a participating RSL are assessed on the same basis and have access to apply for any vacancies across the County Borough.

The scheme formally applies to all properties to which Merthyr Council have rights of nomination (whether by way of a legally enforceable arrangement or not) of the tenant; except those, which are reserved for special housing needs groups. Properties to which the County Borough Council have rights of nomination of the tenant include properties owned by Merthyr Valleys Homes, Merthyr Tydfil Housing Association, Hafod Housing Association, and Wales & West Housing Association. The participating RSLs are obliged to advertise vacant properties in accordance with this policy. Separately, all members of participating RSLs have voluntarily agreed to allocate all of their properties under this Council allocation policy, and will therefore advertise vacant properties as described in Section 15 of this scheme.

To improve the service to applicants and to avoid duplication an applicant must be registered by the housing division at Merthyr Tydfil County Borough Council and will receive a mandatory housing options interview.

1.4 Any changes to this policy that are changes to priorities will need to be approved by full Council. The relevant decision-making bodies of Registered Social Landlords, namely the Board, will also need to consider and endorse any changes that the Council wishes to make to the policy, and the policy will also undergo a full consultation including relevant statutory and voluntary sector organisations and tenant representatives. However, it is inevitable that from time to time minor changes will be required to the policy, that are merely changes to process, and these will be delegated to the Director of Customer Services in consultation with the Chief Executives of the RSLs.

1.5 Principles and scope of the allocations scheme

This allocation scheme is based on a number of principles:

- to give reasonable preference to the groups set out in the Housing Act 1996
- customer choice and empowerment
- making effective use of the housing stock
- an understandable and transparent system for users
- the provision of accurate and up to date information to home-seekers on their housing options, enabling them to exercise informed choice
- contributing to the creation of sustainable communities
- increased customer commitment to the homes they occupy as a result of self-selection
- improved quality and delivery of service
- ensuring the extension of choice to vulnerable customers
- equality of opportunity and access

1.6 The RSLs listed in 1.3 above have agreed to adopt the Council's Allocation Policy. In the long term, consideration will be given whether to include private rented sector lets within the scope of the scheme, providing they meet an agreed standard. This is particularly relevant given the implementation of the Welsh Housing Bill in 2015.

- 1.7 The scheme applies to homeless and waiting list applicants.
- 1.8 The following properties **will not** be advertised as part of the choice-based lettings scheme:
- Properties required for decants (such as for regeneration schemes or emergency essential repair works, which would in any case be outside of the allocations scheme)
 - Properties let to those who could become homeless as a result of a fire or flood or those in temporary accommodation
 - Properties that form part of a shared ownership scheme
 - tied accommodation
 - Properties required for move-on accommodation from the direct access hostel
 - Properties required for emergency rehousing eg witness protection, urgent management transfers
 - Any other exceptional circumstances identified by the Council's Housing and Community Safety Manager.
- 1.9 Properties may be withdrawn from the advert if required to meet emergency housing needs which were not known prior to the advert being prepared such as fire, flood, witness protection, urgent management transfers, and urgent medical requirements. This list is not exhaustive.

2. LEGAL BACKGROUND

2.1 Section 167 of the Housing Act, as amended by the Homelessness Act 2002, requires all local authorities to have a published scheme, which determines the priority and procedure for the allocation of housing accommodation. The Act also states that a scheme must include a statement of the Housing Authority's policy on offering choice of accommodation, in addition to giving reasonable preference to those individuals who have a high level of housing need.

2.2 The Equality Act 2010 legally protects people from discrimination in the workplace and in wider society. It replaced previous anti-discrimination laws with a single Act, making the law easier to understand and strengthening protection in some situations. It sets out the different ways in which it's unlawful to treat someone. Protected characteristics and types of discrimination can be found in 2.2.1 and 2.2.2 respectively.

2.2.1 Protected Characteristics

- Age - Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).
- Disability - A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.
- Gender reassignment - The process of transitioning from one gender to another.
- Marriage and civil partnership - Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.
- Pregnancy and maternity - Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavourably because she is breastfeeding.
- Race - Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.
- Religion and belief - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.
- Sex - A man or a woman.

- Sexual orientation - Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes.

2.2.2 Types of Discrimination

- Direct discrimination - where someone is treated less favourably than another person because of a protected characteristic.
- Associative discrimination - this is direct discrimination against someone because they are associated with another person who possesses a protected characteristic.
- Discrimination by perception - this is direct discrimination against someone because others think that they possess a particular protected characteristic. They do not necessarily have to possess the characteristic, just be perceived to.
- Indirect discrimination - this can occur when you have a rule or policy that applies to everyone but disadvantages a person with a particular protected characteristic.
- Harassment - this is behaviour that is deemed offensive by the recipient. Employees can now complain of the behaviour they find offensive even if it is not directed at them.
- Victimisation - this occurs when someone is treated badly because they have made or supported a complaint or grievance under this legislation.

2.3 Merthyr Tydfil County Borough Council operates according to its Strategic Equality Plan that considers the aforementioned content in line with the Equality Act 2010 to advance equality of opportunity and access for all its staff and members of the public.

The Strategic Equality Plan can be found at www.merthyr.gov.uk, or alternatively contact:

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3. COUNCIL'S POLICY STATEMENT ON CHOICE FOR APPLICANTS

- 3.1 Under the revised section 167(1A) (Homelessness Act 2002) a Local Authority's Allocation Scheme must include a statement of the authority's policy on offering applicants a choice of housing accommodation or the opportunity to express preferences about any accommodation to be allocated to them. It is only a requirement to inform applicants of the authority's policy on choice and expressing preferences but should not be confused with a requirement to offer applicants choice.
- 3.2 The amount of choice that Merthyr Tydfil Council is able to offer will be limited by the acute housing pressures it faces. An applicant is therefore able to express a preference regarding the type of property and the area in which they would like to live but the authority's ability to meet this expressed preference may be severely limited.
- 3.3 For cases for whom the Council has accepted a full homeless duty under sections 193(2) or 195(2) of the Homelessness Act 2002, home-seekers can only exercise choice for a period of 13 weeks, after which time regardless of whether suitable properties have become available, the Council is entitled to make a direct offer which will fully discharge its Part 7 Homelessness duty if the applicant has sufficient priority under the scheme at that date for re-housing to enable a direct offer to be made.
- 3.4 Please note whilst in bed and breakfast accommodation the Council may make a direct offer of accommodation at any time and is not constrained by the 13 week period in order to end the homeless duty as long as the applicant has sufficient priority under the scheme for re-housing. The offer of accommodation could be made in any area of the Borough.
- 3.5 Where a homeless applicant bids for accommodation and is successful, the offer will be the applicant's final offer and will end the Council's homelessness duty if the offer is subsequently refused. (Subject to the applicants right of review under homelessness legislation).
- 3.6 In order to occupy sheltered accommodation a home-seeker must satisfy the age criteria for each individual Housing Association (see Appendix 2) and require sheltered accommodation either because of disability or vulnerability. Tenants within sheltered schemes will therefore be expected to use the lifeline and Warden services, which will form part of the tenancy agreement for this type of accommodation. Separate charges are made for these services, which are in addition to the normal rent.

4. REASONABLE PREFERENCE

- 4.1 In forming this policy, due regard has been given to the requirement to give reasonable preference to those categories amended by the Homelessness Act 2002. The reasonable preference categories are listed in Appendix 3 and details of how reasonable preference will be awarded are provided in Appendix 3a.
- 4.2 All home-seekers that are eligible for consideration under the policy will be assessed to determine if they are owed a reasonable preference. If they are, they will be allocated a Band according to the Council's allocation priority as set out in Section 14 of this policy. However, where a home-seeker would have been awarded a specific Band due to their reasonable preference but one or more of the factors listed below apply to their case their application will either be suspended or they will be given a reduced priority (allocated a lower band) until the issue relevant to their circumstances has been resolved.
- 4.3 Suspending reasonable preference; the circumstances when this policy will apply.

The following policy will apply to:

- Applicants at the point where their housing needs are assessed
- Applicants who have been assessed but their circumstances change or new information is obtained

4.3.1 Refusal of an offer

Where an applicant has refused two (2) reasonable offers within the past six (6) months, the application will be suspended. In these circumstances the suspension will be removed six (6) months after the last offer unless their circumstances have changed and the Council determines that the change in circumstances is sufficient to allow the suspension to be removed.

4.3.2 The home-seeker has a social housing tenancy related debt.

This would include current or former rent arrears (including temporary accommodation arrears), damage to a former social housing property or legal costs arising from court action in connection with a current or former tenancy.

This will be at the point when the applicant's priority is being assessed and the following procedure will apply:

- a. The applicant will be referred to the Local Housing Panel. More information on the Local Housing panel can be found in Appendix 4).

- b. The Council and partners will consider whether the applicant still owes arrears, and if they do, the extent of the arrears. The threshold of arrears will determine the action to be taken.
- c. Where a recoverable housing related debt to a Local Authority or Registered Social Landlord (RSL) is in existence, the applicant will have to make a minimum of thirteen (13) consecutive payments, at an agreed, affordable level, and repay a minimum of 25% of the debt before they will be considered for housing. This will only apply to debt over £500. Applicants will be placed in the '*No Preference band*' for either six (6) or twelve (12) months. The applicant will be referred back to Panel once this period ends for further consideration.

Lump sum repayments of 25% or over will not apply unless the thirteen (13) week minimum period has been followed.

Applicants with debts under £500 will be considered for housing immediately providing they are actively following a repayment plan for thirteen (13) weeks.

Until the aforementioned procedure(s) are complete, the applicant will be placed in the '*No Preference*' band; thus being unable to bid for any houses advertised through *Housing Choice*.

4.3.3 Financial Resources

The Council will take into account a home-seeker's financial resources in determining where an applicant would qualify for reasonable preference, whether their preference should be reduced. Regard will be given to any resources wherever in the world they are situated. This will apply to households whose total gross income from all sources exceeds £40,000 or whose household's capital assets or savings exceeds £75,000. Such applications will not be considered for social housing unless and until all applicants with higher priority have been housed. This is unlikely to happen as higher priority applicants will be continually joining the lists.

This restriction does not prevent applicants being considered for any Low Cost Home Ownership/Shared Equity schemes, and the rules for these schemes are applied on a scheme-by-scheme basis.

If there are significant medical needs that mean the home-seeker needs a specialised property, this will be given due consideration outside the scope of the policy. Where a home-seeker feels that their social or medical circumstances are such that they should be considered, despite their financial resources exceeding the financial thresholds outline above, they will have the right to request a review at the Local Housing Panel and Housing Appeals Board if necessary.

4.3.4 Permanent Address

Home-seekers that are not currently living permanently in the UK will be suspended from consideration.

4.3.5 Non compliance with tenancy agreement

When the Council and partners are reasonably satisfied that the home-seeker (or a member of their prospective household) has failed to maintain any previous social rented or private sector rented property within the terms of their tenancy agreement, or has committed acts causing or likely to cause nuisance or annoyance to their neighbours or others in the locality of where they live or where they previously have lived, they will be considered for suspension by the Local Housing Panel. This situation will apply until the applicant (or a member of their prospective household) has demonstrated, to the reasonable satisfaction of the Local Housing Panel, the necessary ability to modify their conduct. In some cases this will include co-operating with medical or other support agencies

At any time home-seekers are entitled to request that the Council reconsider their circumstances to determine whether the issues resulting in their being allocated a lower priority have been resolved to their satisfaction.

4.6 Local Connection

4.6.1 Home-seekers can apply for social housing within the County Borough from anywhere within the United Kingdom. However, in order to ensure that we meet the needs of our local community, reduced priority will be given to those people without a local connection. Such cases will be placed in the Bronze band.

4.4.2 Under S199 (1) of the Housing Act 1996, a person has a local connection with an area if:

- a) He/she is, or in the past was, normally resident there and that residence was of his/her own choice
- b) Because he/she is employed there
- c) Because of family associations, or
- d) Because of special circumstances

4.4.3 Under 'Housing Choice', the factors that will be taken into account in determining whether or not an applicant has a local connection with the County Borough include, but are not limited to, whether they or a member of their household included in their application:

- 1) Has lived in the County Borough for a certain period of time, the more recent past being most relevant, in particular the previous twelve (12) months.

- 2) Has close family living in the County Borough, who have lived here for at least the previous five (5) years
- 3) Has settled employment (paid or unpaid) in the County Borough;
or
- 4) Have special circumstances that give rise to a local connection.

Note: Living in the County Borough means living in permanent accommodation, and will not include occupation of a mobile caravan, or motor caravan that is not on a residential site, or occupation of a holiday let which includes a hotel, bed and breakfast accommodation or permanent building whilst on holiday.

4.7 Notification to the Applicant of Suspension or Reduced Priority

Any home-seeker whose priority is reduced or suspended will be provided with written notification of the decision that will contain the following information:

- The reasons for the decision to reduce reasonable preference or suspend
- The Band that their housing circumstances would have warranted
- The home-seekers right to appeal against the decision
- Any appeal against the decision must be made in writing
- The appeal must be made in writing within twenty one (21) days of written notification of the decision
- Any appeal will be dealt with by a Senior Officer not involved in the original decision
- All appeals will be dealt with within eight (8) weeks, and the applicant advised of the outcome

The Council will send out notification of the decision as they are the administrators of the scheme.

4.8. Length of Suspensions

Where a recoverable housing related debt to a Local Authority or Registered Social Landlord (RSL) is in existence, the applicant will have to make a minimum of thirteen (13) consecutive payments, at an agreed, affordable level, and repay a minimum of 25% of the debt before they will be considered for housing. This will only apply to debt over £500. Applicants will be placed in the '*No Preference band*' for either six (6) or twelve (12) months. The applicant will be referred back to Panel once this period ends for further consideration.

Lump sum repayments of 25% or over will not apply unless the thirteen (13) week minimum period has been followed.

Applicants with debts under £500 will be considered for housing immediately providing they are actively following a repayment plan for thirteen (13) weeks.

The Panel will also have the authority to place applicants in the 'no preference' band for periods of six (6) or twelve (12) months for unacceptable behaviour (see 6.3 for *unacceptable behaviour*). They will then be referred back to Panel once the period has elapsed for further consideration.

Until the aforementioned process(s) are complete, the applicant will be placed in the '*no preference*' band; thus being unable to bid for any houses advertised through *Housing Choice*.

5. PROVIDING HOME-SEEKERS WITH ADVICE

5.1 All home-seekers will be provided with the necessary information and advice on 'Housing Choice' to enable an informed choice to be made to meet housing need. This will be provided through a mandatory Housing Options Interview which every applicant will have to undergo in order to register with the 'Housing Choice' scheme. Applicants can also meet with an independent housing advisor at either Shelter Cymru or Citizens Advice Bureau. The sort of advice that we will provide includes:

- How to apply to join the housing register and the sorts of supporting information that will be required
- Assistance to complete the application form
- Explanation of the bands and how to use the feedback on the advert effectively to help you bid
- How to make a bid for accommodation
- Options advice to consider other forms of housing such as private renting or low cost home ownership.
- Information regarding the implications of over-occupation and the bedroom tax
- Referral to support agencies if needed

5.2 If there is a difficulty in understanding any aspect of our allocation policy or the Choice Based Lettings bidding system, the Council will arrange for a member of housing staff to provide advice and guidance on the policy and answer any questions applicants may have. Applicants whose first language is not English are able to access 'Language line'. Hearing Loops are available and all front line staff have undertaken Equalities training to ensure equality of opportunity and access to our services.

6. REGISTERING WITH THE 'HOUSING CHOICE' SCHEME: Eligibility and qualification

6.1 Those who are eligible to join the housing register

Home-seekers aged 18 and over are considered under the law to be eligible persons and can therefore apply to join the housing register and be considered for the allocation of a property.

Home-seekers between 16 and 17 can also register for accommodation; they will not, however, usually be granted a tenancy until they reach the age of 18 unless an adult or organisation acts as guarantor for rent payments until they reach the age of 18, which will be a condition of being allocated a property.

All individuals or households owed a full homelessness duty under sections 193(2) or 195(2) of that legislation will automatically be registered with the scheme, with a registration date when they presented as homeless to the Council. They will be placed in the Gold Band (Refer to Appendix 1).

Married, civil partners and co-habiting couples, same sex couples and siblings, who wish to live together, can make joint applications. In such cases, it is usual for a joint tenancy to be granted in the event of an offer of accommodation being made.

The Welsh Code of Guidance for Allocations 2006 lays down the rules for the recognition of refugees and those in need of Subsidiary Protection.

6.2 Those who are not eligible to join the housing register

6.2.1 (v) **Persons subject to immigration control who are nationals of a country that has ratified the European Convention on Social and Medical Assistance (ECSMA) or the European Social Charter (ESC)** - Such persons have to be lawfully present in the UK as well as habitually resident. This means that the applicant must have leave to enter or remain in the UK.

6.2.2 Section 160A(5)/[s.14(2)] (the Welsh Code of Guidance for Allocations) allows the Welsh Government to prescribe other classes of persons from abroad who are ineligible for an allocation of accommodation. Those regulations can be made either in respect of local authorities generally or in respect of any particular local housing authority. The Allocation of Housing (Wales) Regulations 2003 [S.I. No. 2003/239(2.36)] was made on 28th January 2003. The effect of these regulations can be found in the Welsh Code of Guidance for Allocations.

6.2.3 Joint Tenancies

Under s.160A (1)(c)/[s.14(2)], a housing authority shall not allocate housing accommodation to two or more people jointly if any one of them is a person from abroad who is ineligible or is a person who is being treated as ineligible because of unacceptable behaviour (please see the Welsh Code of Guidance for Allocations).

6.2.4 The Habitual Residence Test

While the majority of the categories eligible for housing require the applicant to be habitually resident in the CTA, most applicants for social housing will not be persons from abroad and there will be no reason to apply the test. It is also likely that persons who have been resident in the CTA continuously during the 2 years prior to their housing application will be habitually resident in the CTA. In such cases, therefore, housing authorities may consider it unnecessary to make further enquiries to establish habitual residence, unless there are other circumstances that need to be taken into account. A period of continuous residence in the CTA might include visits abroad e.g. for holidays or to visit relatives. Where 2 years continuous residency in the UK is not established, housing authorities may need to conduct further enquiries to determine whether the applicant is habitually resident in the CTA.

Whilst habitual residence requires an appreciable period of residence, there is no minimum time limit set for an appreciable period. Case law suggests that in some circumstances 'a month can be an appreciable period of time'. In addition, an applicant who was previously habitually resident can establish this again on arrival. Authorities should note that it is possible to have an intention to reside in the CTA for an appreciable fixed period; it does not need to be permanent or indefinite. Each case must be decided after taking account of all the relevant circumstances.

A person cannot claim to be habitually resident in any country unless he/she has taken up residence and lived there for a period of time. There will be cases where the person concerned is not coming to the UK for the first time, but is resuming a habitual residence previously held. The Welsh Code of Guidance for Allocations provides detailed guidance on the factors which a housing authority should consider in determining whether an applicant is habitually resident in these circumstances. However, the fact that a person has ceased to be habitually resident in another country does not imply habitual residence in the country to which he or she has travelled.

6.2.5 Procedures for determining eligibility of persons from abroad

The criteria which determine whether a person from abroad is eligible for an allocation of accommodation or homelessness assistance are complex and the task of screening applicants extends beyond the

normal requirements of evaluating applicants' housing circumstances. Authorities will need to ensure that they have procedures in place to carry out appropriate checks on applicants and ensure they do not discriminate against the protected characteristics of the Equality Act 2010 (please see paragraph 2.21). Authorities should monitor their performance in screening housing applicants for immigration status; to ensure that members of ethnic minorities who are eligible for an allocation are not denied housing and do not experience unreasonably long delays while their application is considered. In devising such procedures, authorities should have due regard to the information contained in this Guidance and Government guidance on the housing needs of asylum seekers and refugees.

If there is any uncertainty about an applicant's immigration status, housing authorities are recommended to contact the United Kingdom Border Agency, using the procedures set out in the Welsh Code of Guidance for Allocations. Before doing so, the authority should advise the applicant that an inquiry will be made; if at this stage the applicant prefers to withdraw his or her application, no further action will be required.

Housing authorities should ensure that staff that are required to screen housing applicants about eligibility for an allocation are given training in the complexities of the housing provisions, the housing authority's duties and responsibilities under the Equalities Act 2010 and how to deal with applicants in a sensitive manner. Housing authorities can refer to the Welsh Code of Guidance for Allocations, which provides model questions that can provide a pathway to determining eligibility. This is supported by a flowchart for determining eligibility which is contained in the Welsh Code of Guidance for Allocations.

Authorities should ensure that language and interpretation support is available for those applicants who have difficulty speaking or reading English. Consideration should be given to identifying ethnic origin and language of choice, producing information in a variety of minority languages and carefully channelling information so that it reaches its target audience. Consideration and procedures should also be in place so applicants with disabilities are not denied equality of access to services.

6.3 Unacceptable Behaviour

- 6.3.1 Most applicants for social housing will not be persons from abroad, and will have been resident in the UK (or elsewhere in the CTA) for two (2) years prior to their application. Such applicants, together with eligible applicants from abroad may, at the discretion of the authority, in conjunction with the Local Housing Panel, are treated as ineligible by the housing authority on the basis of unacceptable behaviour. There is no obligation on local authorities to implement these provisions and

where they do robust procedures are needed to ensure compliance with the law, the Code and the fair and consistent treatment of applicants. Policies regarding the application of sanctions on the grounds of unacceptable behaviour will accommodate the broader Welsh Government policy aims of equality and diversity, Community Cohesion and sustainability. Sanctions to exclude people from social housing will be kept to a minimum and support mechanisms developed to maximise opportunities for people to secure social housing. However, in developing sustainable communities Merthyr Tydfil County Borough Council and its' RSL partners recognise that housing authorities must also take into account the needs of existing tenants. A decision to treat an applicant as ineligible will be underpinned by compliance with the law and the code of guidance, and will be one of a range of measures used by an authority to address issues of applicants with unacceptable behaviour. Further information can be found in the Welsh Code of Guidance for Allocations.

6.3.2 Description of unacceptable behaviour:

Under s.160A(7)/[s.14(2)] (Welsh Code of Guidance for Allocations), a housing authority may, where it is satisfied that an applicant (or a member of the applicant's household) is guilty of unacceptable behaviour serious enough to make him or her unsuitable to be a tenant of the housing authority, to decide to treat the applicant as ineligible for an allocation. In applying this

6.3.3 Housing authorities should note, however, that where they are satisfied that an applicant is unsuitable to be a tenant they are not required to decide that he or she is ineligible for an allocation; they may instead proceed with the application and decide to give the applicant no preference for an allocation. It is for each housing authority to decide whether this provision is applied. In applying these provisions the local authority, in conjunction with the Local Housing Panel, can take into account unacceptable behaviour, related to an existing or previous tenancy or where there is unacceptable behaviour encountered during the application process.

6.3.4 Section 160A(8)/[s.14(2)] (Welsh Code of Guidance for Allocations) provides that the only behaviour which can be regarded as unacceptable for these purposes is behaviour by the applicant or by a member of his or her household that would - if the applicant had been a secure tenant of the housing authority at the time have entitled the housing authority to a possession order under s.84 of the Housing Act 1985 in relation to any of the discretionary grounds in Part I of Schedule 2, other than Ground 8 (see the Welsh Code of Guidance for Allocations for a list of relevant grounds). These are fault grounds and include behaviour such as non-payment of rent, breach of tenancy conditions, conduct likely to cause nuisance or annoyance, and use of the property for immoral or illegal purposes. Housing authorities should

note that it is not necessary for the applicant to have actually been a tenant of the housing authority when the unacceptable behaviour occurred. The test is whether the behaviour would have entitled the housing authority to a possession order if, whether actually or notionally, the applicant had been a secure tenant.

6.3.5 Hate crime is a crime against someone because of their disability, gender-identity, race, religion or belief, or sexual orientation. Hate crimes should be reported to the police. Hate crimes include:

- threatening behaviour
- assault
- robbery
- damage to property
- inciting others to commit hate crimes
- harassment

6.3.6 Any cases that are ineligible for accommodation will be discussed at the monthly Local Housing Panel and a majority of partners will need to agree to a suspension.

6.3.7 Suspensions will vary between six (6) and twelve (12) months depending on the seriousness of the unacceptable behaviour or anti-social behaviour. The Local Housing Panel will determine the suspension. Applicants will be placed in the 'no preference' band whilst they are unable to bid.

7. ASSESSMENT OF NEED

- 7.1 Home-seekers need to complete a Housing Choice Application form (which may be electronic) that is available from the Council offices and undergo a mandatory Housing Options Interview. The interview will ensure that all application forms are completed correctly and all home-seekers will understand the full range of housing options available to them.
- 7.2 Registration does not bind the Council or its partners to offering a customer any particular property or any property at all. In interests of efficiency, the Council is considering other assessment methods and may introduce these in the future.
- 7.3 All interviews will be used to assess housing need and carry out verification checks of:
- identity – staff will accept a passport, driving license, utility bills, post office statements or bank statements
 - household details including income
 - details of current address and family circumstances
 - housing circumstances

Home visits will be used to check the condition of the home and any overcrowding or shared arrangements. All interviews and home visits will also be used to check and enquire about current or previous rent arrears or other breaches of tenancy, current or previous damage to property and harassment/anti-social behaviour/hate crime or relevant criminal activity. Contact will also be made with current and previous landlords in relation to these issues.

- 7.4 The application will be assessed and the outcome of the assessment will be communicated to the applicant by letter. This letter will set out:
- if the individual is not eligible to join the scheme, the reasons for this and their right to request a review of this decision in writing, the right to bring a representative to the review hearing and the names of agencies who can assist with a review
 - If they are eligible, an acknowledgement of registration, unique reference number, registration date and the band in which the home-seeker has been placed
 - if the home-seeker has been suspended or given reduced preference due to the lack of a local connection, the applicant will be told the reason(s) for this and the actions that the home-seeker must take to regain priority and the right to request a review of this decision in writing.
 - how to find out about available properties and how to express an interest in a home of their choice

8 HOW MEDICAL NEEDS ARE ASSESSED

- 8.1 Home-seekers who indicate that they or anyone in their household have an illness or disability which is affected by their current home or who may be vulnerable on physical or mental health grounds and in need of settled accommodation are requested to submit medical evidence to support their application.
- 8.2 Where the home-seeker satisfies the Council or the Registered Social Landlord they have applied to, that they may be unable to continue to live at their present home for serious medical problems, then the case will be submitted to the Community Occupational Therapy Team (COTT) who will determine whether to place the home-seeker in a higher priority band. In order to do this the COTT will visit the home of the home-seeker or tenant household, consider any supporting information that has been provided, and decide whether priority should be awarded, based upon the severity of the case and the urgency of the need for rehousing.
- 8.3 The COTT will also recommend the type of housing that the home-seeker needs to resolve the urgent circumstances. Priority awarded on the basis of medical circumstances will only be able to be used to bid for the type of properties identified by the COTT, so for example, if someone needs to move to a bungalow because they have suddenly become a wheelchair user, they must bid for suitable properties within the Gold Band.
- 8.4 Where a home-seeker's health is not so serious that they may be unable to live in their current home but their medical condition would be significantly improved by suitable alternative accommodation, this will be determined by the Team Leader Housing Options/Advice based on the evidence provided as at 8.1.

9. ASSESSMENT OF WELFARE NEEDS

- 9.1 Where the home-seeker's social circumstances seriously affect their housing conditions, (examples being serious neighbour nuisance, threat of violence from outside of the home) the case will be passed to the Council's Local Housing Panel. This Panel consists of a nominated representative from all partners with the delegated power to make a decision.
- 9.2 The Local Housing Panel will consider each case along with any supporting information that has been provided and decide whether priority should be awarded based upon the severity of the case and the urgency of the need for re-housing. The Panel will also recommend where the home-seeker should be re-housed in order to resolve the urgent circumstances. The Panel can either award Emergency band status and a direct offer of housing will be made or Gold status will be awarded. Where Gold status is awarded, it can only be used to bid against properties within areas recommended by the Panel.
- 9.3 In exceptional cases, such as where the safety of the household would be seriously compromised if they were to remain in occupation of their current home, the Housing and Community Safety Manager can award Emergency band status.
- 9.4 Where a direct offer of accommodation has been refused, the Local Housing Panel will decide whether Emergency band status or Gold band status will be kept.

10. CHANGE OF CIRCUMSTANCES

- 10.1 All home-seekers must keep the Council informed of any changes in their circumstances.
- 10.2 Where a change of circumstances leads to a change in band, the home-seeker will be advised in writing of the new band and the applicable priority date. As noted elsewhere in this policy, home-seekers have a right to request a review of this decision.
- 10.3 Where a change of circumstances leads to a home-seeker being moved into a higher priority band, the registration date will become the day the Council received notification of the home-seekers change in circumstances.
- 10.4 If a home-seeker moves into a lower band as a result of a change in circumstances, then the original registration date will be used as the priority date.

11. FALSE OR WITHELD INFORMATION

- 11.1 Section 171 (false statements and withholding information) makes it an offence for anyone seeking assistance from a housing authority under the 1996 Act, Part 6 to:
- i. Knowingly or recklessly give false information; or
 - ii. Knowingly withhold information, which the housing authority has reasonably required the applicant to give.
- 11.2 This would apply whether the false information was provided at the time of application, at renewal stage when the annual review of circumstances letter has been sent, in change of circumstances or during the proceedings of a review.
- 11.3 Where there is suspicion, or an allegation has been made that a person has either provided false information, or has withheld information, the application will be suspended pending the outcome of the investigation.
- 11.4 If the outcome of any investigation reveals that they did not provide false information, or the withholding of information was found to be inadvertent, then the application will be reinstated from the date of registration. However, where the investigation shows that false information was provided on the application form, or was deliberately withheld, then the application will be removed from the register and there will be no right to re-register for a period of 12 months.
- 11.5 Ground 5 in Schedule 2 to the Housing Act 1985 (as amended by the 1996 Act, s.146) enables the landlord to seek possession of a property where it has been granted as a result of a false statement by either the tenant or a person acting at the tenant's instigation.

12. ELIGIBILITY FOR PROPERTY TYPES AND SIZES

12.1 So that the best possible use is made of existing housing stock, properties will be let to those whose needs best match the size and type of property.

12.2 To determine the size and type of property for which home-seekers will be eligible, we will use the bedroom standard, which is shown in Appendix 2.

There may be occasions when we will deviate from this standard and this could include: -

- a) Where there is little or no demand for a vacancy and the property is therefore difficult to let.
- b) Where there are no suitable bidders to fill the vacancy.
- c) Where a home-seeker has medical requirements backed by a qualified medical advisor, which requires them to live in larger accommodation due to health or requires a carer to live with them who could not be expected to share a bedroom.
- d) Due to limited stock, where a home-seeker is separated or divorced but has regular access to children as determined by a court order or solicitor's letter, they will only be able to apply for a house suitable to the needs of the applicant(s) but requests can be made for the case to be heard by the Local Housing Panel if special circumstances apply.

13. ASSESSMENT OF PRIORITY NEED

- 13.1 When a home-seeker applies to join the register an assessment will be made of both their eligibility as defined in Section 6, and their priority under the scheme.
- 13.2 Reasonable preference will be given to home-seekers that satisfy the categories identified in the Homelessness Act 2002, and which are outlined in Appendix 3 of this policy.
- 13.3 All home-seekers will be placed into an appropriate Band utilising the information that they have provided with.
- 13.4 Where a home-seeker has been determined by the Council as statutory homeless, is in the Gold Band and has not bid or have bid and been unsuccessful for any properties within 13 weeks of being placed in the band, they will be offered the next suitable property that becomes vacant as long as the applicant has sufficient priority for an offer of housing at that point.

14. BANDING AND ADVERTISING PROPERTIES

14.1 All properties for letting by participating landlords will be advertised, other than those set out in paragraph 1.8. New properties will be advertised on a weekly basis on a Thursday on the www.MerthyrHousingChoice.org.uk website and at all Council and partner Housing Association offices. It will also be available on the MTCBC corporate website, and will include the following information:

- A photograph of the property
- The address and number of bedrooms
- The household types that are eligible to bid for the property (i.e. occupancy criteria)
- Whether the property is designated for a certain age group (e.g. sheltered accommodation)
- Whether the property is available for all home-seeker groups or whether it is restricted to specific groups
- The rent and any service charge
- The facilities within the property including adaptations
- The banding of the property
- The specific landlord of the property
- The deadline date by which bids must be received (this will be no less than 7 days after the publication of the advertisement)

14.2 In order to facilitate the participation of vulnerable people in the scheme, the advertisements will be emailed to all relevant voluntary and statutory sector agencies the working day before the advertisements are made generally available.

14.3 Properties that are adapted will be labelled as adapted. Adaptations will be listed.

14.4 Vacancies will be labelled as available for home-seekers in specific bands.

14.5 Home-seekers are advised to look at the weekly advert, which gives feedback on how long previously successful applicants have had to wait to be housed. The registration date will confirm how long a person has been waiting to be housed, which is in relation to their need.

14.7 Ongoing monitoring of the outcomes of lettings against lettings plan targets will be undertaken to inform the labeling of advertised vacancies. Progress in achieving the lettings plan targets will be closely monitored by the Council.

14.8 Where a local lettings policy is in place, the eligibility criteria for the property should be clearly set out as part of the advertisement. For example, a 3-bedroom house might be labelled as suitable for families

with no more than one child where a local lettings policy is in place with the aim of reducing child density.

15 MAKING BIDS AND ALLOCATING PROPERTIES

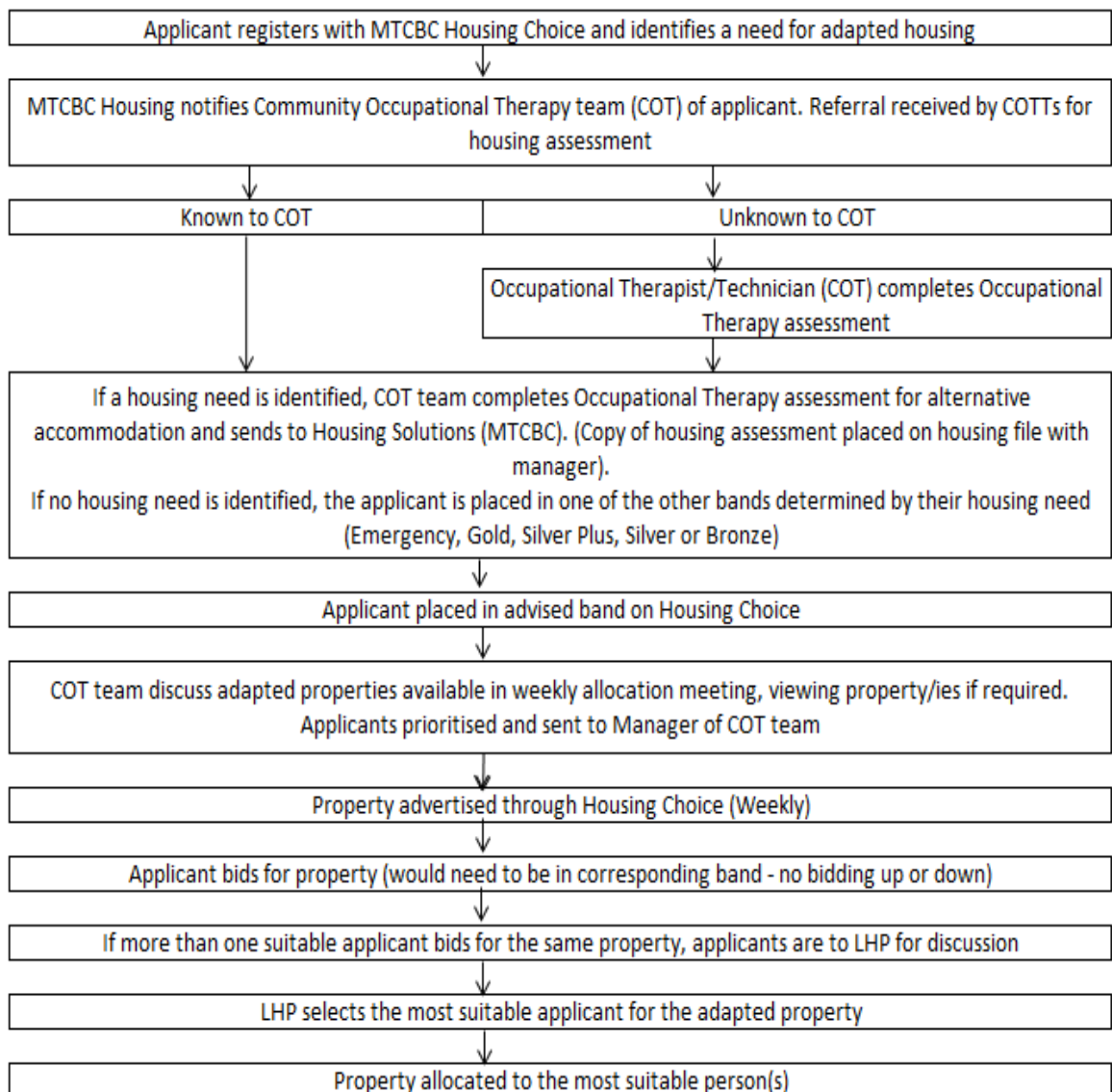
- 15.1 Home-seekers will be able to bid for properties via the 'Housing Choice' website or via telephone.
- 15.2 Any bids received after the deadline date has passed will be disregarded.
- 15.3 Home-seekers can bid for an unlimited number of properties per advertising cycle (weekly). They must only make one (1) bid per property.
- 15.4 The allocation of a property will be based on the priority of bids received, with Gold Band home-seekers having the highest priority and Bronze Band home-seekers having the lowest priority. Under this scheme, applicants in any band can apply for a property in any band (i.e. applicants can bid for a property in their band, or bid up and down). However, only if there are no suitable bids from home-seekers in a given category, will bids from the next highest priority category be considered.
- 15.5 Where a property is advertised as available for letting to a specific applicant group only, the letting will be made to the bidder with the earliest registration date in that group.
- 15.6 If more than one bid is received from home-seekers with the same priority, then the person who has been registered longest will be offered the property. If two or more home-seekers have the same priority and registration date, the Allocations Officer will decide taking into account all relevant factors, which home-seeker should get the offer.
- 15.7 The home-seeker to be offered the property will be contacted and checks made to ensure that the housing circumstances remain as they did when the application was submitted. As long as the circumstances are the same, an offer of the property will be made and a viewing arranged.
- 15.7 If the home-seeker refuses the property, then the property will be offered to the home-seeker with the next highest priority.

16 ALLOCATION OF ADAPTED PROPERTIES

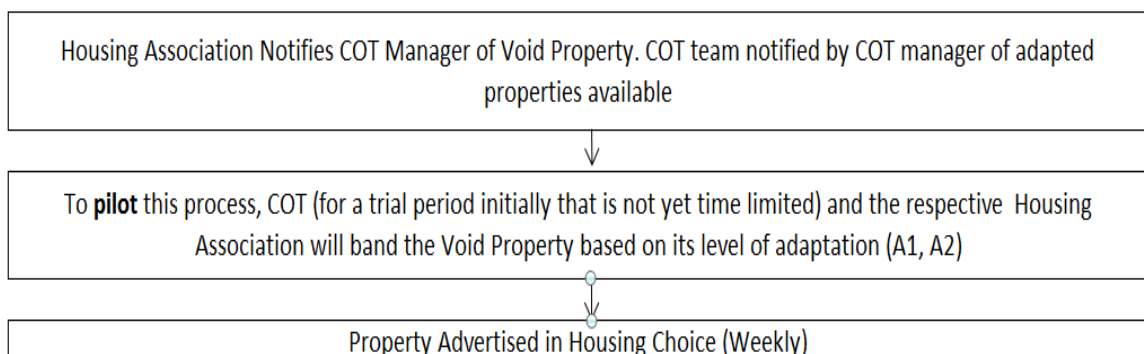
- 16.1 When a property which has undergone substantial alterations to make it suitable for a disabled person becomes vacant, the *Council* and *Registered Social Landlords* will make the adapted properties available through the *Housing Choice* scheme. Both property and applicant will be banded. The applicant will then be able to bid for an appropriate property through *Housing Choice*.
- 16.2 All significantly adapted or purposely built properties which allow full wheelchair access both internally or externally will be banded as 'A' properties. This 'A' category will then have two sub-categories, 'A1' and 'A2'
- A1: An accessible, highly adapted or purpose built property, providing wheelchair access **throughout the property**.
 - A2: A wheelchair accessible, highly adapted or purpose built property, providing wheel chair access to areas identified as necessary for the disabled person but which **may not include the entire property**.
- 16.3 The property may be a:
- Bungalow;
 - Ground floor flat;
 - First floor flat with vertical lift access;
 - Two storey building house allowing vertical lift access to first floor.
- 16.4 Access to the Property will need to be:
- Level or ramped (maximum gradient 1:12);
 - Doorways to have a minimum opening width of 780mm.
- 16.5 When registering with '*Housing Choice*', the applicant will state that they are in need of an adapted property and what specific adaptations are required. *MTCBC Housing* will then refer to the Community Occupational Therapy (*COT*) team for the applicant to be assessed. The *COT* team will carry out an assessment and based on the aforementioned criteria, place the applicant in either 'A1' or 'A2'. If the applicant does not meet the criteria for the 'A' band, then they will be placed in one of the other bands based on their housing need (i.e. *Emergency, Gold, Diamond, Silver Plus, Silver or Bronze*) and will be subject to the regular allocations process.
- 16.6 When an adapted property becomes vacant, the property will be assessed using the criteria above and banded as either 'A1' or 'A2'.
- 16.7 The adapted property will then be advertised in the weekly '*Housing Choice*' advert and listed as either A1 or A2. The applicant will be able to bid for the property providing that they are in the correct band. If more than one suitable applicant bids for the same property, the correct bids will be brought to the *Local Housing Panel (LHP)* for

discussion. The Panel will then select the applicant/family in the highest need and the applicant will be notified accordingly.

16.8 How applicants bid for adapted properties:



16.9 How adapted properties are banded and advertised:



17 REVIEWS AND APPEALS

- 17.1 All home-seekers registered with the scheme will be reviewed annually to determine whether or not they wish to remain on the scheme. Schedule of reviews is as follows:
- Review sent – 1st August
 - Reminder – 1st September
 - Application cancelled if no response received – 1st October
- 17.2 If a cancelled home-seeker reapplies to the scheme at a later date, they will not be re-registered from their original application date, unless, at the time of the review:
- they had been away from home to attend hospital, nursing home, residential home or other medical/support/care service, or
 - they had been away from home to support or care for a family member or friend
 - they can provide clear evidence of this within a three (3) month period. Where this is the case, the original application date will apply.
- 17.3 As noted throughout this policy, home-seekers have the right to request a review of decisions made about their eligibility, their priority and their removal of priority. Any home-seeker that wishes to ask for a review of a decision must make this request in writing to the Housing & Community Safety Manager at the Council. Reviews will be heard by the Local Housing Panel, details of which are provided at Appendix 4. Any appeals will be heard by the Housing Appeals Board, details of which are provided at Appendix 5.

Appendix 1

Priorities within the allocations scheme

See section on who qualifies for Reasonable Preference and why, for full details of when and how priority will be awarded for each group listed below

Priority	Categories	Timescale
Emergency Card	<ul style="list-style-type: none"> Home-seekers who have multiple gold band needs (cumulative need two or more Gold Band awards or a Gold and Silver Plus award) who require to move as a matter of urgency Emergency need to move determined by the Local Housing Panel or supported by South Wales Police at a Senior Level – refer to Section 9 paragraph 9.3 	Property to be allocated
Gold Band	<ul style="list-style-type: none"> Statutory homeless applicants where the Council has a duty to re-house under section 193(2) or 195(2) – Reasonable Preference group B Statutorily overcrowded or property is unsatisfactory or unfit as determined by an Environmental Health Officer – Reasonable Preference group C Awarded welfare, medical and disability reasonable preference priority by either a Senior Council Officer, the Community Occupational Therapy Team or Local Housing Panel – reasonable preference group D People who need to move to a particular locality within the district, where failure to meet that need would cause hardship to themselves or others. Reasonable preference group E. 	13 weeks
Diamond Band	<ul style="list-style-type: none"> Home-seekers who are under-occupying their property and cannot afford to pay the top-up Home-seekers who are in arrears as a direct result of under-occupying their current property. Arrears must not be in excess of £1,000 	Not time limited
Silver Plus	<ul style="list-style-type: none"> Applicants found to have been Intentionally homeless- Reasonable preference group A Applicants found by the Council to be non-priority homeless following a homelessness application – reasonable preference group A Applicants determined by the Council to be homeless within the meaning of Part 7 of the Housing Act 1996, but who have not made or do not wish to make a formal homelessness application to the Council – reasonable preference group A Home-seekers 60+ seeking sheltered accommodation Home-seekers living in 3, 4 & 5 bedroom accommodation who wish to downgrade to 2 or 3 bedroom property thereby releasing a larger home for re-allocation Home-seekers facing the threat of eviction and Court action is being taken 	Not time limited
Silver Band	<ul style="list-style-type: none"> Key workers i.e. NHS medical staff, emergency services, teachers, social workers – only for a 6 month period to enable them to find their own permanent accommodation in the private sector Medical condition will be significantly improved by 	

	<p>suitable alternative accommodation</p> <ul style="list-style-type: none"> • Home-seekers falling within the scope of the move-on strategy • Living with family/friends and sharing facilities • Do not live with spouse/partner and children and want to live with them • Family with children under 10 living in first floor flat or above • Need to move closer to provide or receive essential support to assist applicant/family with day-to-day living • Relationship breakdown and want to live separately from spouse/partner • Applicant with official 'access' to children who are living with a former partner • Overcrowded by at least one bedroom • Temporary accommodation required due to extensive building work where an improvement grant has been approved 			
Bronze Band: applicant	<ul style="list-style-type: none"> • Owner-occupier or private sector tenant where the home has the necessary facilities and is of the right size to meet needs • Home-seekers facing the threat of eviction (No Court action) 	Not time limited		
A Band (A1 or A2)	<ul style="list-style-type: none"> • This band is exclusively for people who are in need of specifically ad substantially adapted properties. • Properties in the A band will need to allow full wheelchair access both internally and externally. • The property may be a: <ul style="list-style-type: none"> • Bungalow; • Ground floor flat; • First floor flat with vertical lift access • Two storey building house allowing vertical lift access to first floor • Access to the Property will need to be: <ul style="list-style-type: none"> • Level or ramped (maximum gradient 1:12); • Doorways to have a minimum opening width of 780mm 	Not Time Limited		
	<table border="1"> <thead> <tr> <th>A1</th> <th>A2</th> </tr> </thead> <tbody> <tr> <td>An accessible, highly adapted or purpose built property, providing wheel chair access throughout the property.</td> <td>A wheelchair accessible, highly adapted or purpose built property, providing wheel chair access to areas identified as necessary for the disabled person but which may not include the entire property.</td> </tr> </tbody> </table>		A1	A2
A1	A2			
An accessible, highly adapted or purpose built property, providing wheel chair access throughout the property.	A wheelchair accessible, highly adapted or purpose built property, providing wheel chair access to areas identified as necessary for the disabled person but which may not include the entire property.			
No Preference Band	<ul style="list-style-type: none"> • Applicants who have a housing related debt against them • Applicants with a debt will be placed in this band until the debt is recovered or: <ul style="list-style-type: none"> • For debts over £500, the applicant has made a minimum of thirteen (13) consecutive payments, at an agreed, affordable level, and repaid a minimum of 25% of the debt • For debts under £500, the applicant actively followed a repayment plan for thirteen (13) weeks. . 	Not time limited		

	<ul style="list-style-type: none"> • Applicants have been guilty of unacceptable behaviour. • The Local Housing Panel will decide when applicants are eligible to move out of the 'No Preference' band • Applicants will not be able to bid for housing while in this band. 	
Enquiry Band	<ul style="list-style-type: none"> • Applicants who visit the Council for housing advice • Advice given to applicants will be recorded here but they will not be registered. • Applicants will not be able to bid for housing while in this band. 	Not time limited
Homeless Band	<ul style="list-style-type: none"> • Applicants who visit the Council claiming to be homeless. • Applicants will be placed in this band until a Homelessness decision is made. • Applicants will not be able to bid for housing while in this band. 	Not time limited

Appendix 2

The Bedroom Standard and Age Criteria

Property size and Type	Household Size
Bedsit	Single person
1 bedroom elderly persons flat or bungalow or 2 bedroom bungalow	Single person or couple (Dependent on age criteria listed below or disabled)
1 bedroom flats	Single person or couple
2 bedroom flats	Family needing 2 bedrooms or 2 adults sharing accommodation
1 bedroom houses and maisonettes	Single parent, couple, or single person
2 bedroom houses and maisonettes	Family needing 2 bedrooms or 2 adults sharing accommodation
3 bedroom houses or maisonettes	Family requiring 3 bedrooms or 3 adults sharing accommodation
4 bedroom house	1 or more adult with 4 or more children

The size criteria allow one bedroom for each person or couple living as part of the household with the following exceptions:

- Children under 16 of the same gender are expected to share
- Children under 10 are expected to share regardless of sex
- A disabled tenant or partner who needs a non-resident overnight carer will be allowed an extra room.

This means those tenants whose accommodation is larger than they need may lose part of their Housing Benefit. Those with one spare bedroom will

lose 14% of their Housing Benefit and those with two or more spare bedrooms will lose 25%. However, if applicants are in full-time employment and are able to pay the full weekly rent, they will be eligible to apply for any house size they wish.

Age criteria for sheltered accommodation	
Merthyr Valleys Homes	Age 50 and over
Merthyr Tydfil Housing Association	Aged 50 and over
Hafod	55 and over
Wales and the West Housing Association	60 and over, 55 with medical grounds, exceptions may be made on exceptional grounds.

Appendix 3

The Reasonable Preference Categories as amended by the Homelessness Act 2002

- a) People who are homeless (within the meaning of Part VII of the 1996 Act, i.e. the Homelessness Legislation); this includes people who are intentionally homeless, and those not in priority need;
- b) People who are owed a duty by any housing authority under section 190(2), 192(3) [power to accommodate non priority homeless applicants], 193(2) or 195(2) of the 1996 Housing Act. See below for definitions of these duties.
- c) People occupying unsanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
- d) People who need to move on medical, welfare or disability grounds; and;
- e) People who need to move to a particular locality in the district of the housing authority, where failure to meet that need would cause hardship to themselves or others.

Section 190(2)

Intentionally homeless. Priority. Temporary accommodation, advice and assistance.

Section 192(3)

Not priority, not homeless intentionally, may secure accommodation. Merthyr does not exercise this power and therefore no awards are made for this duty under the allocation policy.

Section 193(2)

Priority, not intentional, accept and secure accommodation.

Section 195(2)

Threatened with homelessness. Priority, not intentional, prevent and accept if become homeless.

REASONABLE PREFERENCE: When and how reasonable preference applies

Who qualifies for Reasonable Preference, and why and what Band will applicants be placed into, if they are or are not awarded reasonable preference?

The following definitions outline when someone would qualify for reasonable preference under one or more of the five statutory categories identified in Appendix 3, and therefore needs to be read in conjunction with each of the reasonable preference categories.

1. **Reasonable preference category (a) - Homelessness Households who are homeless (within the meaning of Part VII of the 1996 Act, i.e. the Homelessness Legislation); this includes people who are determined by a Council as not having a priority need; All applicants that fall into Reasonable Preference Group A will be granted Silver Plus Priority**

This group comprises all households who are homeless under the definition of homelessness contained in sections 175 -177 of the Housing Act 1996 Part 7 whether or not they have made a formal homelessness application as long as they **have not been accepted as being owed the full homelessness duty by the Council**. Under this definition a person who does not have accommodation which is legally and physically available to him or her to occupy and which is reasonable for him or her to occupy would qualify. Under this provision there is no requirement that an applicant should be in 'priority need' for accommodation, or that they have made a statutory homelessness application to the Local Authority under Part 7 of the Housing Act 1996. In this case they will be awarded the Silver Plus band.

So, reasonable preference (a) could include:

- I. Those who have no accommodation they can live in, with other family members normally living with them or others the Council might reasonably expect to live with them
- II. Those who have accommodation but where in the Council's opinion it wouldn't be reasonable for them to continue to occupy it
- III. Those that have accommodation but they cannot secure access to it, or, in the case of a moveable structure, like a caravan, there is no lawful place they can lawfully live in it
- IV. Those who have made a homelessness application and have been found to be a non-priority homeless applicant or found to be intentionally homeless but are no longer owed the limited temporary

accommodation duty (normally 28 days) following a decision of intentional homelessness

Examples of people who would fall into reasonable preference (a) would be:

- People with a tenancy in the private sector who have received an outright Possession Order requiring them to leave.
- People who are living with family and friends who have been asked to leave and have no right to remain.
- People who live in a caravan or houseboat where the pitch or mooring is being lost.
- People who live in a hostel whose license to occupy has been withdrawn
- People who have made a homeless application and where a Council's Homelessness Officer has determined that application with a decision that they are a non-priority applicant.

Note: Where a statutory application has been made and the applicant has been found to be owed a full homelessness duty as in priority need; and unintentionally homeless, they will be awarded Gold Band status under reasonable preference category B below and will not be awarded reasonable preference under this group A.

2. **Reasonable preference category (b) – Homelessness households who are owed a duty by any housing authority under section 190(2), 193(2) or 195(2) of the 1996 Housing Act. All applicants that fall into Reasonable Preference Group B will be awarded Gold Band priority**

You will receive Gold Band under the above if you are homeless, in priority need and owed a duty under sections 193(2), 195(2) or 190(2) of the Housing Act 1996 as amended.

People who would fall into reasonable preference (b) are:

- I. People who are in priority need and the Council has accepted that it owes the applicant a duty under section 195(2) as being threatened with homelessness in the next 28 days and the Council is taking steps to try and prevent that homelessness from occurring
- II. People who have been accepted as being owed the full homeless duty under section 193(2) i.e. those who are deemed homeless, in priority need and unintentionally homeless
- III. People owed a section 190(2) duty that have been assessed as being in priority need but are intentionally homeless and have been provided with accommodation for a period of time to enable them to secure their own accommodation. N.B. The banding for this group is only provided for the period of time the

duty is owed. This is normally 28 days following the decision that the person is intentionally homeless but the exact time will be determined by the Council on an individual case basis.

Although all applicants within this category can also receive cumulative need from reasonable preference categories for medical, welfare or disability, additional reasonable preference cumulative need from this group will be awarded in only very specific circumstances as identified below.

Note: you cannot be awarded cumulative need on the basis of 'double' homeless reasonable preference for being owed a statutory homelessness duty under reasonable preference group B and being homeless within the meaning of Part 7 (Reasonable Preference Group A). An applicant can only be awarded A or B.

Note: Applicants who qualify for this reasonable preference group B will not be able to be granted cumulative need for also qualifying for reasonable preference group C. This is because the Council's Homelessness duty under section 193(2) is to provide suitable accommodation until settled accommodation is available. Given the duty to provide suitable accommodation has to be performed once it is accepted, reasonable preference priority will not be awarded for insanitary conditions or where a property is uninhabitable. Where applicants may lack facilities, or suffer some overcrowding in temporary accommodation provided by the Council in discharge of its homeless duty, this is already reflected in reasonable preference group (b) by the award of this reasonable preference priority for households in such accommodation.

Applicants in reasonable preference group (b) can qualify for reasonable preference priority cumulative need for medical, welfare or disability in reasonable preference group (d). However, priority under this category is awarded on the basis of how an applicant's current accommodation affects their welfare or health. Where a homelessness duty has been accepted under group (b) the provision of suitable accommodation under that duty is likely to restrict the number of cases that can receive additional priority on medical, welfare or disability grounds. The Council does recognise however, that there will be exceptional circumstances where reasonable preference priority cumulative need can be awarded despite suitable temporary accommodation being provided by the Council. This might include circumstances where, despite suitable accommodation being provided under the Homelessness legislation, there is still a need because of a medical, welfare, or disability issue to move as quickly as possible into settled housing through the Council's Allocation Scheme. A wide variety of individual circumstances can occur and therefore the following examples are only for guidance. All cases will be considered on their severity and individual merits.

- Children with disabilities such as autism, or cerebral palsy where their long term needs cannot be met without settled accommodation.
 - A person with a disability requiring substantial adaptations to a property which is not provided for in their current temporary accommodation
 - A person with a terminal illness or long term debilitating condition where their quality of life would be improved by moving to settled accommodation.
3. **Reasonable preference category (c) – People occupying unsanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions. All applicants that are determined as being owed reasonable preference under this group will be granted Gold Band status. Those applicants who occupy overcrowded or unsanitary housing but where this has not been assessed as being severe enough to qualify for reasonable preference will be granted Silver Plus, Silver or Bronze Band priority according to the severity of their circumstances as defined below.**

Reasonable preference Gold Band status for this group will be awarded for: -

- Those living in insanitary conditions where the conditions pose an ongoing and serious threat to health;
- They are a private sector tenant and the Council's Public Health Team have decided that the problem cannot be resolved by the Council.
- Those that are Statutory overcrowded as defined by the Housing Act 2004.

Those living in a property that is uninhabitable due to, for example, severe damp, major structural defects including subsidence, flooding, collapse of roof, or have living conditions which are a statutory nuisance and there is no prospect of the problems being remedied in a time period that the Council considers reasonable. The assessment of such cases will be carried out by the Council's Housing Options Team taking advice from the Public Health Department of the Council, and if the decision is that the problem cannot be resolved within a reasonable period of time by the Council, the landlord, or the tenant, reasonable preference will be awarded. A home-seeker will not be given a 'double' priority award for being in insanitary conditions and in a property that is uninhabitable.

Those who are statutory overcrowded as defined by the Housing Act 2004. However, those overcrowded by one bedroom or more who are not statutory overcrowded will not be granted reasonable preference but will be placed in the Silver Band. Statutory overcrowding is defined in the Housing Act 1985 Part X.

There are two tests for overcrowding; the room standard and the space standard. The Council will assess whether an applicant is statutory overcrowded and therefore entitled to additional priority.

For those applicants where their housing conditions or level of overcrowding mean that it is not reasonable for them to continue to occupy their overcrowded accommodation and as a result they are owed a Statutory homeless duty under section 193(2) of the Housing Act 1996, they will no longer be allocated priority from the above category as the Council will be under a legal duty to remedy the cause of homelessness through the provision of suitable accommodation. This will result in an award of reasonable preference for the statutory homeless duty under reasonable preference group B rather than group C.

4. **Reasonable preference category (d) – Medical, Disability and Welfare. All applicants assessed as owed reasonable preference for medical, disability or welfare grounds will be granted Gold Band priority. All other applicants will be granted Silver or Bronze priority depending on their assessed circumstances as detailed below.**

Section 8, details the procedure for assessing and awarding medical priority. Reasonable preference is awarded by the Council following an assessment from either the Team Leader, Housing Options or from the Community Occupational Therapy Team. A home-seeker's circumstances will normally be referred for a medical assessment if an applicant has indicated that there is a medical or disability problem that is made substantially worse by their current housing. Otherwise their circumstances will be assessed by a Housing Options Advisor using standard criteria. Priority will be given depending on how unsuitable the current accommodation is in relation to their medical, welfare or disability needs. The assessment is not of the applicant's health but how their accommodation affects their health or welfare.

When will Gold Band for medical reasons be awarded?

An applicant that has an urgent need to move for medical reasons or due to their disability will be placed in the Gold Band. This would include people whose life is at risk due to their current housing conditions or who are completely housebound because of the type of accommodation they live in.

The following are examples of cases that would qualify for Gold Band status and would be likely to be awarded points under one of the above three categories. I.e. medical, welfare or disability needs.

- Where an applicant's condition is expected to be terminal within a period of twelve (12) months and re housing is required to provide a basis for the provision of suitable care.

- The condition is life threatening and the applicant's existing accommodation is a major contributory factor
- The applicant's health is so severely affected by the accommodation that it is likely to become life threatening
- The applicant is unable to mobilise adequately in their accommodation and requires re-housing into accommodation suitable for their use
- The applicant's accommodation is directly contributing to the deterioration of the applicant's health such as a chest condition requiring intermittent hospitalisation as a result of chronic dampness in the accommodation
- Where overcrowding in the property leaves the applicant at risk of infection, for example, where an applicant is undergoing chemotherapy

When will Silver Band for medical reasons be awarded?

Where an applicant's housing is unsuitable for medical reasons or due to their disability, but who are not housebound or whose life is not at risk due to their current housing, but whose housing conditions directly contribute to their ill-health, they will be placed in the Silver Band. This will normally be assessed by a Council Housing Options Advisor using set criteria, and may or may not need to be referred to a medical advisor depending upon the circumstances.

Welfare Issues

With the exception of elderly applicants (see below), the award of reasonable preference Priority on welfare grounds will be made by the Council's Local Housing Panel.

The exception is for those applicants who need to move on welfare grounds due to old age. These cases will have their welfare need recognised and reasonable preference awarded. An assessment of an applicants need to move due to old age will be made by the Council taking into account information provided by one or more of the following:

1. A member of the Housing Solutions team who will have considered any information provided by the applicant's GP or consultant.
 2. Social Services.
 3. Occupational Therapist.
 4. Age Concern or any other voluntary sector organisation representing the applicant.
5. **Reasonable preference category (e) – People who need to move to a particular locality within the Local Authority's district, where failure to meet that need would cause hardship to themselves or to others. Details of when Reasonable Preference will be granted**

for this group are given below. If granted the applicant will be granted Gold Band priority.

This category applies to those who need to move to a particular area in the County Borough, where failure to meet that need would cause hardship for themselves or others. Given that the County Borough is geographically compact with good transport links it will be only exceptional circumstances where an award will be made in Section A and Section B below. Reasonable preference priority would not normally be awarded to applicants who claim that they require ongoing support from relatives or friends, unless there is mental health, medical or welfare issues relating to this person or a member of this person's household. Such support should still be available through either them travelling to where the support is provided e.g. a parents/relatives address or vice versa.

Examples when Gold Band reasonable preference might be awarded for 'need to move cases'

Group A Examples

- i. Those who need to move to give or receive care that is substantial and ongoing.
- ii. Those who need to access social services facilities, and are unable to travel across the County Borough.
- iii. Those who need to access specialized medical treatment.
- iv. To take up employment, education or a training opportunity that is not available elsewhere and who does not live within reasonable commuting distance.

Group B Examples

People who have satisfied the Council that they are fleeing harassment or violence from inside or outside of the home but they have not been accepted as being owed a homelessness duty as a result of that violence or harassment.

Note: This is only a statutory duty if they apply and are accepted as homeless. Many may wish to remain with relatives or friends and be awarded reasonable preference under this group without going through the homelessness route.

Group C Examples

The Council wants to ensure that care leavers and other vulnerable people with support needs are helped to access secure and suitable long term housing. Many of these cases would come under one of the reasonable preference groups especially those with pressing welfare

needs under section 167(2) (d) above, but it is important that they are only nominated to move on accommodation when they have been assessed as being ready to move and therefore there is a need to move where failure to do so would cause hardship to themselves and others.

Until they are assessed as ready to move on their application will be registered but suspended. The Council will not therefore allocate reasonable preference under this category until the person has been assessed as being ready to move on.

Waiting Time

When a home-seeker has been placed into a Band due to being awarded either:

1. Cumulative need for more than one reasonable preference category – Emergency Card.
2. One reasonable preference category as defined in the scheme above – Gold Band.
3. No reasonable preference category and those found to be non-priority homeless or found intentionally homeless and no longer owed the intentional homeless limited time period accommodation duty [reasonable preference (a)] – Silver Plus or Silver or Bronze Band.

Their position within their allocated Band will be determined by the time they were registered for that Band.

The above section outlines who does and does not qualify for reasonable preference under the statutory reasonable preference criteria.

Outside of these criteria there are a number of other groups that Merthyr Council and its RSL partners will give priority for housing under the 'Housing Choice' Allocation Scheme. These cases will not be granted a greater priority Band than those applicants that fall under a statutory reasonable preference group. They are allocated Silver Band and full details of which groups will be awarded Silver Band Priority is given in Appendix 1 under the Silver Band Section.

Appendix 4

Local Housing Panel

Terms of Reference

1 Composition of the Panel

1.1 The Panel will consist of the following Officers:

- Local Authority Manager with responsibility for Housing
- Housing Association Manager with responsibility for Housing

Additional members will be co-opted as and when required.

2 Role of the Panel

2.1 To consider individual cases where a person's social, financial or medical circumstances are seriously affecting their housing conditions, such as for example in the case of ASB or violence. This panel will also have regard to the protocol that is in place with South Wales Police.

2.2 To consider and agree suspensions from the Common Housing Register

2.3 The decision reached by the Panel can still be subject to appeal to the Housing Appeals Board

3 Frequency of Meetings

3.1 The Panel will meet monthly

4 Conduct of the Meetings

4.1 The home-seeker will be able to attend the meeting and bring a representative to the meeting to assist them put their case forward. The home-seekers' representative can be either a relative or friend or a professional representative such as a Housing Rights Worker or Solicitor.

4.2 The Panel will firstly consider the case put forward by the home-seeker and/or their representative.

4.3 The home-seeker and/or their representative must provide evidence to support their case.

4.4 The landlord will then be provided with the opportunity to set out their decision and the evidence upon which they based their decision.

- 4.5 The Panel will then, meeting in closed session, consider the merits of the arguments put forward by both parties. Where the Panel is unable to reach a unanimous decision, a majority decision will suffice.
- 4.6 The home-seeker will be advised of the decision of the Panel in writing. The letter notifying the home-seeker of the decision will state the Panel's reasons for reaching its decision.

5 Monitoring and review

- 5.1 The number of cases dealt with by the Panel, along with the decisions made and reasons will be monitored and reported annually to the Customer Services Scrutiny Committee and boards of relevant Registered Social Landlords.

Appendix 5

Housing Appeals Board Terms of Reference

1. Composition of the Appeals Board

1.1 The Board will consist of the following Officers and elected members:

- Director of Customer Services
- Portfolio Member for Housing
- Chief Executive or senior nominated Director from the participating Registered Social Landlords

2. Role of the Appeals Board

2.1 The Appeals Board will:

- Consider appeals from home-seekers against the Local Housing Panel's decision to suspend them from being able to make bids for accommodation.
- Consider appeals from home-seekers and existing tenants about the removal of priority (reasonable preference)
- Consider appeals from home-seekers and existing tenants about the award of urgent medical and social priority or the reasonableness of any offer made to home-seekers with priority status

2.2 The decision reached by the Appeals Board will be final.

3. Frequency of Meetings

3.1 The Board will meet within 28 days of the Council receiving a request in writing to review any decision as set out in 2.1.

4. Conduct of the Meetings

4.1 The home-seeker will be able to attend the meeting and bring a representative to the meeting to assist them in putting forward their case. The home-seekers' representative can be either a relative or friend or a professional representative such as a Housing Rights Worker or Solicitor.

4.2 The Appeals Board will firstly consider the case put forward by the home-seeker and/or their representative.

4.3 The home-seeker and/or their representative must set out why the decision made is incorrect and provide evidence to support their case.

4.4 Representatives from the Local Housing Panel, to include as a minimum the Council's Housing and Community Safety Manager and

one housing association representative will then be provided with the opportunity to set out the reasons why the original decision was made by the Local Housing Panel, along with the evidence upon which they based their decision.

- 4.5 The Appeals Board will then, meeting in closed session, consider the merits of the arguments put forward by both the appellant and the Local Housing Panel and reach a final decision. Where the Appeals Board is unable to reach a unanimous decision, a majority decision will suffice.
- 4.6 The home-seeker will be advised of the decision of the Appeals Board in writing. The letter notifying the home-seeker of the decision will state the Appeals Board's reasons for reaching its decision.

5. Monitoring and review

- 5.1 The number of appeals requested, decisions made and reasons will be monitored and reported annually to the Customer Services Scrutiny Committee and Boards of local Registered Social Landlords.