

Ownership of policy

This is Rochdale Borough Council's housing allocation policy. The document was developed by Rochdale Borough Council and Rochdale Boroughwide Housing in consultation with elected members, tenants, applicants and other stakeholders.

Rochdale Boroughwide Housing is responsible for the implementation of the policy. References within the policy to the council include those functions carried out by Rochdale Boroughwide Housing on behalf of the council.

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1. Introduction

- 1.1 Rochdale Borough Council allocates its housing stock through a Choice Based Lettings scheme.
- 1.2 In developing this policy the council has taken due regard of legislation, government guidance and responses from extensive consultation.
- 1.3 Government guidance promotes the view that those decisions on the allocation of social housing, which have a profound impact at a national and local level, should be taken within a framework which balances both national and local interests.

2. Aims and objectives of the allocation policy and the rehousing system

- 2.1 The key aims and objectives of this policy are to:
 - contribute to the development of sustainable communities
 - assist the council in meeting statutory duties and corporate aims
 - prevent people becoming statutory homeless
 - meet national, regional, sub-regional and local priorities
 - provide flexible and affordable accommodation options which meet needs and expectations
 - maximise choice for applicants
 - let council accommodation fairly and in an open and transparent way
 - meet responsibilities towards the borough's residents
 - minimise property void periods
 - work in partnership with other housing providers to help the council achieve these aims
 - seek to promote social inclusion
 - promote and achieve equality of opportunity

3. Legal framework

- 3.1 The allocations policy complies with the following legislation. This is together with any relevant regulations or orders made under that legislation.
 - The Housing Act 1985
 - The Housing Act 1996
 - The Homelessness Act 2002
 - The Housing Act 2004
 - The Disability Discrimination Act 1995
 - The Sex Discrimination Act 1975 (as amended)
 - The Race Relations Act 1976 and the Race Relations Act (Amendment) Act 2000
 - The Human Rights Act 1998
 - The Rehabilitation of Offenders Act 1974
 - The Immigration and Asylum Act 1999
 - The Protection from Harassment Act 1997
 - The Data Protection Act 1998
 - The Sex Discrimination (Gender Reassignment) Regulations 1999
 - The Gender Recognition Act 2004
 - The Carers (Equal Opportunities) Act 2004
 - The Equality Act 2006
 - The Children (Leaving Care) Act 2000
- 3.2 This allocations policy is based on housing need as defined in the Housing Act 1996, as amended.
- 3.3 The reasonable preference categories set out in s.167 (2) 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 s.190(2), s.193(2) or s.195(2) of the 1996 Act (or under s.65(2) or s.68(2) of the Housing Act (1985) or who are occupying accommodation secured by any local authority under s.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; and
- 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).

3.4 This allocations policy has been written to meet the duties of Part 6 of the Housing Act 1996, as amended by the Homelessness Act 2002.

3.5 Part 6 of the Housing Act 1996 covers:

- the allocation of local authority properties to new tenants
- transfers that are requested by local authority tenants
- exclusions and suspensions from the housing register
- the right to review an exclusion decision
- information that is held on the housing register
- the allocation of local authority properties to current tenants of registered social landlords
- nominations that the council makes to registered social landlords

3.6 This policy takes account of the Allocation of Accommodation Code of Guidance for Local Housing Authorities, November 2002 revision and the Fair and Flexible Guidance December 2009.

4. Equality and diversity statement

- 4.1 This policy recognises, respects and responds to the different and diverse housing needs of the borough. It offers equality of opportunity for everyone regardless of race, ethnic origin, nationality, religion, cultural background, gender, sexual orientation, domestic circumstances, age, disability or illness.
- 4.2 This policy complies with the council's equality and diversity policy, aims to support the Rochdale Borough Local Strategic Partnership's vision and complies with the Commission for Racial Equality's Code of Practice in Rented Housing.

4.3 This policy enables all eligible applicants to access the housing register. It ensures that we assess each applicant for housing on the basis of individual need. In addition, our assessment will seek to identify and meet any special requirements. For example, the applicant may face a language barrier or have certain disabilities or learning difficulties which means they need the services of other agencies or support from families.

5. Data protection

5.1 The Data Protection Act 1998 governs the way the council and its partners use personal information in relation to housing services. It covers all personal data that is processed, whether recorded in a manual or computerised form.

5.2 Personal data will be held securely and only those staff authorised will have access to relevant information.

5.3 Information will only be held as long as necessary and in accordance with the appropriate retention policies in place.

5.4 Information will not be disclosed to third parties unless there is a legal basis for this.

5.5 Appropriate procedures are in place to ensure that applicants are able to exercise their right to access any information held about themselves. See Disclosure Section (5.8).

5.6 It is the responsibility of both staff and applicants to ensure that all information that is held within information systems is accurate and up to date.

Keeping information

5.7 The type of information kept by Rochdale Boroughwide Housing (RBH) about each eligible applicant includes but is not limited to:

- full details of the applicant and moving family including for example, name, date of birth, address, ethnicity, immigration status, employment status, welfare and medical conditions;

- information relevant to the housing application including details of existing and previous accommodation and previous tenancy conduct.

Disclosure

5.8 An individual (the data subject) is entitled to be informed by RBH whether it holds any personal data on a data subject, and is allowed to see any personal data. To prevent unauthorised disclosure the following steps are taken:

- All requests are made in writing. The subject will be asked to provide written confirmation of ID; and
- Where a request for disclosure is received from someone acting on behalf of a tenant/ applicant such requests must be made in writing. The person concerned will be asked to provide proof of identity and confirmation from the data subject for example, Power of Attorney or similar, that he/she is acting on behalf of the subject.

5.9 Where information has been provided by a third party and a disclosure requested, the third party must consent to the disclosure or direct requests to the third party will also be accepted.

5.10 Only authorised staff will be permitted to access personal information.

6. Application process

6.1 All applicants must submit a completed housing application form for assessment.

6.2 Once an application has been submitted, all applicants are assessed for any factors that determine housing need and to establish if a duty is owed.

6.3 If the applicant is eligible for rehousing, the application will be made live on the housing register and priority awarded if necessary.

6.4 Once an application is live, the applicant can express an interest in available accommodation.

6.5 An applicant can be ineligible for rehousing for a number of reasons, please see section 8. An applicant can request an appeal of this decision, which must be made within 21 days.

6.6 Under section 171 of the Housing Act 1996, a person who provides false statements or withholds information could be liable on summary conviction to a fine not exceeding level 5 on the standard scale. They will also be deemed ineligible for rehousing. If the person has already been rehoused when the offence is discovered, steps may be taken to regain possession of the property.

7. Applicant criteria

7.1 All applicants are deemed eligible unless specifically stated as ineligible by statute or direction of the Secretary of State.

7.2 Those specifically stated as ineligible are:

- applicants subject to immigration control and prescribed by the Secretary of State as ineligible or who are not habitually resident in the Common Travel Area (that is the United Kingdom of Great Britain and Northern Ireland, the Republic of Ireland, the Channel Islands and the Isle of Man), and/or;
- cases where the applicant, or any member of his/her household, has been guilty of unacceptable behaviour serious enough to make him/her unsuitable to be a tenant. This includes those owing housing related debt (rent arrears, court costs and/or costs involved in repairing residential property) and those involved in anti-social behaviour/nuisance/harassment.
- applicants guilty of unacceptable behaviour which has been serious enough to lead to the granting of an outright possession order (or equivalent serious legal action); the behaviour is the fault of the applicant or members of the household applying for rehousing and is/was not caused by factors outside his/her control; and the circumstances and behaviour have not changed and improved since the unacceptable behaviour occurred.

However, under some special circumstances, such as where there may be an overriding housing need to be met or a duty to a statutory homeless person, then these eligibility rules may be waived.

- 7.3 For applicants owing housing related debt(s) the following applies:
- In all cases of housing related debt, including those over £250, account will be taken of all relevant factors including record of repayment and willingness by the applicant to clear and reduce outstanding debt, improve behaviour and provide assurances about future performance.

Immigration and habitual residence

- 7.4 Passports, immigration papers and other relevant documentation must be produced at the interview to assess immigration status. A decision will be based on these documents in accordance with the legal requirements. All evidence produced in support of the application must be original.

16/17 year olds

- 7.5 The council will only offer housing to an applicant who is aged 16 or 17 if he/she is:
- classed as homeless or threatened with homelessness, eligible for homeless assistance, in priority need and not intentionally homeless under the Housing Act 1996 (as amended by the Homelessness Act 2002); or
 - owed a duty to provide accommodation under the Children (Leaving Care) Act 2000; or
 - able to show a form of income sufficient to meet their housing costs and their everyday living needs. Applicants will be required to provide proof, which can mean evidence of wages, receipt of benefits, or an employer's letter for example.
- 7.6 If accepted for housing, a support package/network must be identified to assist the applicant in managing accommodation.

Applicants from outside of the borough

- 7.7 Applicants from outside the borough who have a strong local connection with the borough will be assessed for reasonable preference.
- 7.8 A strong local connection can be demonstrated by evidence of social and/or immediate family ties; or employment that is more than temporary/casual; or a past term of residence (of not less than 6 months in the past 12, or not less than 3 years in the past 5); or support needs affecting the applicant or a resident/s of the borough.
- 7.9 All out of borough applicants who have been identified as having a strong local connection will be invited to a housing options interview.
- 7.10 If an applicant does not live in the borough and does not have a strong local connection with the Rochdale Borough, then he/she will be awarded Band D priority (no housing need); see Section 9 for details.

Applicants leaving the armed forces

- 7.11 All armed forces applicants must have a strong local connection to the Rochdale Borough, as defined in 7.8.

Applicants leaving prison

- 7.12 All applicants leaving prison must have a strong local connection to the Rochdale Borough, as defined in 7.8. When an application is received, RBH will make enquiries with the probation services and once the applicant is cleared their application is made live and the applicant can begin to place expressions of interest immediately.

All applicants

- 7.13 All applicants are expected to indicate their willingness to comply with tenancy conditions, and to understand that the council expects all tenants to respect the rights of their neighbours to the peaceful and quiet enjoyment of their homes and environment.

8. Ineligible applicants

8.1 Applicants may be removed from the housing register for the following reasons:

- The applicant requests this.
- The applicant is no longer contactable and has moved from the address given on their application form.
- An applicant no longer/has never been eligible for rehousing.

8.2 An applicant has the right to request a review of any decision on his/her eligibility for assistance.

8.3 If an applicant has requested a review and is:

- dissatisfied with the decision on the review,
or
- not notified of the decision on the review within the time prescribed,

he/she may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.

8.4 For further details, please see the relevant literature available.

9. Priority band and housing need

9.1 Once an applicant's level of housing need has been assessed, an application will be placed in one of four priority bands (Band A to Band D); ranging from applicants who are in urgent housing need in Band A, to applicants in Band D who will have no housing need.

9.2 The following table lists the categories of housing need and clearly sets out which priorities fall within the 4 bands.

Band A

- Homeless applicants where there is a statutory duty to provide housing
- 16/17 yrs old homeless and vulnerable
- Serious medical – life at risk
- Anyone facing imminent discharge from hospital or a specialist provision
- Clearance (property is subject to CPO)

Band B

- Applicants threatened with homelessness where the council would have a statutory duty to rehouse
- 16/17yrs old owed duty and/or leaving care
- Unsuitable condition of privately rented property with a vulnerable age group present
- 'Move On' from supported accommodation
- Learning Disability
- Severe & Enduring Mental Health
- Physical Disability
- People with HIV & Aids
- Family Intervention Tenancy

Band C

- Applicants that are homeless or threatened with homelessness but not in a priority group
- Learning Difficulty
- Carers, registered foster workers and key support workers
- Medical condition
- Overcrowded – one bed lacking + another hazard (such as mixed sex sharing a room)
- Overcrowded – 2 bed+lacking
- Unsuitable condition of privately rented property without a vulnerable age group present
- Under occupation and/or for an adapted property which is now not required
- Moving for work
- Mental illness
- Parents under 18 yrs old requiring support
- Leaving prison
- Leaving the armed forces
- Hardship, as defined in s.167 of the 1996 Housing Act
- Applicants that are homeless or threatened with homelessness but are deemed to be intentionally homeless

Band D

- Applicants without a housing need who are in employment
- Applicants without a housing need who are not in employment

9.3 Applicants within Bands A to C who place expressions of interest will be shortlisted for available properties according to:

- length of time in need
- if they currently live within the borough/have a strong local connection
- if they have financial means to secure accommodation otherwise

9.4 Applicants in Band D who place expressions of interest will be shortlisted according to:

- being in employment
- if they currently live within the borough/have a strong local connection
- length of waiting time on the housing register
- if they have financial means to secure accommodation otherwise

9.5 Whilst the council aims to achieve clarity and transparency in setting the bands, there will be a discretion to provide a degree of flexibility in the implementation of the policy in considering the merit of individual cases.

10. Offers of accommodation and expressing interest in a property

10.1 Once an applicant's account becomes live they can start to place expressions of interest on properties advertised on the Homechoice website.

10.2 Properties will be advertised on a weekly cycle, with all expressions of interest taken in this time being treated equally, regardless of when placed.

10.3 All applicants can place expressions of interest for properties of their choice. No direct offers will be made except for extenuating circumstances, where an applicant needs to be moved in an emergency situation.

10.4 Each applicant can place up to 3 expressions of interest at any one time within a weekly advertising cycle.

10.5 Each applicant will have a number of opportunities, dependant on their priority, to refuse an offer of a property they have actively expressed an interest in; as it is

expected that if an applicant has made the choice to place an expression of interest in a property then they are actually interested in that accommodation.

10.6 At the end of the weekly cycle, all eligible expressions of interest will be shortlisted by applicant's needs. Time on list, local connection and whether the applicant can adequately house themselves will all be deciding factors too.

10.7 In the case of Band D applicants placing expressions of interest in properties, as these are applicants who have no housing need, being in employment, local connection and waiting time on the housing register will be the main deciding factors for allocation, along with whether an applicant has the financial means to secure accommodation by other means.

10.8 All applications will be subject to any last minute checks affecting their application before the final offer is made. An offer of rehousing is not binding until the tenancy agreement is signed and completed, and can be withdrawn at any time before this event.

11. Review of applicants

11.1 All applicants' expression of interest activity will be reviewed regularly to identify any need for support in the process.

11.2 All medical applications will be assessed by a panel. The panel will take account of individual circumstances. All decisions are subject to review.

11.3 Special needs cases will be assessed in conjunction with other relevant agencies. All decisions are subject to review.

11.4 All applicants will be assessed regularly to ensure they are still eligible. Applicants may be deemed to have become ineligible or have a reduced priority for reasons including, but not limited to, if there has been a change in their housing circumstance, if they have been identified as not actively expressing an interest in appropriate properties or refusing properties for which they have actively expressed an interest.

11.5 All decisions to remove priority status are subject to review.

12. Letting criteria and types of property offered

12.1 All new tenancies will be introductory tenancies unless an applicant holds a secure tenancy with the council or another local authority, or holds an assured tenancy with a registered social landlord.

12.2 All offers of accommodation will attempt to make maximum use of the stock by ensuring, wherever possible, that applicant household details match the attributes of the property. For example, a three-bedroom house would be offered to an applicant whose details indicate that a three-bedroom house is the most effective means of making best use of the property and satisfying the requirements of the applicant.

12.3 Accommodation within a scheme where there are 3 or more floors and where there is no lift readily available will not be considered suitable for offering to families with children under the age of 10. Where the applicant or another agency indicates that they be considered for accommodation above the first floor and the children are aged 11 years and over, they may be offered such accommodation.

12.4 Families with children of the same sex who are sharing a bedroom, where at least one child is aged over 10 years old, will be considered as needing a further bedroom.

12.5 The type and size of property usually offered to applicants will depend on the size, age and household make-up of the family. The following table shows how properties are offered to a range of household types, though the individual circumstances of the applicant may be taken into account for a different property.

Household Composition	Property Type
Single person	1 Bed Flat/Bed-sit 1 Bed house
Single older person/disabled person	1 Bed Flat 1 Bed Bungalow 1 Bed Sheltered Flat 1 Bed Sheltered Bungalow Sheltered Bed-sit 1 Bed house
Couple without children	1 Bed Flat 1 Bed house
Older couples/disabled people	1 or occasionally 2 Bedroom Bungalow/Flat (where a 2nd Bedroom is justified) Sheltered Accommodation Flat / Bungalow 1 Bed house
Families with a child expected, 1 child or 2 children of the same sex	2 Bedroom House 2 Bedroom Maisonette 2 Bedroom Flat with entrance at ground floor
Families with 2 children of opposite sex (1 over the age of 5) Families with 3 children Some families with 4 children (dependent on sex and ages)	3 Bedroom House 3 Bedroom Maisonette
Some families with 4 children (dependent on sex and ages) Families with over 4 children	4 or 5 Bedroom House (depending on the number of children)

12.6 There may be exceptions to this table when:

1. A local lettings scheme is in operation, which may change the above framework.
2. An applicant has moved to smaller accommodation (RBH properties only) giving up a desirable larger property, but they still wish to have a spare room.

Sheltered accommodation

12.7 Allocation of sheltered accommodation will also be based on the support needs of the applicant.

Extra Care

12.8 The allocation of Extra Care housing falls outside this policy.

13. Property quotas

13.1 All council housing stock will be available through the choice-based lettings system, Homechoice, unless specifically excluded for the following situations (however, there may be other circumstances from time to time, in which stock is not available):

- required for decant purposes associated with major works of repair and refurbishment;
- asylum-seeker accommodation;
- rehousing required for specific management reasons;
- emergencies;
- temporary accommodation for the homeless; and properties required for strategic development (for example, conversions into special needs units).

14. Local lettings policy

14.1 At times there may be a need to introduce a local lettings policy to meet particular local needs. Such initiatives must consider legal and equal opportunities requirements and wider council rehousing policy.

14.2 For example, local lettings schemes allow:

- certain property types, numbers of properties or parts of an estate to be reserved for a particular age group, family size or economically active applicants;
- property size requirements to be relaxed, so for instance, a household needing two bedrooms can be considered for a three bedroom house;
- a community agreement to be introduced for all tenants to sign;
- certain groups of people to be positively encouraged to move onto estates.

14.3 Local lettings schemes will be subject to formal approval.

15. Joint tenants

15.1 Where a joint tenant serves a notice to quit for their part of the tenancy, RBH will use its discretion in deciding whether to grant a sole tenancy to the remaining tenant. In exercising discretion, RBH will ensure that there are no adverse implications for the use of the housing stock and its ability to meet other housing needs by applying the lettings criteria.

16. Monitoring and reviewing the policy

16.1 The policy and its implementation will be monitored to ensure it is:

- meeting the stated aims
- meeting its targets
- collecting and submitting the required information for the Government and other statutory bodies
- being reviewed regularly
- meeting its equality and diversity obligations

16.2 The monitoring covers a wide range of subjects, including:

- priority
- offers
- refusals
- number of applicants
- vulnerability of applicants
- ethnicity of applicants
- use of adapted properties

16.3 Customers and stakeholders will be consulted on proposed changes to the policy.

17. Other housing options

17.1 There are many other housing options within the borough. Please refer to the relevant literature available.

18. Housing association nominations

18.1 The council has a formal nominations agreement with registered social landlords who operate within the borough.

18.2 Applicants will be able to express an interest in nominated housing association properties in the usual way.

19. Complaints

19.1 The council is committed to delivering the best possible service. If an applicant is unhappy with the service provided, they can make a complaint.

1. Local lettings

From time to time Rochdale Borough Council may need to introduce local lettings policies in selective areas to meet local needs and make best use of its housing stock; such policies will be implemented separately from the council's wider housing allocation policy.

Whilst the Housing Act 1996 (amended) requires the council to award reasonable preference to defined groups of applicants, Section 167(2E) of the Act enables local authorities to allocate particular accommodation to people of a particular description, whether or not they fall within the reasonable preference categories, provided that overall the authority is able to demonstrate compliance with the requirements of s.167. This is the statutory basis for so-called local lettings policies.

The statutory guidance document *Fair and Flexible*, published in December 2009, clearly encourages the use of local lettings policies and advises that such policies may be used to achieve a wide variety of objectives. For example, they may be used to:

- deal with concentrations of deprivation or create more mixed communities by setting aside a proportion of vacancies for applicants who are in employment or to enable existing tenants to take up an offer of employment;
- attract essential workers into the district by giving them priority for a small number of properties even though they may not fall within any of the reasonable preference categories;
- deal sensitively with lettings in rural villages and on s106 exception sites by giving priority to those with a local connection to the parish;
- ensure that properties which are particularly suited to being made accessible (for example ground floor flats) are prioritised for those with access needs;
- set aside a proportion of properties to help meet the housing needs of people whose employment requires them to be mobile, such as members of the armed forces.

The guidance further states that before adopting a local lettings policy, authorities should consult with those who are likely to be affected by it. So for example this includes tenants, residents and other housing providers either living or owning housing stock in the relevant area.

Before a local letting policy is developed within the Rochdale Borough, the council will take into account factors such as:

- the size and composition of the housing register (specifically the proportion of applicants in the reasonable preference categories)
- the stock profile of the area
- the number and type/size of vacancies which are available overall
- comments from consultation with all relevant and affected parties
- consideration of a time limit to the policy

The effectiveness of each local lettings policy will be monitored and reviewed regularly.

2. Nominations

The statutory guidance document, *Fair and Flexible* published in December 2009 clearly states that registered social landlords have a duty under s.170 of the 1996 Act to co-operate with local authorities – where the authority requests it and to such extent as is reasonable in the circumstances – in offering accommodation to people with priority under the authority’s allocation scheme.

The guidance also states that a local authority should ensure that they have nomination agreements in place with registered social landlords in their district and this should be updated regularly to ensure that it reflects changing housing markets.

It advises that nomination agreements should set out the proportion of lettings that will be made available which should reflect the existing housing market circumstances; any criteria which the registered social landlords have adopted, following consultation with the housing authority, for accepting or rejecting nominees; and how any disputes about suitability and eligibility will be resolved.

The Housing Corporation has minimum expectations registered social landlords must meet for housing nominations.

- A housing association must reach agreement with their local housing authority, where so requested and insofar as is reasonable, on the proportion of true voids to be offered to house nominees; the proportion should be reasonable in relation to the authority’s assessment of local housing need.
- In these circumstances an association must sign an effective agreement with the local authority, setting out in detail how the nominations process will operate and in what circumstances nominations will be refused.
- In areas where evidence of local housing need is reflected in local planning criteria for affordable housing provision, agreements should provide for 50% or more of true voids for nominations (agreed percentages may be considerably higher in areas of housing stress).

Rochdale Borough Council has developed a nominations agreement with registered social landlords who own and let housing stock within the borough.

The agreement means that a percentage of a registered social landlord’s accommodation will be allocated to applicants from the council’s housing register. This includes new build developments too.

Applicants can express an interest in accessing accommodation through the nominations process by indicating this on the general housing application form.

From time to time nominated properties will be used for particular client groups.

3. Assignments

An assignment is the transfer of a tenancy during the life of the tenant. The effect of an assignment is that the person to whom the tenancy is transferred (the assignee) becomes the tenant of the landlord.

Secure tenancies

S91(3) of the Housing Act 1985 says that a secure tenancy is only capable of assignment in three situations.

Assignment by way of mutual exchange

Secure tenancies give the tenant the right to exchange his or her tenancy with another secure or assured tenant of a social landlord providing both parties have the written consent of their landlords.

The landlord can only withhold consent on certain grounds set out in Schedule 3 of the Housing Act 1985. The grounds on which consent can be refused are:

- either tenant is obliged to give up possession under a court order;
- proceedings have commenced under Grounds 1-6 or notice of seeking possession under these grounds has been served;
- the accommodation is substantially more extensive than is reasonably required by the assignee;
- the extent of the accommodation is not reasonably suitable for the needs of the assignee and family;
- the accommodation was let to the tenant in consequence of employment, relating to non-housing purposes;
- the assignment would conflict with the purposes of a landlord who is a charity;
- the premises are adapted for a disabled person;
- the assignment would conflict with the purposes of a landlord who is a specialist housing association or trust;
- the accommodation is sheltered accommodation;

- the property is managed by a housing association and the assignee refuses to become a member of the housing association.

S 93(5) of the Housing Act 1985 provides that where a tenant is in arrears of rent or is otherwise in breach of the tenancy agreement the landlord can give conditional consent requiring the tenant to pay the outstanding rent or remedy the breach.

Assignment made as a result of a court order in certain matrimonial, civil partnership or Children Act proceedings

In divorce or judicial separation proceedings, the court can, under the Matrimonial Causes Act 1973, order one party to assign a tenancy to the other party.

Transfers of tenancies can be ordered under the Family Law Act 1996, The Matrimonial and Family Proceedings Act 1984 and under Schedule 1 of the Children Act 1989.

Assignment to a potential successor

It is possible to assign a tenancy to a person who would, if the tenant died, be qualified to succeed (see 'Succession'). The assignment must take place before the tenant moves out.

Under its tenancy agreement, the council must give its consent to the assignment.

Introductory tenancies

S134 of the Housing Act 1996 states that introductory tenancies cannot be assigned except in the following circumstances:

- an assignment on relationship breakdown or for the benefit of children
- an assignment to a potential successor

An introductory tenant does not have the right to mutual exchange.

4. Succession

Succession is a legal term which is used to describe a situation whereby one person becomes entitled to something after another person's entitlement ends. It applies to a tenancy because there is a 'property' that can be inherited by someone after the death of the tenant.

Sections 87-89 of the Housing Act 1985 say, in relation to both secure and introductory tenancies, that a person will be qualified to succeed if one or two conditions are met:

- **Either**
The person is the tenant's spouse (or civil partner) and he/she occupied the dwellinghouse as his/her only or principal home at the time of the tenant's death;
- **Or**
The person is another member of the tenant's family and he/she has occupied the dwellinghouse as his/her only or principal home for a period of 12 months ending at the time of the tenant's death;
- **And**
The tenant was not himself or herself a successor (they have not previously succeeded the tenancy themselves).

If a tenancy had been in joint names and one of the tenants dies the other automatically stays on as a sole tenant. Under the Housing Acts 1985 and 1988 the surviving sole tenant is treated as a successor and no further succession is possible.

When a tenant dies it is possible that more than one person qualifies to succeed to the tenancy. By virtue of S89(2) of the Housing Act 1985 the tenant's spouse or civil partner is preferred over other members of the family. Where there is no spouse or civil partner the family members should agree who will be the successor and if no agreement is possible, the landlord may select the successor.

5. Review of decision

Rochdale Borough Council's Housing Allocation Policy, states that an applicant for housing has the right to request a review of certain decisions made in relation to that application. Such decisions include the following:

- a) any decision of the local authority as to his/her eligibility for assistance;
- b) any decision of the local housing authority as to what duty (if any) is owed to him/her under sections 190 to 193, 195 and 196 (duties owed to persons found to be homeless or threatened with homelessness);
- c) any decision of the local authority to notify another authority that it considers the conditions for referral are satisfied under S198(1);
- d) any decision under section 198(5) whether the conditions are in fact met for referral to another local housing authority;
- e) any decision under section 200(3) or (4) (decision as to duty owed to an applicant whose case is considered for referral or referred);
- f) any decision of the local housing authority as to the suitability of accommodation offered to him/her in discharge of their duty under any of the provisions mentioned in paragraphs (b) or (e) above;
- g) any decision of the local authority that the applicant is ineligible due to unacceptable behaviour by the applicant or a member of his household.

In such circumstances, the council is required to notify the applicant in writing of its decision and the reasons for it. The council will also inform the person of his/her right to request a review of the decision and the timescale within which a request should be made.

A request for review must be made before the end of the period of 21 days beginning with the day on which the applicant is notified of the decision.

On a request being duly made, a review of the decision will take place. This will be undertaken by an officer who was not involved in the original decision and is more senior than the original decision maker.

There is no right to request a review of the decision reached on an earlier review.

Further appeal

An applicant has no further right of review or appeal to the council, but may appeal to the county court on a point of law if the applicant requesting a review is:

- dissatisfied with the decision on the review, or
- was not notified of the decision on the review within any time prescribed.

An applicant may appeal to the county court on any point of law arising from the decision or, as the case may be, the original decision.

An appeal must be brought within 21 days of the applicant being notified of the decision or, as the case may be, of the date on which the applicant should have been notified of a decision on review.

6. Pinpoint

Pinpoint is a pilot Choice Based Lettings Service which provides access to social and private rented housing across the whole of Greater Manchester from a number of providers.

It is a partnership between local authorities and other registered social landlords to promote choice and mobility for applicants throughout Greater Manchester. The scheme is funded by the partners and the Government's Department for Communities and Local Government.

Providers put forward a quota of their available housing stock to be advertised using the Pinpoint Choice Based Lettings system. Private landlords are also encouraged to advertise properties this way too. On average 30 – 40 properties are advertised weekly.

Applicants register just once with a housing provider and this registration enables them to access Pinpoint properties across Greater Manchester; this usually happens when an applicant applies for housing in their own area.

Available properties are advertised on the dedicated Pinpoint website. Each property will have specific advertised criteria and applicants must meet these criteria to be considered for the property.

For each available property advertised, a short list of interested applicants is created and the applicant in the most housing need will be offered the property.

Applicants are given priority within the Pinpoint system based on the need assessment made by the housing provider they first applied to for housing. There isn't an independent assessment for Pinpoint.

Once a successful applicant has been identified the housing provider will contact them directly to offer the property, arrange a viewing and so on.

Successful applicants will be granted the particular tenancy type offered by that provider.

7. Introductory tenancies

The Housing Act 1996, Section V, gives local authorities the discretion to operate introductory tenancies once the scheme has formally been adopted. Rochdale Boroughwide Housing's board adopted the scheme in 2006, and began to operate them on behalf of Rochdale Borough Council, with effect from 1 April 2007.

All new tenancies granted will now be introductory tenancies. However there are some exceptions to this for example, introductory tenancies are not applied retrospectively (so secure tenancies will remain secure).

How long do they last?

Introductory tenancies run for a period of 12 months. Provided that proceedings for possession are not begun within this period, the tenancy will automatically become secure at the end of this period.

The initial introductory period of a year may be extended by 6 months. To extend the introductory period the landlord must serve a notice to extend the introductory tenancy on the tenant at least 8 weeks before the original expiry date. The notice must give the landlord's reasons and tell the tenant of their right to request a review of the landlord's decision to extend the introductory period. A review must be requested within 14 days. If the tenant does not request a review, or if the result of the review is to confirm the landlord's decision, the introductory period will be extended.

If legal proceedings to end the introductory tenancy have commenced, the period of the introductory tenancy is extended until the courts have determined the outcome of the application or the proceedings have been withdrawn. (Remember the case **must** have been referred to court, it is **not** sufficient to just have served notice.)

Terminating the tenancy and reviews

Should a serious breach of **any** of the tenancy conditions occur during the introductory period, action may be taken to terminate the tenancy. This will involve the service of an introductory tenancy notice stating the reasons for seeking to end the tenancy.

The tenant is entitled to request a review of the decision to terminate the tenancy. This request must be made within 14 days of the notice being served.

The review is carried out by an independent panel, which must consist of officers not involved in the original decision and be chaired by an officer of a higher level than the officer who made the original decision.

If the decision to end the tenancy is upheld by the panel, the case then proceeds to court. The court does not have any discretion over whether or not to order possession, provided it is satisfied that the procedures within the 1996 Housing Act have been followed.

If, at the review stage, the tenant gives a plausible reason for the breach or promises never to repeat the conduct the decision can be made to adjourn the action to allow the tenant the opportunity to remedy the breach.

Further Appeal

A tenant does have a further right of appeal to the county court, by way of judicial review, but only if the procedure for review has not been correctly followed.

8. Brighter Horizons Policy Statement

Brighter Horizons was established as a subsidiary company of Rochdale Boroughwide Housing (RBH) in 2008. Brighter Horizons is registered with Companies House and RBH is the sole member.

Brighter Horizons is a charity registered with the Charity Commission. Brighter Horizons' memorandum of association sets out a series of charitable objectives namely:

- to provide houses or hostels and any associated amenities for persons in necessitous circumstances upon terms appropriate to their means;
- to provide for aged, disabled (whether mentally or physically) or chronically sick persons in need thereof houses or hostels and any associated amenities specially designed or adapted to meet the disabilities and requirements of such persons;
- to provide services, advice or assistance upon terms appropriate to their means to aged, disabled (whether mentally or physically) or chronically sick persons in need thereof and providing any associated amenities specially designed or adapted to meet the disabilities and requirements of such persons;
- the provision of recreation or other leisure facilities in the interest of social welfare with the object of improving the conditions of life for the residents of the area of benefit;
- the relief of poverty amongst the residents of the area of benefit;
- the advancement of education, training or retraining, particularly among unemployed people and providing unemployed people with work experience;
- the maintenance, improvement or provision of public amenities for the public benefit in the interests of regeneration in areas of social and economic deprivation in which the charity owns or manages housing stock;
- such other charitable purposes beneficial to the public consistent with the objects above as the trustees shall in their absolute discretion determine.

All Brighter Horizons homes will be let in accordance with these charitable objectives. Brighter Horizons has a board of seven trustees. Four trustees are appointed by the ALMO (RBH) and three are independent trustees.

Through Brighter Horizons, RBH is helping to shape neighbourhoods across the Borough of Rochdale with a programme to deliver much needed quality new homes. This programme of new build homes will help to provide local jobs as well as quality homes and sustainable places.

Brighter Horizons will also purchase and refurbish homes on RBH managed estates for letting.

There is a management agreement with RBH to manage and maintain them.

Homes owned by Brighter Horizons will be let on assured shorthold or assured tenancies.

9. Family intervention tenancies

Family intervention tenancies were created by sections 297 and 298 of the Housing and Regeneration Act 2008 to support the work of family intervention projects.

Family intervention projects were developed and promoted under the respect standard for housing management. The aim of family intervention projects is to tackle the root causes of anti-social behaviour through a 'twin track' approach of intensive support and the threat of sanction, such as eviction.

For the most problematic families, where there is no prospect of restoring relationships with the community in which they live, dispersed accommodation – a move to another part of the borough is offered.

The move to another tenancy is intended to reinforce the last chance situation that the family faces. Unfortunately for local authority landlords, moving a family creates a new secure tenancy and significantly reduces the threat of immediate sanction.

To overcome this perverse outcome, the Housing & Regeneration Act has created family intervention tenancies to provide flexibility for the landlord while reinforcing the last chance situation the family faces.

The key features of family intervention tenancies are as follows:

- Family intervention tenancies are available to local authority landlords and housing associations in England and Wales.
- Family intervention tenancies are excluded tenancies, neither secure or non-secure.
- A family intervention tenancy can only be used where anti-social behaviour is the reason or likely reason for an eviction and when behaviour support services are to be provided for the tenant and/or member of the household.
- The landlord must, by notice, make it clear exactly what a family intervention tenancy is and what the prospective tenant is entering into.
- The prospective tenant must enter into the family intervention tenancy voluntarily.
- A family intervention tenancy is to be created for the purposes of offering support to the tenant and/ or household. An existing introductory or secure tenancy cannot be converted into a family intervention tenancy where intensive support is offered on an outreach basis. The family intervention tenancy is for dispersed accommodation only.
- A family intervention tenancy can be ended by notice without the need to prove grounds or reason.

10. Sheltered housing

Sheltered housing has been developed over the last 30 years to provide secure, supportive, low maintenance housing for older people who are classed as vulnerable because of physical or mental health issues, or other social issues.

Sheltered housing offers the opportunity for people to live independently with support using technology which can be tailored to the individual's needs. In addition, communal facilities and activities enable older people to interact with others helping prevent social exclusion.

What kinds are there?

Sheltered Housing is mainly divided into three categories:

- **Category 1** - independent living with a floating support model not based on site
- **Category 2** - independent living with on site based support and 24 hours response
- **Category 2.5 Or Extra Care** - independent living with on site support and 24 hour (usually on site) care provision

The most common and popular model is Category 2 accommodation, which usually involves the use of a site based warden (or scheme manager), out of hours monitoring in the form of a social alarm control centre and response from a mobile responder team. This enables tenants to have access to 24 hour support as they need it. This support enables them to maintain their own tenancies for longer and avoids the need for residential or nursing care for as long as possible.

What are its key features?

Tenants pay for rent, service charges, support charges (for people not eligible for Housing Benefit), water charges, and their own utility and council tax charges.

Tenants pay for the support service either themselves or through Housing Benefit. Supporting People commissions the housing related support service for each scheme. This includes the warden service, out of hours responder service, and monitoring service. Supporting People also set the required standards service providers must meet. This is known as the Quality Assessment Framework.

How do people apply?

Under Rochdale Boroughwide Housing's eligibility criteria applicants must indicate either a medical or support need to enable the application to progress. This ensures people who will benefit from living in sheltered housing are prioritised over other general needs tenants.

Sheltered housing schemes are located within all areas of the borough and managed by Rochdale Boroughwide Housing or by a registered social landlord.

11. Learning disability group homes

Learning disability group homes provide safe, secure and independent living for tenants who live independently with the support of an on site provider tailoring support to individual need within the home.

Rochdale Boroughwide Housing (RBH) provides the housing management service to over 20 group homes across the borough. These homes are either adapted from existing general needs stock or are specially built for the purpose.

What are the key features of the homes?

Group homes consist of communal areas such as a lounge, kitchen, bathroom and individual bedrooms which are specifically allocated to individual tenants.

Tenants with learning disabilities live together but independently, supported by on site (usually 24 hour) support services. Support services are provided to offer help to tenants in all aspects of daily living and also ensure the health, wellbeing, and security of the tenants. The support providers also support tenants to use leisure services, go on outings and explore other interests.

Tenants pay their own rents and service charges and each contribute to an agreed amount to a 'House Account' to pay for utility charges and for furnishings and fittings not covered under eligible charges (Housing Benefit). Tenants are also responsible for decorating and small works in their own rooms.

RBH provide all essential repairs to the properties, and is responsible for decorating, refurbishing and maintaining all communal areas and external areas. RBH is also responsible for the provision and maintenance of all white goods (such as cookers, fridges and freezers) in the communal kitchen. They will also provide assistive technology to support tenants to live independently.

12. Data sharing and ex-offenders

The Data Protection Act 1998 governs the way Rochdale Borough Council and its partners collect and use personal information in relation to housing services. It covers all personal data that is processed, whether recorded in a manual or computerised form.

This personal information must be handled and dealt with properly, however it is collected, recorded and used, and whether it is on paper, in computer records or recorded by any other means. There are safeguards within the Act to ensure this.

The Act places a legal obligation on all organisations to process personal data in accordance with eight principles of data protection. These principles are legally enforceable.

The principles require that personal information:

1. Shall be processed fairly and lawfully and in particular, shall not be processed unless specific conditions are met;
2. Shall be obtained only for one or more specified and lawful purposes and shall not be further processed in any manner incompatible with that purpose or those purposes;
3. Shall be adequate, relevant and not excessive in relation to the purpose or purposes for which it is processed;
4. Shall be accurate and where necessary, kept up to date;
5. Shall not be kept for longer than is necessary for that purpose or those purposes;
6. Shall be processed in accordance with the rights of data subjects under the Act;
7. Shall be kept secure, that is appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data;
8. Shall not be transferred to a country or territory outside the European Economic Area, unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects.

Personal or sensitive personal data?

The Act provides conditions for the processing of any personal data. It also makes a distinction between personal data and 'sensitive' personal data. People may feel other data is sensitive but for the purposes of the act sensitive data can be defined as the following:

Personal data is data consisting of information which relates to a living individual who can be identified from that data or from other information which is in the possession of, or is likely to come into the possession of RBH ('the Data Controller') and includes any expression of opinion about the individual and any indication of the intentions of the Data Controller, or any other person in respect of the individual.

Sensitive personal data is personal data consisting of information as to:

- the racial or ethnic origin of the data subject
- their political opinions
- their religious beliefs or other beliefs of a similar nature
- whether they are a member of a trade union
- their physical or mental health conditions
- their sexual life
- the commission or alleged commission by them of any offence, or
- any proceedings for any offence committed or alleged to have been committed by them, the disposal of such proceedings or the sentence of any court in such proceedings.

Rochdale Borough Council and its partners will ensure that personal and sensitive information is processed in accordance with its legal obligations through the following criteria and controls:

- We will fully observe the conditions regarding the fair collection and use of personal information;
- We will specify the purpose for which information is used;
- We will collect and process appropriate information only to the extent that it is needed in order to fulfil operational needs or to comply with any legal requirements;

- The data used will be of a suitable quality;
- Strict checks will be applied to determine the length of time information is held;
- We will enable the rights of people about whom the information is held to be fully exercised under the Act including:
 - ~ The right to be informed that processing is being undertaken;
 - ~ The right of access to one's personal information;
 - ~ The right to prevent processing in certain circumstances;
 - ~ The right to correct, rectify, block or erase information regarded as wrong information.
- We will ensure everyone managing and handling personal information understands that they are contractually responsible for following good data protection practice and receive the appropriate training and supervision;
- We will ensure that queries about handling personal information are promptly and courteously dealt with;
- We will ensure procedures for handling personal information and their application will be regularly assessed and evaluated to ensure that they remain 'fit for purpose';
- Where there is a legitimate requirement to share data with a third party, this will be specified in an appropriate written protocol, setting out the scope and limits of the sharing. Any disclosure of personal data will be in compliance with approved procedures.

The sharing of personal data will in particular relate to housing applicants who have been referred for rehousing by partners and have been convicted of offences of or involving violence or threats of violence, or sexual offences. The receipt of, usage, storage and sharing of such sensitive information will be undertaken during the application process and be part of the consideration of the eligibility and placement.

Personal data may also be shared during subsequent management of the tenancy, but always in accordance with the criteria and controls set out earlier for its use and retention.