

COMMUNITIES, HOUSING AND ENVIRONMENT COMMITTEE MEETING

Date: Tuesday 2 November 2021
Time: 6.30 pm
Venue: Town Hall, High Street, Maidstone

Membership:

Councillors Bartlett, Joy, McKenna, Mortimer, Newton, Purle (Chairman),
M Rose, S Webb (Vice-Chairman) and Young

The Chairman will assume that all Members will read the reports before attending the meeting. Officers are asked to assume the same when introducing reports.

AGENDA

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| 1. Apologies for Absence | |
| 2. Notification of Substitute Members | |
| 3. Urgent Items | |
| 4. Notification of Visiting Members | |
| 5. Disclosures by Members and Officers | |
| 6. Disclosures of Lobbying | |
| 7. To consider whether any items should be taken in private because of the possible disclosure of exempt information. | |
| 8. Minutes of the Meeting Held on 5 October 2021 | 1 - 6 |
| 9. Presentation of Petitions (if any) | |
| 10. Questions and answer session for members of the public (if any) | |
| 11. Questions from Members to the Chairman (if any) | |
| 12. Committee Work Programme | 7 - 8 |
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| 14. Reference from Licensing Committee - draft Street Trading Policy 2021-2024 | 9 - 32 |

Issued on Monday 25 October 2021

Continued Over/:

Alison Broom

Alison Broom, Chief Executive

15. Phase 5 Purchase & Repair Temporary Accommodation Acquisition	33 - 39
16. Caravan Sites Fit & Proper Person	40 - 69
17. Housing Allocation Scheme	70 - 117

INFORMATION FOR THE PUBLIC

In order to ask a question at this meeting in person or by remote means, please call **01622 602899** or email committee@maidstone.gov.uk by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Friday 29 October 2021). You will need to provide the full text in writing. If your question is accepted, you will be provided with instructions as to how you can access the meeting.

In order to make a statement in relation to an item on the agenda, please call **01622 602899** or email committee@maidstone.gov.uk by 5 p.m. one clear working day before the meeting (i.e. by 5 p.m. on Friday 29 October 2021). You will need to tell us which agenda item you wish to speak on.

If you require this information in an alternative format please contact us, call **01622 602899** or email committee@maidstone.gov.uk. To find out more about the work of the Committee, please visit www.maidstone.gov.uk.

Should you wish to refer any decisions contained in these minutes to the **Policy and Resources Committee**, please submit a Decision Referral Form, signed by **three** Councillors, to the **Head of Policy, Communications and Governance** by: **1 November 2021**

MAIDSTONE BOROUGH COUNCIL

COMMUNITIES, HOUSING AND ENVIRONMENT COMMITTEE

MINUTES OF THE MEETING HELD ON TUESDAY 5 OCTOBER 2021

Present: Councillors Bartlett, Joy, McKay, Mortimer, Newton, Purle (Chairman), S Webb and Young

Also Present: Councillor English

67. **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors McKenna and Rose.

68. **NOTIFICATION OF SUBSTITUTE MEMBERS**

Councillor McKay was present as a Substitute Member for Councillor Rose.

69. **URGENT ITEMS**

The Chairman informed the Committee that an urgent item request had been received in relation to the Public Spaces Protection Order which covered areas including the Brewer Street cemetery and Trinity Park, where incidents had occurred the previous week. The item would be accepted as urgent due to the pressing nature of the issue and would be taken after Item 17 – 1st Quarter Financial Update & Performance Monitoring Report 2021/22.

70. **NOTIFICATION OF VISITING MEMBERS**

Councillor English was present as a Visiting Member for Item 15 – Draft Housing Strategy for Consultation, and to speak on the urgent item.

71. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

72. **DISCLOSURES OF LOBBYING**

Councillors McKay and Mortimer had been lobbied on Item 14 – Resettlement from Temporary Accommodation with Pets Update.

73. **TO CONSIDER WHETHER ANY ITEMS SHOULD BE TAKEN IN PRIVATE BECAUSE OF THE POSSIBLE DISCLOSURE OF EXEMPT INFORMATION.**

RESOLVED: That all items be taken in public, unless any Member of the Committee wished to refer to Item 19 – Exempt Appendix 1: Cost Comparison Table.

74. MINUTES OF THE MEETING HELD ON 31 AUGUST 2021

RESOLVED: That the Minutes of the meeting held on 31 August 2021 be approved as a correct record and signed, subject to the spelling correction of the word 'Visiting' at Minute 49.

75. PRESENTATION OF PETITIONS

There were no petitions.

76. QUESTIONS AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

77. QUESTIONS FROM MEMBERS TO THE CHAIRMAN

There were no questions from Members to the Chairman.

78. COMMITTEE WORK PROGRAMME

In response to a request, the Director of Regeneration and Place agreed that a report on Heather House and Pavilion would be added to the Committee Work Programme.

RESOLVED: That the Committee Work Programme be noted.

79. REPORTS OF OUTSIDE BODIES

There were no reports of Outside Bodies.

80. RESETTLEMENT FROM TEMPORARY ACCOMMODATION WITH PETS - UPDATE

Ms Dee Bonnet addressed the Committee.

The Housing and Inclusion Manager introduced the report which outlined the impact of the twelve-month pilot policy. Although individual households had an extended stay in temporary accommodation following refusal of a landlord to accept pets, the amount spend on nightly accommodation had reduced, and there had been no impact on the strategic aspiration.

RESOLVED: That

1. The Pet Policy, as set out in Appendix 1 to the report, be approved; and
2. The Policy be named the "John Chadwick Pet Policy".

81. AFGHAN RELOCATION AND ASSISTANCE POLICY

The Head of Housing and Community Services introduced the report and noted that changes had been made since the report was published, including the removal of the requirement for applicants under the Afghan LES scheme to satisfy the Habitual Residency Test. An additional scheme had been announced, the Afghan Citizens Resettlement Scheme (ACRS) which was not included within this report. The majority of those accommodated would require a three- or four-bed property and the first four-bed unit would be available soon, subject to Committee approval.

In response to questions, the Head of Housing and Community Services confirmed that the Home Office had not requested a specific number of units to be provided by each local authority, and that as any housing provided would be in addition to the usual provision, there would not be an impact on homelessness provision. Five units would be a realistic number to deliver.

The Committee suggested to aim for six units to be acquired in order to be aspirational.

RESOLVED: That

1. The approach to acquiring private rented accommodation to support Afghan Locally Employed Staff under the government's Afghan Relocation and Assistance Policy be approved; and
2. A target of six units be set for acquisition by the Council to assist with the Afghan Relocation and Assistance Policy.

82. DRAFT HOUSING STRATEGY FOR CONSULTATION

The Head of Housing and Community Services introduced the report and explained that the Housing Strategy would work together with the Local Plan to deliver the housing needed in Maidstone. Key stakeholders and members of the public would be consulted on the draft document, with feedback requested on the Council's delivery of its own housing stock, the utilisation of smaller sites not prioritised by Housing Associations, and work with Parish areas to bring forward rural exception sites. The strategy also addressed issues such as fire safety and energy efficiency.

RESOLVED: That

1. The draft Housing Strategy, at Appendix A to the report, be approved for consultation, with the results reported back to the Committee; and
2. A report be presented to the Committee on options for achieving the delivery of 1000 new homes in Maidstone.

83. 1ST QUARTER FINANCIAL UPDATE & PERFORMANCE MONITORING REPORT

The Head of Finance introduced the report which looked back at the period to the end of June 2021. Regarding the revenue budget, a year-end underspend of £316,000 was forecast for the Committee, and an underspend of £144,000 for the Council as a whole. Positive variance had been seen from the crematorium, however operating costs were expected to rise following the increase in gas prices. An underspend was expected for temporary accommodation following the increased use of the council's own stock rather than nightly paid accommodation. The capital budget showed £1.7 million spent in the first quarter, with the most significant spend on the acquisition of flats at Spring Mill. A slippage of £16.3 million was anticipated and was largely attributed to the private rented sector housing and affordable housing programmes.

The Senior Business Analyst introduced the Performance Monitoring report which showed two of the three key performance indicators (KPIs) had met their target. Percentage of successful relief duty outcomes had missed its target by more than 10%, having achieved 38.04% compared to the target of 60%. However, the national average for this indicator was 40.4% and the target would therefore be revised to a more realistic figure. The percentage of successful prevention duty outcomes and number of households prevented or relieved from becoming homeless were more critical indicators of homelessness and had both exceeded their targets by more than 20%. KPIs had been added to assist with monitoring the borough's recovery from Covid-19. Short-term trends would be identified within the second quarter report.

In response to questions, the Head of Housing and Community Services explained that the removal of the Covid regulations and the introduction of the Domestic Abuse Act would impact on the number of people coming forward for housing assistance. Although it would be possible compare the Council's performance to other authorities, this may have limited value as it would not be comparing like with like due to the diversity of initiatives across authorities.

RESOLVED: That

1. The Revenue position as at the end of Quarter 1 for 2021/22, including the actions being taken or proposed to improve the position, where significant variances have been identified, be noted;
2. The Capital position at the end of Quarter 1 be noted; and
3. The Performance position as at the end of Quarter 1 for 2021/22, including the actions being taken or proposed to improve the position, where significant issues have been identified, be noted.

84. MEMBER AGENDA ITEM REQUEST: PUBLIC SPACES PROTECTION ORDERS

Councillor English explained that there had been a growing frequency of antisocial behaviour in High Street Ward and East Ward, notably at Trinity Park, the cemetery at Brewer Street, Brenchley Gardens and Len Valley Nature Reserve. All areas were covered by the Public Spaces Protection Order (PSPO), and it was requested that a report be brought to the Committee to review the effectiveness and enforcement of the PSPO.

It was highlighted that the Community Protection Manager had been communicating regularly with Kent Police and the Parks Team about how to address the issues raised, and cluster meetings were being held with local Police Officers and Ward Members.

The Head of Housing and Community Services advised that the report on Brenchley Gardens – Costings for Safety Measures being presented to the Committee in November would incorporate a risk analysis of the dispersal from Brenchley Gardens into other areas, and this issue could be addressed within that report. A second report scheduled for January to review the use and enforcement of ASB powers with a view to procuring a pronounced tightening could incorporate the issue raised around the effectiveness and enforcement of the PSPO.

RESOLVED: That the issues identified be incorporated into the existing reports on the Committee Work Programme.

85. PROPOSED REFURBISHMENT OF THE COUNCIL OWNED STILEBRIDGE LANE & WATER LANE G&T SITES

The Director of Regeneration and Place introduced the report which provided revised costings for the refurbishment of the Stilebridge Lane and Water Lane mobile home sites. A report had been presented to the Policy and Resources Committee on 15 September 2021 recommending additional funding for the works, and it had been resolved to refer the matter to this committee for consideration.

The projected cost had increased from £1 million to £1.9 million, which was due to the increase to the scope of the project and the significant rise in material costs and pressures within the sector. Both sites required significant expenditure to bring them up to a modern standard which the Council had an obligation to provide.

In response to questions, the Director of Regeneration and Place explained that Kent County Council (KCC) managed most of the gypsy and traveller sites in Kent and had the expertise and staffing resources to do so. If the transfer of ownership of the sites to KCC was being considered in the future, the Committee could be involved in the decision. It was confirmed that the excess cost would be funded through the affordable housing allocation, and the contractors surveying the sites had not reported concerns about flooding.

RESOLVED: That the revised scope of the project be endorsed, and the Policy & Resources Committee be requested to make the requisite funds available within the Council's capital programme.

86. DURATION OF MEETING

6.30pm to 8.08pm.

2021/22 WORK PROGRAMME

	Committee	Month	Origin	CLT to clear	Lead	Report Author
Review of the Community Grants (decision)	CHE	30-Nov-21	Officer Update		William Cornall	John Littlemore
Refresh of the Council's Air Quality Management Area and Air Quality Action Plan	CHE	30-Nov-21	Officer Update		John Littlemore	Tracey Beattie
Draft Medium Term Financial Strategy 2022/23-2026/27	CHE	30-Nov-21	Governance	No	Mark Green	Ellie Dunnet
Fees and Charges 2022/23	CHE	30-Nov-21	Governance	No	Mark Green	Ellie Dunnet
Q2 Budget and Performance Monitoring 2021/22	CHE	30-Nov-21	Officer Update	No	Mark Green	Ellie Dunnet
Parks Delivery Plan for Biodiversity	CHE	30-Nov-21	Officer Update	No	Jennifer Shepherd	Andrew Williams
Community Safety Plan - Consultation Response	CHE	30-Nov-21	Officer Update	Yes	John Littlemore	Martyn Jeynes
Brenchley Gardens - Costings for Safety Measures	CHE	30-Nov-21	Cllr Request		John Littlemore	Martyn Jeynes
Town Centre Strategy (scoping paper)	CHE	30-Nov-21	Officer Update	Yes	Phil Coyne	Charlotte Yarnold.
Review of the use and enforcement of ASB powers with a view to procuring a pronounced tightening	CHE	04-Jan-22	Cllr Request		John Littlemore	Martyn Jeynes
Review of the efficiency and effectiveness of the community safety unit	CHE	04-Jan-22	Cllr Request		John Littlemore	John Littlemore
Housing Strategy Consultation Review	CHE	04-Jan-22	Officer Update		John Littlemore	John Littlemore
Affordable Housing Delivery by the Council	CHE	04-Jan-22	Officer Update	Yes	William Cornall	William Cornall
Medium Term Financial Strategy & Budget Proposals 2022/23	CHE	04-Jan-22	Governance	No	Mark Green	Ellie Dunnet

2021/22 WORK PROGRAMME

	Committee	Month	Origin	CLT to clear	Lead	Report Author
Ensuring Fire Safety in Apartment Blocks	CHE	01-Feb-22	Officer Update	Yes	William Cornall	Nigel Bucklow / John Littlemore
Q3 Budget and Performance Monitoring 2021/22	CHE	01-Feb-22	Officer Update	No	Mark Green	Ellie Dunnet
Review of the Homeslessness & Rough Sleeper Strategy Action Plan, and Intentional Homeslessness Pilot (decision)	CHE	01-Feb-22	Officer Update		William Cornall	John Littlemore
Community Safety Plan and Strategic Assessment - Crime and Disorder Committee	CHE	01-Mar-22	Officer Update		John Littlemore	Martyn Jeynes
Possible Provision of further Council owned G&T Sites	CHE	TBC	Cllr Request		William Cornall	William Cornall
Options on Tightening the Approach to Littering, Graffiti and Waste Crime (to incorporate Street Cleansing Monitoring)	CHE	TBC	Cllr Request		John Edwards	John Edwards
Heather House and Pavilion Update	CHE	TBC	Cllr Request		William Cornall	Andrew Connors
Provision of GP Services and Community Hub Update from the CCG (briefing 1 November)	CHE	TBC	Cllr Request	No	Alison Broom	Alison Broom

MAIDSTONE BOROUGH COUNCIL

COMMUNITIES, HOUSING AND ENVIRONMENT COMMITTEE

2 NOVEMBER 2021

REPORT OF THE LICENSING COMMITTEE MEETING HELD ON 16

SEPTEMBER 2021

STREET TRADING POLICY – CONSULTATION RESULTS

Issue for Decision

The Street Trading Policy was subject to a public consultation from 10 February 2021 to 13 March 2021.

The Licensing Committee recommended that the Communities, Housing and Environment Committee approve the Street Trading Policy

Recommendation Made

That the Street Trading Policy, as attached at Appendix A to the report, be approved.

Reasons for Recommendation

The Street Trading Policy reflects our current practice and regulations on the Council's approach to the administration of the Street Trading Consent function under the Local Government (Miscellaneous Provisions) Act 1976. The new Street Trading Policy will be of benefit to applicants, officers and residents in ensuring that street trading enhances the Borough and ensures improved public safety and protection. It will strengthen the decision making and support the Council's position should issues arise.

The Licensing Committee met on 17 September 2020 and approved the draft Street Trading Policy for public consultation. The consultation period was open from 10 February until 13 March 2021. The report was made available on the Maidstone Council consultation webpage and social media channels. Residents who have signed up for consultation reminders were notified and in addition current street traders were e-mailed and notified of the consultation. Consultees could also provide comments to the licensing team in writing, via email or post.

There were 285 responses received during the consultation. Overall there has been broad support to the policy and the majority of respondents agreed in favour of the questions asked.

Alternatives Considered and Why Not Recommended

To continue with the current Street trading Policy. However, the policy attached at Appendix A is a more comprehensive document which will strengthen the decision making and support the Council's position should issues arise.

Background Documents

N/A

Appendices

Appendix A – Street Trading Policy 2021-24.

MAIDSTONE BOROUGH COUNCIL

Review of Street Trading Policy 2021 - 24

DRAFT

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INTRODUCTION

1.1 Introduction

The powers to control Street Trading within the Council's area are conferred by Schedule 4 Local Government (Miscellaneous Provisions) Act 1982, which has been adopted by the Council. Under Schedule 4 of the Act, the Council is able to manage Street Trading by designating streets as Consent Streets, Licence Streets, or Prohibited Streets.

This policy sets out the Council's approach for managing street trading in the district and the process for applications and making decisions.

This new revised policy was approved by the Licensing Committee on and came into effect on.....

Street trading consents are processed and issued by the Council's Licensing Department.

Licensing Department
Maidstone Borough Council
Maidstone House
King Street
Maidstone
Kent
ME15 6JQ

Tel: 01622 602028

Email: licensing@maidstone.gov.uk

Web: <https://www.maidstone.gov.uk/business/licensing-permits/street-trading>

1.2 Objectives of this Policy

1.2.1 The objectives of this policy are:

a. The Council recognises the valuable contribution that Street Trading can make to the local culture and economy, and the services that Street Traders provide to residents and visitors. Street Trading can provide people with a flexible way of working, to meet the demands of the public where and when such demands arise.

b. Ensure the safety of customers and other persons using the locations where street traders are located.

c. Balance the needs of the wider community, local community and street traders against the needs of those who may be adversely affected by the street trading activities.

d. Provide consistency and transparency in the way in which the Council deals with street trading.

e. Provide applicants and consent holders with advice and guidance on the Council's approach to the administration and enforcement of street trading.

1.3 Review of the Policy

1.3.1 This policy will be kept under review and where any significant amendments are considered necessary these will be approved by the Committee that deals with licensing matters after appropriate and relevant consultations have taken place.

Consultees will include

- Kent Police
- Kent Fire and Rescue
- Kent Highways
- Kent Trading Standards
- Maidstone Planning
- Environmental Health
- Community Protection Team
- Economic Development
- Parish Councils
- Ward Members
- Current Street Traders
- Local businesses
- Residents
- Car parks

Minor amendments that do not impact on the aims and objectives of the policy or reflect changes in legislation will be made with the approval of the Head of Housing and Community Services.

2 WHAT IS STREET TRADING?

2.1 Definitions and Resolution

2.1.1 The Local Government (Miscellaneous Provisions) Act 1982 defines street trading as the selling or exposing or offering for sale any article, including a living thing, in a street.

2.1.2 The Act states that a street includes any road, footway, beach, or other area to which the public have access without payment.

2.1.3 Maidstone Borough Council have designated all land within Maidstone Borough Council's boundary that falls within the above definition of "street", as consent streets

2.1.4 A street trading consent is needed for trading on:

- . Streets, laybys, pavements or any land including verges controlled by Kent Highways unless there is payment for entry
- . Streets, laybys, pavements, or any land, including verges which are privately owned and the public can access, unless payment is made for entry. This includes private car parks such as superstore car parks.

2.2 Exemptions from needing Street Trading Consent

2.2.1 The following are exempted in the legislation and do not need street trading consent:

- a. A market that is granted through a charter or order.
- b. A news vendor selling periodicals or newspapers.
- c. Trading at a petrol station.
- d. Trading at a shop or in a street adjoining a shop as part of the business or shop.
- e. Trading as a roundsman who has defined customers and routes. It has been established in law that mobile ice cream sales are not normally deemed to be roundsmen.
- f. Service Providers, e.g. hair-braiding, face painting and henna tattoos, etc. The Act which governs street trading relates to the selling of articles and as such, it is the Licensing Authority's view, that people who provide a service e.g. hair-braiders, are not considered to be trading for the purposes of the legislation. However, if quantities of accessories used in hair braiding are also offered for sale then this may be street trading and may require consent.

Pedlars are not exempt in Maidstone due to the Maidstone Act 2006

This came into force on 7 September 2006. This removed the exemption for pedlars to act with the authority of a Pedlars Certificate to trade within the Borough. Pedlars must now have a Street Trading Consent to trade on the streets within the Borough of Maidstone. There is power to seize articles, receptacles and equipment by an officer of the Council or Constable if there is reason to suspect an offence has been committed under this Act.

2.3 Exemption for individual charity stalls with a Street Collection Permit

2.3.1 Individual charity stalls in a street can apply for a street collection permit which allows collecting money for a charitable cause (including through the sale of items). If a street collection permit is granted there is no requirement for a street trading consent. Please contact the Licensing Team for further information on applying for street collection permits.

2.4 Indoor Market Areas

2.4.1 Indoor market areas do not constitute street trading as they can be classed as shops which are exempt from street trading legislation.

2.5 Events with an Entrance Fee

2.5.1 Events that have an entry fee do not constitute street trading and do not need street trading consent

2.6 Community and Charitable Events

Community and Charity events are important in terms of promoting local causes and participation in local matters. The Council should assist organisers of these types of events in order to encourage community engagement. These types of events will normally be organised by a Parish Council, Maidstone Borough Council or by a recognised group or charity with aims of engaging with and providing support to the local community. Any trading activity would be incidental to the event and where the event organiser does not charge a pitch or similar fee to trade at the event then it may be possible for the Council to waive the fee, or charge a nominal amount .

3 TYPES OF CONSENTS

The Council issues the following four types of street trading consent: All applications for street consent require 21 days notice to be given to the Licensing Department.

3.1 Static Unit Consent

3.1.1 Static street trading consents are issued for a stall or vehicle which returns to one place every day or for regular periods of time. The unit or stall must be removed each day at the end of the trading period unless planning rules allow otherwise.

3.1.2 A static street trading consent may be granted for any period not exceeding 12 months.

3.2 Mobile Unit Consent

3.2.1 Mobile street trading consents are issued to traders who wish to move from place to place. A mobile consent trader must not remain in one place for more than 30 minutes at a time and not return to the same site within 2 hours. A typical mobile consent would be an ice-cream van.

3.2.2 A mobile street trading consent only permits trading within Maidstone Borough Council's area. If the unit goes into areas outside of Maidstone it will also need consent from the relevant authority.

3.2.3 A mobile street trading consent may be granted for any period not exceeding 12 months.

3.3 Short Term Consent

3.3.1 Short Term Consent - Short term consents are issued to traders who wish to consider whether they could be successful at a certain location selling their specific goods. The consent is considered a trial consent and only one will be issued to an individual. They are granted for a period between 1 and 12 days. Any trader who wishes to continue trading after the 12 day period will need to submit a further application for the full 12 months. There is no consultation fee charged for this type of consent

3.4 Multi User Consent

3.4.1 Multi User consents are issued to specific individuals managing an event.

3.4.2 A Multi User consents can cover a number of stalls.

3.4.3 The Multi User must meet the criteria set below.

- . It has a nominated organiser.
- . It has the approval of the local public authority/landowner.
- . It adds value to the town's trade through the provision of specialist products.
- . It does not operate in detriment to the local community.

3.4.4 If the application is made by an organisation they must nominate a named individual who will be responsible for managing use of the consent.

3.4.5 The consent will be issued for a maximum of 12 months and can be renewed.

3.4.6 The consent holder will be responsible for ensuring compliance with times and location permitted by the consent and the conditions attached at all times whilst the consent is being used to facilitate street trading as well as any relevant bylaws.

3.4.7 The consent holder will be responsible for ensuring that any local residents, businesses or shops are not obstructed by the stall/stalls and that all emergency exits to buildings are kept clear. The consent holder must ensure that stalls can be moved quickly in the event that access is needed for emergency vehicles.

3.4.8 The consent holder will be required to keep records of all traders that trade under the consent which will include:

Event date

Company Name

Individuals Name

Trader Name

DOB

N.I number

Address

Food registration certificate number

Vehicle registration if relevant

Contact details.

Type of goods sold

This information will be required by the Licensing Department

3.4.9 As part of the application process the Council will consult all businesses in the vicinity of the Multi User consent . If, at any point after the grant of the consent, any existing or new occupiers of businesses or residential properties make objection to stalls being located outside of their premises the consent may be reviewed which could result in it being varied or amended.

3.4.10 It should be noted that Multi User Consents may incur other fees and charges from Maidstone Council if the land used belongs to Maidstone Borough Council. This will be in addition to the street trading consent fees.

4 CHOOSING A TRADING LOCATION/PITCH

4.1.1 Before applying for a street trading consent, applicants must first identify a suitable trading pitch or site. It is for the applicant to identify a suitable pitch having regard to the requirements in this policy and their business needs. The Council does not hold a list of available trading pitches.

4.1.2 A suitable pitch must meet the following criteria:

- . Be safe for other street users including traffic and pedestrians.
- . Be safe for customers using the street trading unit.
- . Not cause any potential for obstruction, interference, inconvenience or nuisance to other street users including other traders, traffic and pedestrians.
- . Not cause any potential for nuisance to residents and other businesses for example noise and/or smell.
- . The goods being sold complement and do not conflict with the goods sold by other established retailers within vicinity.

4.1.3 In particular account must be taken of the following:

- . Access roads on industrial estates, where heavy lorries manoeuvre, are generally unsuitable places for static units.

- . Locations close to residential properties are unlikely to be suitable due to the potential noise and smell nuisance to residents.
- . Lay-bys on main roads must have good visibility to ensure the safety for traffic entering and leaving the trading site/lay-by.
- . There should be suitable parking spaces for customer and trading vehicles.
- . Units should not cause loss of parking spaces to residents or businesses.
- . Units in town centres must not impede the movement of pedestrians or delivery vehicles or block the frontage of shops or access to existing premises.

5 OTHER MATTERS TO CONSIDER BEFORE MAKING AN APPLICATION

5.1 Suitability of the Applicant

5.1.1 Applications cannot be considered from anyone under the age of 17.

5.1.2 When determining an application for the grant or renewal of a street trading consent the council will consider all relevant information relating to the suitability of the applicant to hold such a consent including:

(a) Whether the applicant has any unspent convictions under the Rehabilitation of Offenders Act 1974.

5.1.3 Where the criminal conviction certificate provided by the applicant shows current offences (i.e. those that are unspent under the Rehabilitation of Offenders Act 1974, the Council will consider the following:

- . whether the conviction is relevant;
- . the seriousness of the offence;
- . the length of time since the offence occurred;
- . whether there is a pattern of offending behaviour;
- . whether that person's circumstances have changed since the offence occurred;
- . the circumstances surrounding the offence and the explanation offered by that person.

5.1.4 Annex B is a list of the offences that the Council considers relevant to a street trading consent application.

5.2 Goods For Sale

5.2.1 Food - Traders wishing to sell food items must be registered as a food business with the Council in whose area the trading unit is stored when it is not at the trading site. Or, if food is pre-prepared before the unit goes to the trading site, you must be registered with Council in whose area the food preparation is undertaken.

5.2.2 Vehicles on the side of the road -This refers to vehicles placed on the highway and advertised for sale and includes any vehicle displaying signs that name an individual or business; or displays notices/signs intended to sell the vehicle. This

authority may take enforcement action against person who are advertising vehicles for sale on the public highway , currently it is the crime waste team that deal with these matters. For the purposes of this part of the policy public highway includes footpaths and adjacent verges and public open land as well as the road itself. It does not include private land. Where any vehicle is offered for sale on the highway that is not taxed and insured, the Police may also refer it to the DVLA Enforcement Team. Enforcement also may be taken under the Highways Act 1980 and the Clean Neighbourhoods and Environment Act 2005. Street Trading consents are not issued for the purpose of selling vehicles on the highway.

5.2.3 Alcohol - If you intend to sell alcohol you will need authorisation under the Licensing Act 2003 in addition to street trading consent. Please contact the Licensing Section for further advice.

5.3 Assistants/Employees

5.3.1 You will be required to check the right to work of any persons you employ to assist you under your street trading consent. Any trader found to allow an illegal worker to work as part of their trading activities is likely to have their street trading consent reviewed and/or revoked.

5.3.2 The Council will require the name, address, date of birth, national insurance number, a basic criminal check (not more than 1 month old) and a photograph of all persons assisting on a regular basis. The basic criminal check must be updated every 3 years. For the purposes of this policy we would consider any person who works on the unit, without the consent holder being present, for more than 14 days a year, as assisting on a regular basis.

5.4 Waste

5.4.1 A street trading consent holder is responsible for disposal of refuse and must not use Council, highway or other public waste bins unless there is a specific arrangement in place. The consent holder has a duty of care to dispose of commercial waste lawfully.

5.4.2 There must be no disposal of liquid waste down the drains or onto the pavement, road or grassland. This includes waste cooking oil.

5.5 Trading Hours

5.5.1 An application should specify what hours the applicant wishes to trade. Evening and night time hours are likely to have more impact on local residents in terms of noise and disturbance. Applications for later times are more likely to raise objections which may lead to those times being refused or conditions imposed.

5.5.2 The consent holder will be permitted 30 minutes preparation time prior to the start of their trading hours in order to set up the trading vehicle and there will be 30

minutes to close down and pack up. Consent holders are not permitted to trade during set up and closing times. Multi User consent holders will be permitted 90 minutes prior and after trading times to set up and close down the stalls.

5.5.3 Trader's who wish to serve hot food and drink between 23:00 and 05:00 will also need a licence for late night refreshment under the Licensing Act 2003. Please contact the Licensing Team for further information.

5.6 Planning Permission

5.6.1 A street trading consent is given to units where the unit is removed every day at the end of the trading period. If a unit is permanently located at a site it is unlikely to require street trading consent but will require planning permission. Units that are removed every day may also require planning permission in addition to street trading consent. This will be dependant on the amount of time and days that the unit is located at the site. Please contact the Planning Section for further advice.

5.6.2 If a unit that holds street trading consent is not removed every day at the end of the trading period and it is considered that the unit is in fact permanently located in one position, then street trading consent may be revoked.

6 HOW TO APPLY FOR STREET TRADING CONSENT (All consent types)

6.1 Advice for New Applicants

6.1.1 On receipt of an application the Council will undertake a consultation exercise in order to seek the views of other agencies and, if relevant, neighbouring businesses and residents. There is a non-refundable fee to cover the cost of administering the consultation (this is not applicable to short term consents).

6.1.2 The consultation process will normally take at least 14 days and a decision will then be normally made within 7 days of the consultation ending. All applicants should allow a minimum 21 days for their applications to be processed.

6.1.3 Once a decision is made to grant a street trading consent there is a consent fee. This must be paid before the consent is issued and trading can commence.

6.2 Submitting an Application

6.2.1 The following must be submitted with the initial application:-

- a. Application form.
- b. Notice of Intention.
- c. Proof of eligibility of the applicant to work in the UK (where applicable).

d. Plan showing the proposed trading location with position of the unit(s) shown in red. (Not required for mobile units).

e. Written permission from a landowner if the street trading activity is to be carried out on any land owned privately.

f. Payment of a non-refundable consultation fee to cover initial administration and consultation costs (this not required for short term consents).

6.2.2 If, following consultation the location is deemed suitable, the following must be submitted before a final decision is made:

a. Third party public liability insurance up to £10,000,000.

b. A Basic Criminal Disclosure check that is not more than 1 month old for the applicant and any person/s that will be assisting on a regular basis. Basic Criminal Disclosure checks can be obtained from the Disclosure and Barring Service. Information can be found online at: <https://www.gov.uk/request-copy-criminal-record> or by calling 03000 200 190. (Not applicable to short term consents).

c. One passport sized photograph of the applicant and any person/s that will be assisting with the trading on a regular basis. (Not applicable to multi user and short term consents).

6.3 Consultation

Consultation Static Consents and Multi User Consents

6.3.1 On receipt of a valid static or multi user application the Council will consult with the following:-

- . Kent Constabulary.
- . Kent Highways.
- . The relevant Parish Council(s).
- . The Maidstone Borough Councillor(s) for the Ward(s) concerned.
- . Environmental Health Officers at Maidstone Borough Council.
- . Planning Officers at Maidstone Borough Council.
- . Where appropriate local residents and businesses within 100 metres of the proposed site.
- .the relevant department/individual when it's in relation to public owned land.

6.3.2 The Council will allow up to 5 working days to begin the 14 days consultation for people/relevant bodies to make comments in relation to the application.

Consultation - Mobile and Short Term Consents

6.3.3 On receipt of a valid mobile or short term consent application the Council will consult with the following:-

- . Kent Constabulary.
- . The relevant Parish Council.
- . Relevant Ward Councillor(s).
- . Environmental Health Officers at Maidstone Borough Council.
- . the relevant department/individual when it's in relation to public owned land.

6.3.4 The Council will allow up to 5 working days to begin the 14 days consultation for people/relevant bodies to make comments in relation to the application.

6.4 Determining Applications

6.4.1 The Head of Housing and Community Services has delegated powers to issue or refuse an application following the consultation period.

6.4.2 Account will be taken of objections and/or letters of support made during the consultation period. The authority will consider the suitability of the site and the applicant taking account of, but not exclusively, the criteria in this policy.

6.4.3 Each application will be decided on its own merits.

6.5 Street Trading Badges

6.5.1 On grant of a street trading consent a street trading identification badge (except for short term consents and multi user consents) will be issued. The badge must be worn by the person it relates to where it can be clearly seen by the public at all times the person is trading. If the badge is lost or damaged the consent holder must contact the Council as soon as possible. A charge will be made for a replacement badge.

7 FEES AND CHARGES

7.1.1 A list of the current street trading consent fees and charges is available by contacting the Licensing Team.

7.1.2 Initial applications (apart from short term consents) must be accompanied by payment of a non-refundable administration fee to cover initial administration and consultation to determine suitability of the site. The consultation exercise will not commence until this payment is made.

7.1.3 Once a decision is made to grant a consent the full consent fee must be paid before the consent will be issued.

7.1.4 The fees will normally be reviewed on an annual basis.

7.1.5 Street trading fees may be waived in relation to charitable or community events at the discretion of the Head of Housing and Community Services. Each event will be judged on its own merits. However the following criteria will be considered:

- . The street trading is part of an organised event with an organising group/committee/individual.
- . The primary purpose of the event is fundraising for a charitable cause or is for the benefit of the community.
- . The event does not take place any more than once a year.
- . Stalls are pre-booked.

7.2 Payment Methods

- . Cheque - made payable to "Maidstone Borough Council".
- . Debit or credit card – Can used at the Council Offices or by telephone to the Licensing hub between normal office opening hours on 01732 227001.

8 RESPONSIBILITIES OF THE CONSENT HOLDER

8.1.1 The consent holder must act in accordance with the conditions attached to the consent.

8.1.2 A street trading consent entitles the applicant to trade lawfully in the location(s) specified in the consent. Please note there are many other users of streets and the consent does not grant exclusive rights of occupation or ownership of a specific location.

8.1.3 A street trading consent is not a permit to disregard other laws or usual restrictions. For example:

- . Always observe parking restrictions and do not obstruct the highway or entry or exit roads to private property.
- . Other relevant legislation such as the Food Hygiene (England) Regulations 2006, Safety At Work etc Act 1974 and Part II, section 34 of the Environmental Protection Act 1990 (disposing of waste) must be complied with.
- . A consent holder must not cause a nuisance to the occupants of neighbouring properties from noise, litter, disposal of waste or any antisocial activity.

8.2 Changes to The Unit

8.2.1 You must contact the Licensing Section if you want to change your unit. You may need to make a new application or a variation application if the change is significant and impacts on the objectives of this policy.

8.3 Changes of Assistants

8.3.1 A consent holder must provide the Licensing Section with a photograph and basic criminal record disclosure that is not more than 1 month old for any new persons that assist on a regular basis. See paragraph 5.3.2 for definition of assisting on a regular basis.

9 RENEWAL

9.1.1 Applications to renew an existing street trading consent must be made at least 21 days prior to the expiry of the existing consent.

9.1.2 A renewal application may be refused if the renewal application is made late.

9.1.3 The following must be submitted with a renewal application

- . Renewal Application Form
- . Renewal Fee
- . Copy of current third party liability insurance up to £10,000,000.

9.1.4 Additional Requirements at Renewal:

. A Basic Criminal Disclosure for the consent holder and any persons that assist on a regular basis from the Disclosure and Barring Service that is not more than 3 years old.

. 1 recently taken passport size photograph of the consent holder and any persons that assist on a regular basis.(Not required for Multi User Consents)

10 TRANSFER OF CONSENTS

10.1.1 Street trading consents are non transferable. If there is an agreement between a current consent holder and a proposed new consent holder to take over an existing unit and location, the original consent holder must surrender their consent and the proposed new consent holder must submit a new application. The proposed new consent holder, who has made the agreement with the existing consent holder, will be given priority in applying for the location provided that the new application is submitted within 5 working days after the current consent holder surrenders their consent. The applicant will need to follow the process for submitting a new application.

11 VARIATION OF CONSENTS

11.1 A street trading consent may be varied to change the conditions attached to the consent. This includes conditions relating to trading times and periods. This does not include a change of consent holder or a change of location. A variation application should be submitted with the following:

- a. Variation Application form.
- b. Notice of Intention.
- c. Written permission for the proposed change from the landowner if the street trading activity is carried out on any land owned privately.
- d. Photograph of the new/changed unit if applicable.
- e. Payment of the non-refundable consultation fee.

11.2 Consultation will be in accordance with the new application process. However if the variation is minor the consultation may be reduced at the discretion of the Head of Housing and Community Services.

12 CONDITIONS ATTACHED TO CONSENTS

12.1 When granting or renewing a street trading consent the Council may attach such conditions to it as they consider reasonably necessary.

12.2 Street trading consents will usually be granted subject to the standard conditions detailed in Annex A to this Policy.

12.3 Where appropriate, additional conditions may be added to a specific consent.

13 REFUSAL, REVOCATION AND APPEALS

13.1 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation to the holder in respect of such revocation.

13.2 The Act does not provide an applicant or a consent holder with any direct right of appeal against a decision to refuse the grant, variation or renewal of a street trading consent, the revocation of a street trading consent, or against any restrictions or conditions imposed on a street trading consent.

13.3 If an applicant or any relevant party wishes to make representations in respect of a decision to grant, refuse or revoke a street trading consent the applicant/consent holder/relevant party should put this in writing with the reasons to the Licensing Section within 28 days of being notified of the decision. The request will be reviewed by the Head of Housing and Community Services, who will consider whether it is reasonable and proportionate for an appeal to be heard by the Licensing Sub Committee. The review of the decision will take account of the reasons for the original decision and the representation or any further evidence put forward by the applicant/consent holder/other party.

14 COMPLAINTS AND ENFORCEMENT

14.1 General Principles

14.1.1 It is recognised that well-directed enforcement activity by the Council benefits not only the public but also responsible members of the trade.

14.1.2 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

14.1.3 Consent Holders must allow access to Authorised Officers of the Council and Police Officers at all reasonable times.

14.2 Offences

14.2.1 The following are offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 relevant to the Maidstone area:-

- . Engaging in street trading in a consent street without Consent.
- . Breaches of a condition in relation to trading location or unit or trading period.
- . Breaches of a condition attached to the granted Consent.

14.2.2 A person guilty of the above offences may be liable on conviction to a fine of up to £1000.

14.3 Complaints

14.3.1 Where complaints are received regarding the carrying on of street trading activities, these will be investigated in a prompt and professional manner.

14.3.2 If a complaint is found to be justified then the following actions may be taken by Officers:

- . Verbal warning.
- . Written warning.
- . Simple caution.
- . Prosecution.
- . Revoke the Consent.

ANNEX A

STANDARD CONDITIONS APPLICABLE TO HOLDERS OF A STREET TRADING CONSENT THE LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982

It is important that the consent holder should understand and at all times observe these conditions. Any breach of any Condition could result in revocation of the street trading consent.

1 Street trading can only take place in accordance with the times and permissions of the consent.

2 A consent may be revoked at any time by the Council and the Council shall not in any circumstances whatsoever be liable to pay any compensation the holder in respect of such revocation.

3 The consent holder shall return this consent to Maidstone Borough Council immediately on revocation or surrender of the Consent.

4 Any consent holder found to be employing persons who do not have the right to work in the UK will have their consent immediately revoked.

5 A consent cannot be sub-let.

6 Consent holders shall permanently and clearly display on the street trading unit, in a conspicuous position readily visible to the public, the valid consent that has been issued by the Council. (Static and Mobile Consents only).

7 The consent holder and any assistants shall sell/offer for sale only such goods or types of goods as may be specified in the street trading consent granted to the consent holder.

8 The consent holder shall at all times maintain a valid Third Party Public Liability Insurance Policy of at least £10,000,000 to the satisfaction of the Council and shall produce a valid certificate of such insurance at any time upon request by an authorised officer of the Council.

9 The consent holder shall keep his trading site and immediate adjacent area in a clean and tidy condition during permitted trading hours and also leave the site in a clean and tidy condition and unobstructed at the end of each period of use under the terms of this consent. For these purposes the term 'immediate adjacent area' refers to all public land within a 50 metres radius from the trading location over which the public have access.

10 No waste matter shall be discharged into or allowed to enter any highway drain or water course.

11 Every static street trading unit and any vehicles or equipment associated with it shall be removed from the site at the end of the day. The unit must not be left on site when not in use unless explicit written consent has been given by the Head of Housing and Community Services

12 The consent relates only to the unit described in the application or as defined on the certificate of consent.

13 The use of awnings; external display stands and the positioning of tables, chairs and sunshades around the unit are also prohibited without the written permission of the Head of Housing and Community Services.

14 The display of advertising signs, other than on the unit itself, is prohibited without the written permission of the Head of Housing and Community Services. Signage may also require planning permission.

15 Holders of a mobile street trading consent must not trade in one place for more than 30 minutes at a time and must not return to the same location within 2 hours.

16 No street trading unit shall be located and no street trading activity shall be carried on so as to cause obstruction of any street or endanger persons using the street.

17 The consent holder shall not trade in such a way as to cause a statutory or public nuisance to persons using the street, public place, or occupiers of premises in the vicinity. Noise from equipment (including amplified audio equipment) used in connection with the consented street trading activity shall also not give rise to a statutory or public nuisance.

18 The consent holder shall make adequate arrangements to ensure that all persons connected with the operation of the unit have the means and opportunity to visit suitable toilet facilities when necessary. The consent holder shall ensure that the facilities available are made use of.

19 The consent holder shall comply with the requirements of Part II, section 34 of the Environmental Protection Act 1990 with respect to waste resulting from his/her trading. The consent holder will make available the relevant documentation as proof of compliance at the request of an authorised officer of the Council.

20 If, and when required, the consent holder shall present the street trading unit to an officer of the Council for inspection.

21 The Council reserves the right to refuse to renew a static street trading consent if the applicant has not, without reasonable cause, traded at the site on a regular basis in the previous 6 months. In such circumstances the street trading consent may be granted to another applicant.

22 Street trading shall not be carried on at any time unless the appropriate fee for the street trading consent has been duly paid to the Council.

23 The consent Holder shall at all times conduct business in a clean, honest, civil and business like manner without interfering with the business of other traders and consent holders.

24 Nothing contained in these conditions shall relieve the consent holder or their employees or agents from any legal duty or liability and the consent holder shall indemnify the Council in respect of all claims, actions, demands or costs arising from this consent.

25 The Council may vary or make additions to the Conditions applying for any or all street trading consents, at any time.

ANNEXE B

RELEVANT OFFENCES WHEN DETERMINING SUITABILITY OF AN APPLICANT FOR A STREET TRADING CONSENT

a. Dishonesty

A street trading consent will not be granted unless 3 - 5 years have lapsed since a conviction for an offence that involves dishonesty, for example theft or fraud, or completion of any sentence imposed whichever is the later.

b. Violence

If an applicant has been convicted for an offence for violence which involves loss of life, a street trading consent will not be granted.

In other cases a street trading consent will not be granted unless 3 – 10 years have lapsed since a conviction for an offence relating to violence or completion of any sentence imposed whichever is the later.

c. Drugs

A street trading consent will not be granted unless 5 - 10 years have lapsed since a conviction relating to the supply or importation of drugs or completion of any sentence imposed whichever is the later.

A Street trading consent will not be granted unless 3 - 5 years have lapsed since a conviction for an offence relating to the possession of drugs or completion of any sentence imposed whichever is the later.

d. Sexual and Indecency Offences

A street trading consent will not be granted where there are convictions for rape, indecent assault, any sexual offence involving children and any conviction for an offence under the Sexual Offences Act 2003, or for indecent exposure.

e. Exploitation

A street trading consent will not be granted if there are convictions relation to exploitation of another individual. This will include slavery, child sexual exploitation and grooming.

f. Motoring Convictions

In most cases, motoring offences are unlikely to be relevant when considering a street trading consent application. However, there may be instances where the offences are of a very serious

nature or may be relevant to the type of street trading activity. In those cases a street trading consent will not be granted unless 3 - 5 years have lapsed since any such convictions or completion of any sentence imposed whichever is the later.

g. Street Trading Legislation

The Council takes a serious view on applicants who have been convicted of street trading offences under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. In particular, a street trading consent will not be granted unless 2 years have lapsed since any offence under the 1982 Act or if there is more than one conviction then 5 years must have lapsed.

h. Formal Cautions and Fixed Penalty Notices

For the purposes of these guidelines, the Council will treat Formal Cautions issued in accordance with Home Office guidance and fixed penalty notices as though they were a conviction before the courts.

i. Existing Consent Holders Convicted Of An Offence

The Council may consider revoking the consent if the consent holder is convicted of an offence and in particular there will be concern if the offence falls into one of the categories detailed above.

DRAFT

Communities, Housing & Environment

2 November 2021

Purchase & Repair, Temporary Accommodation Acquisition (phase 5)

Final Decision-Maker	Communities, Housing & Environment
Lead Head of Service	William Cornall, Director of Regeneration and Place
Lead Officer and Report Author	Alison Elliott, Economic Development Officer
Classification	Public
Wards affected	All

Executive Summary

There is £2,526,000 allocated within this year’s capital programme for a further (5th) phase of investment in purchase and repair properties for use as Temporary Accommodation to help alleviate homelessness.

This paper sets out the number and type of accommodation to be acquired. It also proposes to supplement the existing allocation with the slippage / underspend from previous phases of the programme, totalling £481,570, to provide a total for investment of £3,007,570, to be spent during the remainder of this financial year, and possibly into 2022/23.

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. That the Committee note that the £481,570 underspend from previous phases of the project has been carried forward to the capital programme allocation, giving a total of £3,007,570 for investment in further properties for use as temporary accommodation;
2. That the Director of Regeneration and Place be given delegated authority to determine the size and type of temporary accommodation required; and
3. The Policy and Resources Committee be recommended to give delegated authority to the Director of Finance and Business Improvement, in consultation with the Chair of Policy and Resources, to purchase properties for use as temporary accommodation up to the total value of £3,007,570.

Timetable	
<i>Meeting</i>	<i>Date</i>
Communities, Housing & Environment Committee	2 November 2021
Policy & Resources Committee	24 November 2021

Purchase & Repair, Temporary Accommodation Acquisition (phase 5)

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	Accepting the recommendations will materially improve the Council's ability to achieve the corporate objectives around Homes & Communities. We set out the reasons other choices will be less effective in section 3.	Head of Regeneration and Economic Development
Cross Cutting Objectives	By supporting those who are homeless and vulnerable to have access to appropriate accommodation, which is of a decent standard the report addresses the issues of deprivation and social mobility.	Head of Regeneration and Economic Development
Risk Management	Already covered in the risk section.	Head of Regeneration and Economic Development
Financial	The proposals set out in the recommendation are all within already approved budgetary headings within the capital programme and so there is no need for new/additional funding for implementation of this project. The financial saving from investment in acquiring properties, in terms of reduced spend on nightly paid accommodation, means that borrowing for this purpose is sustainable.	Section 151 Officer & Finance Team
Staffing	The work towards completing any property purchases will be established using existing staff resources within the Economic Development & Regeneration Team and Mid-Kent Legal. An appointed external Surveyor and Contractor will assist with the project.	Head of Regeneration and Economic Development
Legal	Accepting the recommendations will fulfil the Council's duties under the Housing Act 1996 and the Homelessness Act 2002. Failure to accept the recommendations without agreeing suitable alternatives may place the Council in breach of these acts. Acting on	Team Leader, Contracts and Commissioning

	the recommendations is within the Council's powers as set out in the Constitution.	
Privacy and Data Protection	No implications identified.	Policy and Information Team
Equalities	The recommendations do not propose a change in service therefore will not require an equalities impact assessment. Impact assessments may be required for individual projects.	Senior Policy and Communities Officer
Public Health	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	The recommendation will have no impact on Crime and Disorder. The Community Protection Team have been consulted and mitigation has been proposed	Head of Regeneration and Economic Development
Procurement	Officers have waivers in place for a Contractor for works and Surveyor to continue to work on this project	Head of Regeneration and Economic Development & Section 151 Officer
Biodiversity and Climate Change	<p>The implications of this report on biodiversity and climate change have been considered.</p> <p>Additional properties as part of MBC's portfolio will increase the energy consumption and therefore CO2e produced by the additional properties purchased. The additional properties will be added to the decarbonisation plans currently being formulated to ensure they, along with all MBC assets, are in line with our Net Zero commitments by 2030.</p>	Biodiversity and Climate Change Officer

2. INTRODUCTION AND BACKGROUND

2. The Temporary Accommodation Strategy, introduced in December 2016 and reviewed in December 2017, recommended that the council purchase properties on the open market to use as Temporary Accommodation. The Purchase & Repair Programme was established to implement the Strategy.

2.1 The success achieved in providing Council owned temporary accommodation has been reported previously to the Committee since starting the programme in 2017. The success of phases 1, 2, 3 and 4 has increased the Council's portfolio by 46 units. These properties are used to provide temporary accommodation for homeless households and rough sleepers.

2.2 Properties purchased so far are:

No of Properties	No. of Beds	%
1	1	2
22	2	48
18	3	39
4	4	9
1	4 bed - HMO	2
Total 46		100

2.3 The Purchase & Repair programme provides a more cost-effective solution for the Council than nightly paid accommodation. The average cost of nightly paid accommodation is:

No. of beds	Cost per night (£)
1	35
2	40-45
3	45+
4	50+

2.4 If the Council is unable to source accommodation on the nightly paid market it is forced to use hotels, costing around £55-£120 a night depending on the family size. The number in need of housing has increased due to the removal of COVID-19 restrictions on evictions, the widening of those owed a duty to be housed brought about by the Domestic Abuse Act, and an increase in the number of care leavers formerly accommodated by Kent County Council.

2.5 Purchasing and maintaining the asset is more favourable to the Council to be able to sustain control over the stock, with the net rents chargeable largely covering the cost of financing the portfolio. It also provides better accommodation for applicants, as our temporary accommodation is of good quality, self-contained and located within our Borough boundary.

2.6 This report makes recommendations to source further properties for temporary accommodation to meet the additional demand, using the approved budget of £2,526,000 for 21/22 and surplus of £481,570 carried forward from previously approved capital budget. This provides a total budget for phase 5 of the Purchase & Repair Programme of £3,007,570.

2.7 Data suggests that accommodation ranging from 1 to 4-bedroom properties would best suit the Council's needs. It is therefore proposed that the budget of £3,007,570 is used to purchase approximately 10 more properties with a similar unit mix to that set out at 2.1.

3. AVAILABLE OPTIONS

- 3.1 Option 1: Continue with the Purchase & Repair Program into phase 5, to increase the Council's portfolio of Temporary Accommodation properties with additional 1 – 4-bedroom units within the agreed budget of £3,007,570.
- 3.2 Option 2: Do nothing. Officers do not purchase any further properties, with an increased financial risk to the Council in providing nightly paid accommodation.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Option 1, as stated in paragraph 3.1 above, is recommended. This will ensure that further properties are sourced increasing the Council's portfolio of Temporary Accommodation in the most cost-effective manner.

5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
- 5.2 If ultimately the need for the properties were to diminish in time for their intended use, they could be converted to PRS housing within Maidstone Property Holdings Limited or sold.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 To date the project has been very successful and well received by Members.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 If the Communities, Housing and Environment Committee approve this report, a further report will be taken to Policy & Resources Committee to authorise the acquisition of additional properties for Temporary Accommodation.

- 7.2 Following successful approval by Policy and Resources Committee, the Council will proceed with the investment and the completion of property purchases for temporary accommodation. Each property being considered for purchase will continue to be approved on a case-by-case basis (in consultation with the Chair of the Committee) and be in accordance with the relevant temporary accommodation standards and acceptance criteria. Ward Councillors will also continue to be notified of the Council's intention to purchase any property that falls within their ward

8. REPORT APPENDICES

None

9. BACKGROUND PAPERS

None

Agenda Item 16

Communities, Housing and Environment

2 November 2021

Caravan Sites Fit & Proper Person

Final Decision-Maker	Communities Housing and Environment
Lead Head of Service	John Littlemore, Head of Housing and Community Services
Lead Officer and Report Author	Martyn Jeynes, Community Protection Manager
Classification	Public
Wards affected	All

Executive Summary

Approval is sought to adopt a Fit and Proper Person Fees and Determination Policy to support the introduction of the Fit and Proper Person test (F&PP) in relation to caravan site licensing (residential sites).

Purpose of Report

Decision

This report makes the following recommendations to this Committee:

1. That the proposed Fit & Proper Person Fees Policy and the Fit & Proper Person Determination Policy attached as Appendix 1 and Appendix 2 of this report are adopted for use
2. That the Fees Policy is reviewed after 6 months to ensure fees are appropriate and brought back to Committee if an amendment is required.

Timetable

Meeting	Date
Communities, Housing and Environment Committee	05/10/2021

Caravan Sites Fit & Proper Person

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place <p>Accepting the recommendations will materially improve the Council’s ability to achieve the Safe, Clean and Green, Homes and Communities and A Thriving Place priority. We set out the reasons other choices will be less effective in section 2.</p>	Head of Housing and Community Services
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendations supports the achievements of cross cutting objectives.</p>	Head of Housing and Community Services
Risk Management	<p>Approving the recommendations in the report minimises the risk of the Council not having appropriate operational policies in place to undertake this work. .</p>	Head of Housing and Community Services
Financial	<p>Adopting the fees policy will enable Maidstone Borough Council to recover the costs associated with delivering this process. If the fees policy is not adopted, the Council will not be able to recover the costs associated with this new statutory function. There is a risk that fees are challenged but, in setting fees in compliance with the Hemmings v Westminster approach, the risk is reduced to a minimum</p>	Section 151 Officer & Finance Team

Staffing	We will deliver the recommendations with our current staffing.	Head of Housing and Community Services
Legal	Adopting the determination policy will enable Maidstone Borough Council to make decisions and uphold these decisions if challenged. Not adopting the determination policy increases the risk of challenges to decisions made in relation to the F&PP test. Through the Local Authority Caravan Site Licensing Officers' Forum, which has over 200 local authority members, barrister advice provided to this group has been used in the preparation of both policies.	Senior Lawyer (Contentious)
Privacy and Data Protection	We recognise the recommendations will impact what personal information the Council processes in line with other work already undertaken by the service.	Policy and Information Team
Equalities	We recognise the recommendations may have varying impacts on different communities within Maidstone. Therefore, we have completed a separate equalities impact assessment.	Equalities and Communities Officer
Public Health	We recognise that the recommendations will have a positive impact on population health or that of individuals.	Public Health Officer
Crime and Disorder	The recommendation will have a positive impact on Crime and Disorder by regulating a business area that has been exploited previously at a national level.	Head of Housing & Community Services
Procurement	Not applicable	Head of Housing and Community Services
Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and are; <ul style="list-style-type: none"> • There are no implications on biodiversity and climate change. 	Biodiversity and Climate Change Officer

2. INTRODUCTION AND BACKGROUND

- 2.1 Following a Government review of the Mobile Homes Act, 2013, the Government introduced a new regime under the Caravan Sites and Control of Development Act 1960 called the Fit and Proper Person test. The new regime was introduced by regulations in 2020 and it is to be implemented by local authorities from 1 July 2021. The regime has brought into force by The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations, 2020.
- 2.2 All protected residential sites which are operated on a commercial basis must have demonstrated that they are operated/managed by a fit and proper person. Any licensable caravan site is a 'relevant protected site' unless it is specifically exempted from being so.
- 2.3 A site is exempted if:
 - it has planning permission or a site licence for exclusive holiday use
 - there is a restriction on use as permanent residential
- 2.4 The legislation states that applications from existing owners/occupiers can be received by local authorities from 1 July 2021 until midnight on 30 September 2021. Owing to factors outside of the team's control as a result of the pandemic and unexpected sickness impacting the team, we have obtained agreement from the Department of Levelling Up, Housing & Communities to extend that period to 31st December 2021 on condition that this has been communicated to the relevant protected sites in our borough. We will not act against Site Owners until that date has passed and where dialogue indicates that an application will be submitted by the site owner.
- 2.5 A determination Policy has been drafted for consideration and adoption in order to support the assessment of F&PP test applications which are received and is attached in Appendix 1.
- 2.6 The local authority has the ability to recover costs for this process and an appropriate fees policy has been developed to allow us to recover the costs associated with the assessment of applications and is attached in Appendix 2.
- 2.7 For information, we have 9 relevant protected sites within the district and would therefore anticipate this number of applications

3. AVAILABLE OPTIONS

- 3.1 The committee could choose adoption of the proposed Fit & Proper Person Fees Policy and the Fit & Proper Person Determination Policy to enable the Community Protection Team to invite applications and ensure site managers are appointed appropriately and that residents are protected.
- 3.2 The committee could choose to make changes and variations to the proposed policies however this lead to further delays. The policies have been developed in line with national guidance and with input from a working

group of local authority regulators for Caravan sites, with input from barristers. The determination policy reflects the requirements of the legislation. The Fees policy reflects the anticipated costs associated, as provided in paragraph 21 of appendix 2.

- 3.3 The committee could choose not to implement the Regulations, however to do so would likely result in challenges when exercising its functions under the Regulations and the Mobile Homes Act 2013 and lead to service complaints to the Local Government and Social Care Ombudsman and even judicial review.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 The preferred option is outlined in 3.1.
- 4.2 Adopting the proposed Fit & Proper Person Determination Policy will put in place the necessary framework to support officer decisions in a fair and consistent way.
- 4.3 Applying the Fit & Proper Person Fees Policy will also ensure the officers are able to fund the works necessary to adopt this new regime and will ensure value for money for site owners through a transparent cost framework.
- 4.4 Recommendation 2 will allow officers to ensure the fees that have been proposed, which are as yet untested, are accurate. This will allow adjustments to be made to reflect the actual cost of processing applications.

5. RISK

- 5.1 The recommendations if adopted will reduce the risk of the Council not being compliant with its statutory duties.

6. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix 1: Fit & Proper Person Determination Policy
- Appendix 2: Fit & Proper Person Fees Policy

7. BACKGROUND PAPERS

[Background Papers – Mobile homes fit and proper person test: guidance for local authorities - GOV.UK \(www.gov.uk\)](http://www.gov.uk) [Mobile homes: a guide for local authorities on setting fees for the fit and proper person test - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Maidstone Borough Council

FIT AND PROPER PERSON DETERMINATION POLICY (MOBILE HOMES) 2021/2022

November 2021

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Introduction

1. The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Regulations”) require the manager of a site to be a Fit and Proper Person. Local authorities are accordingly required to introduce a fit and proper person assessment for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations¹.
2. The Regulations, made on 23 September 2020, allow local authorities to receive applications from site owners that hold a licence or have applied for a site licence within the local authority area from 1 July 2021 up to and including 30 September 2021. Owing to factors outside of their control, Maidstone Borough Council are allowing flexibility on that period and their decision process to the 31st December 2021 and will not act against Site Owners until that date has passed where dialogue indicates that an application will be submitted by the site owner.
3. A local authority must be satisfied that the site owner “is a fit and proper person to manage the site” or, if the owner does not manage the site, “that a person appointed” to do so by the site owner “is a fit and proper person to do so”.
4. Where a site owner or their manager fails the fit and proper person assessment and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, the local authority can instead appoint a person to manage the site, but only with the consent of the site owner.
5. Principally, the fit and proper person assessment applies to a “relevant protected site”. A relevant protected site is one that has a site licence and planning permission which is not granted for holiday use only, or does not prohibit the stationing of mobile homes/caravans for human habitation at certain times of the year. The fit and proper person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park home owners.
6. The determination of applications will be undertaken by Community Protection Team and will be overseen by the Head of Housing and Communities.

¹ *i.e. it is a non-commercial, family occupied site as defined under r.3 of the Regulations

The Evidence

When conducting the fit and proper person assessment, Maidstone Borough Council (“the local authority”) must consider the following points relevant to the application:

1. Is the individual able to conduct effective management of the site.

This includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site. It follows that, the local authority must have regard to:

- a. whether the person has a sufficient level of competence to manage the site;
- b. the management structure and funding arrangements for the site; or
- c. the proposed management structure and funding arrangements.

a) Competence to manage the site

This includes reviewing the competency of the appointed individual. The individual must have sufficient experience in site management, or have received sufficient training, and be fully aware of the relevant law as well as health and safety requirements.

b) The management structure and funding arrangements for the site

Maidstone Borough Council will consider whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. Officers will need to ensure that the applicant has a robust management plan, this should also be reviewed to ensure it addresses the following issues: the pitch fee payment, proximity of the manager to the site, manager’s contact details for residents (including out of office and emergency contact details), the complaints procedure, maintenance, staffing, and refuse removal. The authority reserves the right to include other relevant matters as deemed appropriate for individual applications, this list is therefore not exhaustive.

It is advisable that the site is managed by an applicant based in the UK and a management structure would be unlikely to be suitable if the applicant is an individual, or a company (including its directors), which does not reside or have a permanent UK address. This is because there may be complex issues as a result of this, such as needing the court’s permission to serve a claim in a foreign country. The applicant’s interest in the land will also have an important impact, as would their financial standing, management structures and competence, all of which could contribute to the overall assessment of their suitability to manage the site effectively.

c) The proposed management structure and funding arrangements in place for managing the site

Maidstone Borough Council must consider whether the applicant has sufficient funds (or has access to sufficient funds) to manage the site and comply with licence obligations. Evidence of these funds should be readily available.

Third party (including an associated company) funding should be disclosed, as this will impact on the authority's ability to deem whether the application is financially viable.

2. Personal information relating to the applicant concerned.

Includes a criminal record check and should include whether the relevant person:

- a) has committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- b) has not contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law.
- c) has not contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business.
- d) has not harassed any person in, or in connection with, the carrying on of any business.
- e) is not or has not been within the past 10 years, personally insolvent.
- f) is not or has not been within the past 10 years, disqualified from acting as a company director.
- g) has the right to work in the United Kingdom and,
- h) is a member of any redress scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place).

Maidstone Borough Council may have records of previous harassment complaints made against a site owner or their manager. Even if no action was taken on these complaints, these can still be taken into consideration in the fit and proper person assessment. These complaints may identify further potential risks and can also provide an indication of potential underlying problems with the management of the site or the site owner's lack of experience/skills in dealing with customers. Officers can address any underlying issues by attaching conditions to the individual's entry on the register.

Items to take into consideration

“The applicant” is defined at paragraph 2 of the Regulations as “the person who makes an application under regulation 6”.

The “relevant person” is also defined at paragraph 2 of the Regulations to mean “the subject of the fit and proper person assessment under Regulation 7”.

The conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) is also an important factor to be considered in the fit and proper person assessment.

Site owners may be required to provide details of any current or former associates of the relevant person in the application form. Those associates will not include other current joint owners as that information is required elsewhere in the application.

It is not routinely required to provide information of all current or past associates of the site owner. However, it is advisable that, prior to making any final decisions, officers consider the conduct of past and current associates relevant to that individual’s application. The site owner can be asked to provide additional information during the application process.

Officers will be required to establish whether an individual is considered to be an associate of the relevant person and then whether their conduct is relevant to the application. A relevant associate could be defined as any individual who may have played a part, directly or indirectly, in a decision or action, which has had an impact on residents’ rights, or the quiet enjoyment of their homes.

The Regulations are drafted widely giving the opportunity for local authorities to take into consideration other relevant matters. All conduct is relevant in relation to the person’s fitness to hold a licence and/or manage the particular mobile home site. Proper management of the site includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site.

To be able to secure the proper management of the site, officers must (amongst other things) have regard to whether the relevant person has a sufficient level of competence to manage the site and the management structure or proposed management structure and funding arrangements.

Officers are able to decide the specific matters they deem relevant to the fit and proper person application. These matters could be in relation to current or previous issues, or events, that have occurred in relation to the park site or any other park site owned or managed by the site owner or site manager in another local authority area. Additionally, the site owner’s conduct regarding other business, outside of the park homes sector, can also have implications on the financial and management arrangements of the site in question. Any matters which are believed to be of relevance to the application should primarily focus on the relevant person’s conduct, competence and their suitability to manage the site.

Officers will consider any additional matters in light of the available evidence. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions. Allegations which have not been investigated or documented may be difficult to use as evidence to support the authority's decision.

1. Applications

The Regulations use various terms and these are outlined below:

As mentioned earlier **"Relevant person"** is defined in paragraph 2 of the Regulations and is "the subject of the fit and proper person assessment under Regulation 7". Please note that this could be the site owner or person appointed to manage the site by the site owner.

"Relevant officer" is defined in paragraph 1 of Schedule 2 of the Regulations. Where the applicant is a company, a relevant officer will be a director or other officer of the company; or, where the applicant is a partnership, a partner; or, where the applicant is a body corporate, a member of the management committee of that body.

"Required Information" is defined in paragraph 14 of Schedule 2 of the Regulations as: the person's name and business contact details; details of the person's role or proposed role in relation to the management of the site; where the person has not yet been appointed, the address, telephone number and email address (if any) at which the person may be contacted in respect of the application; details of each relevant protected site (other than that to which the registration application relates) — for which the person holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960, or in which the person has a legal estate or equitable interest, or which the person manages.

The application for inclusion in the fit and proper register, must therefore include the following:

The applicant and site details required

Details of the site and the applicant:

- 1) The applicant's name and business contact details.
- 2) Where the applicant is not an individual, the following information in relation to the individual completing the application on behalf of the applicant and each relevant officer:
 - i. the person's name;
 - ii. details of the person's role (if any) in relation to the management of the site.

- 3) The name and address of the site.
- 4) Evidence of the applicant's legal estate or equitable interest in the site.
- 5) Confirmation that the applicant is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.
- 6) The name and business contact details of any other person that has a legal estate or equitable interest in the site.

The name and address of each other relevant protected sites:

- 1) for which the applicant holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;
- 2) in which the applicant has a legal estate or equitable interest; or
- 3) that the applicant manages.

The applicant must clearly specify whether their application is made in respect of either the applicant, or site owner, or the person that the applicant or site owner has appointed to manage the site.

Information relating to the site manager

In circumstances where a "site manager" has been appointed to manage a site more information is needed. The person who is applying for the site manager to be registered as a fit and proper person must provide the following information: the site manager's name and details of that person's role (if any) in relation to the management of the site.

If the site manager is not an individual required information would also include the individual ("A") that the site manager has appointed or intends to appoint to be responsible for the day-to-day management of the site. And where A is not a relevant officer of the site manager, the relevant officer to whom A is accountable for the day-to-day management of the site.

Additional information when the applicant is the relevant person and an individual

When the applicant is the relevant person and is an individual, and the applicant has appointed, or intends to appoint, someone else ("B") to be responsible for the day-to-day management of the site, required information would be needed in relation to B. If B is not an individual but is, instead, for example, a company, and B has appointed an individual ("C") to do the day-to-day management, required information would be needed in relation to C. Where C is not a relevant officer of a company, details of the relevant officer to whom C is accountable for the day-to-day management of the site would also be required.

Additional information where applicant is relevant person and not an individual

When the applicant is the relevant person but is not an individual and the applicant has appointed or intends to appoint someone else ("B") to be

responsible for the day-to-day management of the site, required information would be needed in relation to this person. Information would also be required relating to the following persons: if B is not a relevant officer of the applicant the person to whom B is accountable for the day-to-day management of the site ("C"); where B itself is not an individual, the individual ("D") that B has appointed or intends to appoint to be responsible for the day-to-day management of the site; where D is not a Relevant officer of B, the relevant officer to whom D is accountable for the day-to-day management of the site.

It can be seen from the above that the Regulations prohibit the operation of a relevant protected site unless the site owner or its site manager (whatever the management structure might be) has been assessed by the local authority as a fit and proper person to do so. This has been included to ensure that consistent standards are applied to companies and other organisations that are not individuals.

2. Criminal record certificate/s

Criminal Records Certificates must be issued under section 113A(1) of the Police Act 1997 and will be required where:

- a) the Relevant person is an individual and
- b) for each individual in relation to whom the applicant is required to provide information for example, a site manager or individuals A, B, C or D as outlined above.

The application will need to be accompanied by a basic DBS certificate.

The certificate must have been issued no more than six months before the date of the application. It is incumbent upon the site owner to ensure that any certificates provided meet this requirement.

Declaration

A declaration made and signed by the “appropriate person”, which means:

- a) where the applicant is a company, a director or other officer of the company;
- b) where the applicant is a partnership, one of the partners;
- c) where the applicant is a body corporate and the conduct of the management of the body is vested in its members, a member;
- d) where the applicant is not a body falling within (a) to (c) above, a member of the management committee;
- e) where the applicant is an individual, that individual.

Where the applicant is not the relevant person, the declaration must confirm that the applicant has made all reasonable enquires into the matters mentioned in paragraph 9 of Schedule 3 of the Regulations.

The declaration should also state that the information provided in the application is correct and complete to the best of the applicant’s knowledge and belief.

3. Determination of applications

The local authority must make a decision on the application in a timely and practicable manner and either:

- a) where the decision is to grant the application unconditionally and include the relevant person on the register for 5 years, serve a final decision notice on the applicant; or
- b) otherwise, serve a preliminary decision notice on the applicant.

On receipt of an application the local authority may:

- a) grant the application unconditionally;
- b) grant the application subject to conditions; or
- c) reject the application.

The determinations of applications will be undertaken by officers of the Community Protection Team who have been trained and have a full understanding of this policy. The process will be overseen by the Community Protection Manager on behalf of the Head of Housing and Communities.

Upon rejection of a person's application by Maidstone Borough Council this will be recorded on our system and include the details of the person involved and the reasons for the rejection. This will not be held on the published register.

4. Granting the application unconditionally

Where officers are satisfied that the applicant meets the fit and proper person assessment unconditionally, they must include the applicant on the register for 5 years. The authority must issue a final decision notice to the applicant to inform them of its decision.

5. To include the applicant on the register subject to certain condition(s)

In some circumstances, the local authority can specify that the individual for the fit and proper person assessment will only be successful if certain conditions are met. If these conditions are satisfied, the local authority can grant an application subject to those condition(s). The local authority can also grant an application for less than 5 years.

It may be the case that officers decide to include the person on a register subject to condition(s), if it would only be satisfied that the person would meet the fit and proper requirement if the condition(s) were complied with. An applicant will be able to appeal against the decision to attach (or vary) any condition to an entry on the register. It is therefore imperative that officers have clear and justifiable reasons for attaching any condition(s) and that any conditions imposed can be enforced by Maidstone Borough Council.

Conditions will need to be clearly stated for the applicant's understanding and this will also allow for the local authority to ensure that they are enforceable.

An example of the requirements of any conditions are included in Table 1 below.

Table 1

Specific	The specific condition/s a site owner is being requested to address.
Measurable	The conditions required and the outcome(s) expected.
Achievable	The applicant should be reasonably expected to be able to achieve the condition. For example, it may not be reasonable to expect a site owner of one small site to have the same resources to introduce the same procedures as a medium sized company.
Realistic	The applicant should have a clear understanding of how the required outcome can be reached and that there are no circumstances or factors which would make the achievement of the outcome impossible or unlikely.
Timebound	A clear timescale in which the task/action must be completed.

What can a condition relate to?

The fit and proper person assessment is aimed at ensuring that the person managing the site is competent and the conditions should relate directly to the person's ability to secure the proper management of the site.

Where a person has contravened legislation, or committed offences set out in above section, it is not recommended that conditions are set in relation to those matters. This is because such a condition would be unlikely to meet the tests set out above. For example, if a person has committed fraud or violence, that specific incident cannot be reversed by requiring the person to perform a specific task.

In cases where the person has committed those listed offences or contravened legislation, these breaches should be considered, together with all the other information available, when reaching the preliminary decision.

A condition can also be set with respect to ensuring the relevant person has the ability to secure the proper management of the site. In summary, conditions can relate to any factors which are relevant to the person's competence to manage the site, the management structure, or funding arrangements for the site, an associated person's influence, and any other relevant factors.

Example 1 - The local authority has evidence of a site owner's failure over a certain period of time to address residents' complaints. This is an example of poor management which could be resolved by the site owner implementing an adequate complaints procedure. A condition could be attached requiring the site owner to "implement an effective and accessible three stage complaints process for residents by xx date and provide the LA with quarterly reports of complaints and outcomes, from that date and for the first year".

If the condition is met within the specified time frame, the local authority can record this in the register. If, at a future date, it is found that the site owner failed to implement a complaints procedure, a further opportunity to comply may be given and this could include a new condition of the site owner providing quarterly reports of complaints and outcomes for each year. The site owner could also be expected to complete a relevant "CPD customer service/Dealing with complaints" course by a certain period. However, should the local authority consider the actions as unlikely to achieve the desired outcome, the site owner could be removed from the register.

Example 2 - If, when considering an application, certain documents or information are unavailable to the applicant, because of delays from third parties, the local authority may wish to attach a condition to the entry on the register that the site owner "is to provide the authority by registered post, with the original xx document by xx date".

Example 3 - An associated person has been visiting the park and, through their action ('X'), has caused distress to the residents impacting their well-being and security. A condition could be attached to the register requiring the site owner to put measure(s) in place by xxx date preventing the associated person, or any other person, from carrying out action X on the site.

6. Decisions not to include the applicant on the register

Should Maidstone Borough Council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, the authority can refuse to grant the application.

Where the authority makes a decision to include the applicant on the register, subject to conditions, or not to include the applicant on the register, a preliminary decision notice to the applicant must be issued.

The preliminary decision notice must clearly state:

- a) the date the preliminary decision notice is served;
- b) the preliminary decision;
- c) the reasons for it;
- d) the date it is proposed that the final decision will have effect;
- e) information about the right to make written representations;
- f) where the preliminary decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
- g) where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any conditions.

7. Right to make a representation

An applicant who receives a preliminary decision notice will have 28 days in which to make representations in writing to the local authority. The 28-day period begins with the day after the day on which the notice was served.

The local authority is obliged to consider and take any representations it receives into account before making a final decision.

8. Final decision notice

The local authority must, as soon as reasonably practicable, after the end of the period allowed for making representations, make a final decision and serve the decision notice on the applicant.

The final decision notice must set out:

- a) the date the final decision notice is served;
- b) the final decision;
- c) the reasons for it;
- d) when the decision is to take effect;
- e) information about the right of appeal and the period within which an appeal may be made;
- f) where the decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
- g) where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.

9. Appeals

The applicant can decide to appeal the decision by making an application to the First-tier Tribunal (Property Chamber) (“the tribunal”) within specific timeframes set by the tribunal. The applicant is permitted to appeal against any decisions served by the Authority. These could include:

- a) including the relevant person on the register for an effective period of less than 5 years;
- b) including the relevant person on the register subject to conditions; and
- c) rejecting the application.

Where an applicant accepts the authority’s decision not to include the person originally stated in the application on the register, they will be required to seek alternative management arrangements to comply with the fit and proper person requirement. If they fail to do so they will be committing an offence.

An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal.

10. Withdrawal or amendment of notice

There may be circumstances where the local authority may decide to withdraw or amend:

- a) a preliminary decision notice before service of the final decision notice;
- b) a final decision notice before the decision to which it relates takes effect;
- or
- c) a notice of proposed action before the proposed action is taken.

To withdraw or amend a notice, the authority will serve notice on the person on whom the original notice was served.

There are no requirements for notices to contain specific information, however, it is recommended that a withdrawal or amendment notice should state:

- a) That it is withdrawing/amending the original notice (a copy of the original notice should be attached for reference);
- b) the reasons for withdrawing the notice;
- c) the date it takes effect; and,
- d) the implications of the decisions in relation to the person’s entry on the register.

11. Removal from the register

If, after a person is included in the register, new evidence relevant to the person's inclusion becomes available, the authority may decide to:

- a) remove the person from the register;
- b) impose a condition on the inclusion of the person in the register (whether or not there are conditions already imposed);
- c) vary a condition; or
- d) remove a condition.

Officers must use their judgement when determining whether to review an entry and consider any subsequent actions are required. Any such decision should be related to the person being a fit and proper person rather than, for example, site licensing issues which are governed separately. If the local authority decides to take any of the actions listed in paragraph 11 (a) to (d) above, the local authority must serve a notice of any proposed action on the occupier.

The notice of proposed action must clearly state:

- a) the date the notice of proposed action is served;
- b) the action the local authority proposes to take;
- c) the reasons for it;
- d) the date it is proposed that the local authority will take the action;
- e) information about the right to make written representations;
- f) where the proposed action requires the removal of a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
- g) where the proposed action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with said conditions.

A notice of proposed action is not required if the local authority decides to remove a condition attached to an entry. A removal of a condition is viewed widely as being a positive step, which is unlikely to be opposed. It is for that reason that a notice of proposed action is not required. As good practice, the authority will make the site owner or their manager aware of the decision in writing and also ensure the register is updated.

12. Notice of action taken

Where a notice of proposed action is given, the occupier will have 28 days, starting from the day after the notice is served, in which to make representations. The local authority must, as soon as reasonably practicable after the end of the 28-day period, decide whether to carry out the proposed action.

Where the local authority decides to take the action, the local authority must serve a further notice on the occupier, indicating the action that has been taken, within the period of 5 working days beginning with the day after the day on which the action was taken.

The notice of action must set out—

- a) the date the notice of action is served;
- b) the fact that they have taken the action;
- c) the reasons for doing so;
- d) the date the action was taken;
- e) information about the right of appeal and the period within which an appeal may be made;
- f) where the action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulations; and
- g) where the action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition.

13. Offences

There are 3 offences which can occur within the Regulations. They are as follows:

- Operating a site in contravention of the fit and proper person regulations - The site owner has certain defences under the Regulations in any proceedings brought against them.
- Withholding information or including false or misleading information in the registration application - The site owner will not have any defences under the Regulations in any proceedings brought against them for this offence.
- Failing to comply with a specified condition - The site owner will have certain defences under the Regulations in any proceedings brought against them.

Maidstone Borough Council is responsible for enforcing the regulations. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

14. Defences

One defence is available to a site owner who has inherited a site and would be found to have a reasonable excuse for failing to make an application within the relevant periods as set out below.

15. Relevant periods in specific circumstances

The below table outlines limited circumstances where a site owner may have a defence.

Circumstance	Relevant period for making an application in the circumstance
1 the occupier held a site licence immediately before the day on which regulation 4 (operating a site without being a fit and proper person) came into force on 1 October 2021.	From 1 st July 2021 before 1 October 2021, the day on which regulation 4 came into force
2 the period of a person's inclusion in the register in relation to the site has come to an end other than as a result of action by the local authority under regulation 8(1)(a) (removal from the fit and proper register after new relevant evidence becomes available).	not less than two months before the end of the period of the person's inclusion in the register
3 at the time that the occupier became entitled to within the period of 3 months possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant local authority of its intention to make an application under regulation 6 (application for inclusion in the register)	beginning with the day after the day on which the person became the occupier of the land
4 at the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and the occupier does not give the notification referred to in row 3 above	within the period of 28 days beginning with the day after the day on which the person became the occupier of the land
5 a person appointed to manage the site no longer does so; and within the period of 28 days beginning with the day after the relevant day the occupier notifies the relevant local authority that the person no longer does so	within the period of 3 months beginning with the day after the relevant day
6 a person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row 5 above	within the period of 28 days beginning with the day after the relevant day
7 application under regulation 6 (application for inclusion in the register) in relation to the site	within the period of 3 months beginning with the relevant day

- | | | |
|----|--|---|
| 8 | the breach of regulation 4(1) arises because the local authority has removed a person from the register; and the occupier does not give the notification referred to in row 7 above | within the period of 28 days beginning with the relevant day |
| 9 | the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the occupier notifies the relevant local authority of its intention to make a new application under regulation 6 | within the period of 3 months beginning with the relevant day |
| 10 | the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and the occupier does not give the notification referred to in row 9 above | within the period of 28 days beginning with the relevant day |

16. The Fit and Proper Persons Register

Maidstone Borough Council must set up and maintain a register of persons who they are satisfied are fit and proper persons to manage a site in their area. This register must be open to inspection by the public during normal office hours. This register will also be published online.

The register will provide a record of the outcome of the fit and proper person assessments that the authority has carried out for sites. The register will include the following:

- a) the name and business contact details of the person;
- b) the name and address of the relevant protected site to which the application relates;
- c) the status of the person (site owner or manager of the site);
- d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
- e) whether any condition is attached to the person's inclusion in the register; and
- f) where any condition is attached to the person's inclusion in the register—
 - i. the number of any such conditions;
 - ii. the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - iii. the date any condition is varied or satisfied (if applicable).

Where a person has met the fit and proper person assessment, the register will give details of that person and of the site, including decisions made on how long a person's inclusion is for, up to a maximum of 5 years.

In order to comply with the fit and proper person requirement a site owner must at least two months before the period (e.g. 5 years) comes to an end submit a new application for the person (or alternative) to be included in the register.

Where there are rejected applications, the following information will be included in the register:

- a) the name and address of the site to which the application relates;
- b) that an application in respect of the site has been rejected; and
- c) the date on which the application was rejected.

Details of the rejected application will remain on the register until a successful fit and proper person application is made in respect of the owner or manager of the site.

The name of the rejected applicant will not be included on the register.

Where the local authority has, with the site owner's consent, appointed a person to manage the site, the local authority must include the following information:

- a) the name and business contact details of the person;
- b) the name and address of the site which the person has been appointed to manage;
- c) the status of the person;
- d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
- e) whether any condition is attached to the person's inclusion in the register; and
- f) where any condition is attached to the person's inclusion in the register—
 - i. the number of any such conditions;
 - ii. the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - iii. the date any condition is varied or satisfied (if applicable).

Maidstone Borough Council

FIT AND PROPER PERSON FEE POLICY (MOBILE HOMES) 2021

November 2021

Introduction

1. A relevant protected site is a site, which requires a licence, which is not solely for holiday purposes or is otherwise not capable of being used all year round. A relevant protected site cannot operate unless the local authority is satisfied that the manager qualifies as a fit and proper person, Sections 12A -12E of the Caravan Sites and Control of Development Act 1960, as implemented by Section 8 Mobile Homes Act 2013 (subject to paragraph 10 below).
2. A site owner under the Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI 2020/1034) ("the Regulations") must apply to their local authority for the relevant person (themselves or their appointed manager) to be added to the register of fit and proper persons managing sites in their area ("the register").
3. The site owner may only apply to be added to the register if they hold, or have applied for, a site licence for the site. This provision also applies where the site owner or site manager is a registered company.
4. The Regulations permit the local authority to determine the fee for an application or registration for someone to be added to the register. It is imperative that the fee is included with the application and failing to include this may mean that the site owner is in breach of the requirements of the Regulations.
5. It is important to highlight that this fee policy will refer to the recovery of costs which the local authority may have incurred, or which will be incurred, in appointing a person to manage a site with the site owner's consent. This will be calculated separately to the application fee.
6. Site owners will be required to submit a completed application from 1 July until 31 December 2021 (6 months) and pay the fee, outlined below, to Maidstone Borough Council.

Fees for Fit and Proper Persons Register Applications

Application fee

7. Maidstone Borough Council has provided a breakdown of tasks associated with the fit and proper person assessment and/or checks to be included on the fit and proper register in paragraph 9.
8. A calculation based on officer time to process the assessment, on average, has been used to calculate a fee of £290 for the fit and proper person application process.

9. Maidstone Borough Council has taken into account the following matters on which costs are incurred, or likely to be incurred, when determining its fee policy for consideration of applications for entry on a fit and proper person register:
- a) Initial enquiries;
 - b) letter writing/emails/telephone calls etc. to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the fit and proper process;
 - c) sending out forms/processing online application forms;
 - d) updating files/ computer systems and website;
 - e) processing the application fee;
 - f) land registry searches;
 - g) time for reviewing necessary documents and certificates;
 - h) preparing preliminary and final decision notices;
 - i) review by manager or lawyers; review any representations made by applicants or responses from third parties;
 - j) updating the public register;
 - k) carrying out any risk assessment process considered necessary; and
 - l) reviews of decisions or in defending appeals.
10. The charges are limited to recovering the costs of exercising the fit and proper person assessment function only and do not include other costs that have already been charged for by other service areas. An assumption has been made that no cases will result in an appeal to First-tier Tribunal.
11. In light of the small number of sites that this applies to no annual fee will be charged in addition to the application fee for ongoing enforcement.

Additional considerations taken into account for the application fee:

12. Maidstone Borough Council will be required to conduct relevant background checks regarding the applicant's background in management and their financial standing. The results of these checks will allow the local authority to decide on whether or not to accept the application. The time taken for these checks has been accounted for in the fee, irrespective of whether or not the entry on the register is granted.
13. Where an applicant contacts the Licensing team before making an application, to ascertain the likelihood of the success of that application, the authority is expected to provide informal advice, for example, the conditions surrounding an application, the information required to be submitted and general guidance on making the application. There is further guidance relating to this in the fit and proper person determination policy.
14. Any preliminary advice the local authority provides is accounted for in the fee and will not be charged separately.

Revising Fees

15. Maidstone Borough Council will review this fee policy after 6 months in the first month and annually thereafter and will publish the revised policy as necessary. Any changes will be justifiable and reasonable, ensuring full transparency for the site owners.
16. The purpose of publishing the fee policy is to show that the fees imposed by the local authority are fair and transparent so that anyone required to pay a fee can understand the charges.

Amending conditions attached to an entry on the register

17. Maidstone Borough Council may alter the conditions attached to an entry on the register (by adding new conditions or changing or deleting existing ones), following a review. Officers must notify the site owner of its interim decision (except in the case where it is deleting a condition) and consider any representations made by the site owner, before reaching a final decision. If the site owner is unhappy with the decision to alter, or not alter, the conditions, they will have a right of appeal to the First-tier Tribunal (Property Chamber).
18. There are no requirements for a site owner to make an application for a condition to be altered. Any costs involved with amending existing conditions, or adding new conditions to an entry, are factored into the application cost.

Payment of fees

19. As outlined above in paragraph 4, Maidstone Borough Council is not required to consider an application for entry on the register unless that application is accompanied by the correct fee. If the correct fee is not paid, the application will not be valid and the site owner could be in breach of the Regulations.
20. If Maidstone Borough Council decides not to approve an application the applicant is not entitled to a refund of the fee paid.

An appointed manager fee

21. This is where the local authority is provided with the site owner's consent to appoint an individual to manage a site. The costs associated with this should be reasonable and are recoverable from the site owner. These fall outside the application process.
22. Costs that can be recovered will depend on the agreement made between Maidstone Borough Council and the site owner. Before entering into any discussions or agreements relating to the appointment of the manager, advice will be sought from the legal team.

Agenda Item 17

Communities, Housing and Environment Committee

2 November 2021

Housing Allocation Scheme Review

Final Decision-Maker	Communities, Housing and Environment Committee
Lead Head of Service	John Littlemore – Head of Housing and Community Services
Lead Officer and Report Author	Tony Stewart – Homechoice and Strategy Team Leader
Classification	Public
Wards affected	All

Executive Summary

The Housing Allocation Scheme was amended in April 2020 to support the Council's strategic objective of supporting early homelessness prevention, encouraging households to remain in their current accommodation and avoid the use of temporary accommodation whenever possible. The amendments were agreed for an initial trial period so that the effectiveness of the changes could be assessed.

This report summarises the results of the changes that were implemented and recommends that the temporary amendments are made permanent. Other sections of the scheme have also been revised so that it remains compliant with current legislation.

Significant policy changes to the Allocation Scheme must be approved by the relevant Committee.

Purpose of Report

Decision.

This report makes the following recommendations to this Committee:

1. That the Communities, Housing & Environment Committee agrees the proposed changes to the Council's Allocations Scheme set out in Appendix A to this report and incorporated into Version 2.2 of the Allocation Scheme attached as Appendix B to the report.

Timetable

Meeting	Date
Communities, Housing and Environment Committee	2 November 2021

Housing Allocation Scheme Review

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	The Housing Allocation Scheme assists in the delivery of the council's corporate priorities. We do not expect the recommendations will by themselves materially affect achievement of corporate priorities. However, they will support the Council's overall achievement of its aims as set out in section 4 (preferred alternative).	Head of Housing and Community Services
Cross Cutting Objectives	The report recommendations support the achievements of both the 'Health Inequalities are addressed and reduced' and 'Deprivation and Social Mobility is improved' cross cutting objectives by ensuring that the Council has an Allocation Scheme that treats all applicants fairly and that access to social housing supports the needs of residents.	Head of Housing and Community Services
Risk Management	The risks associated with this proposal have been set out in the body of the report	Head of Housing and Community Services
Financial	The amendments made to the Allocation Scheme from April 2020 have contributed to the reduction in spend on temporary accommodation.	Section 151 Officer & Finance Team
Staffing	We will deliver the recommendations with our current staffing.	Head of Housing and Community Services
Legal	The amendments to the scheme ensure that it is consistent with current Government Guidance and complies with the Housing Act 1996.	Legal Team
Privacy and Data Protection	Accepting the recommendations will ensure that the Allocation Scheme is compliant with current regulations.	Policy and Information Team

Equalities	An Equalities Impact Assessment was undertaken as part of the amendments being implemented in April 2020.	Policy & Information Manager
Public Health	The aim of the proposed changes is to reduce the need for temporary accommodation, which in turn will provide for better health and well-being for residents who find themselves threatened with homelessness.	Public Health Officer
Crime and Disorder	The recommendations will have a no impact on Crime and Disorder.	Head of Housing and Community Services
Procurement	N/A	Head of Housing and Community Services

2. INTRODUCTION AND BACKGROUND

- 2.1 Nominations made by the Council to housing association vacancies are governed by Part 6 Housing Act 1996 (as amended). The Act requires that nominations may only come from the Council's Housing Register and the Act provides the framework that sets out who can join the Housing Register and how priority is determined between applicants. The Council's interpretation of the framework legislation must be set out in a document adopted by the Council and called an Allocation Scheme. The adopted Allocation Scheme must be published and available upon request.
- 2.2 The Council's Housing Allocation Scheme is designed to ensure that access to subsidised housing supports the needs of residents, the corporate aims of the Council and reflects current legislation.
- 2.3 The previous version of the Allocation Scheme was introduced in 2013. The policy was designed to make best use of the limited stock available and awarded additional priority to applicants in work or who assist the local community in other ways, such as serving in the Armed Forces or undertaking voluntary work.
- 2.4 Minor amendments to the Allocation Scheme can be made with the agreement of the Director of Regeneration and Place in consultation with the Chair and Vice-Chair of the Communities, Housing & Environment Committee. Several minor amendments have been made since the policy was introduced in 2013.
- 2.5 The Homelessness Reduction Act, which was introduced in 2018 and the enhanced homelessness prevention service within the Housing and Inclusion Team meant that more significant changes to the scheme were required, which needed to be agreed by the Communities, Housing and Environment Committee.
- 2.6 The proposed amendments to the scheme were agreed by the Committee in February 2020 to be implemented from 1 April 2020 for an initial trial period to gain an understanding of the effect of the changes. However, due to the onset of the Covid-19 pandemic and the introduction of the 'Everyone In' initiative, the effectiveness of the changes could not begin to be measured until August 2020.
- 2.7 The main aims of the changes to the Allocation Scheme were to, *'encourage households to remain in their current accommodation and avoid the use of temporary accommodation whenever possible.'* To enable this objective to be achieved several amendments were introduced.
- 2.8 Eligible households who are owed a Homelessness Prevention Duty are placed in 'Band C – Community Contribution and Homelessness Prevention,' whilst households to whom either a Relief Duty or Main Housing Duty is owed are placed in 'Band H – Homeless.' A greater number of properties per applicants are advertised within Band C.

- 2.9 When comparing the period from August 2020 to July 2021 against the period August 2019 to July 2020, there has been a 92% increase in the number of successfully prevented homelessness cases and a 195% increase in the number of these households that secured a Social Housing Tenancy.
- 2.10 The number of households that were placed into temporary accommodation and vacated within the same 12 month period dropped by 27% when comparing the period from August 2020 to July 2021 against the period August 2019 to July 2020. However, there was a slight increase in the average length of stay from 75 days to 80 days.
- 2.11 There has been a decrease of 16% in temporary accommodation costs when comparing the two reporting periods.
- 2.12 There are also some further changes being proposed to other parts of the scheme to clarify and amend some points. These are intended to provide clarity for applicants and officers in applying the scheme based on feedback received from stakeholders and service users.
- 2.13 A table detailing the changes and the reasons for them is attached at **Appendix A**. This includes amending the financial cap for existing social housing tenants in the Borough and raising the cap from £40,000 to £50,000. The cap was originally introduced to discourage applications from households who could otherwise resolve their housing in the open market. The cap was in line with government policy at the time, which was part of the 'Pay to Stay' agenda.
- 2.14 As government policy has shifted, the retention of the cap for existing tenants is no longer felt necessary. Allowing social housing tenants in the Borough to transfer between housing stock will not result in a net loss of social housing accommodation, as they will free up a property that can then be relet. For these reasons the suggestion is to remove the requirement for the small number of existing social tenants that this currently impacts on.
- 2.15 For new applicants it is proposed to raise the gross household income level from £40,000 to £50,000. This reflects that the £40,000 threshold has been in place for a significant period and should be uplifted to reflect that housing costs have increased since the Allocation Scheme was originally adopted in 2013.
- 2.16 A copy of the amended Housing Allocation Scheme version 2.2 is attached at **Appendix B**.
-

3. AVAILABLE OPTIONS

- 3.1 To adopt the changes set out in Appendix A, as this will encourage households to remain in their current accommodation and avoid the use of temporary accommodation whenever possible, it is proposed that the changes that were introduced in April 2020 for an initial trial period are now made permanent. And to approve the other amendments in order to ensure

that the Allocation Scheme is compliant with recent regulatory changes and remains a relevant and understood document for officers and applicants alike.

- 3.2 **Option B** – Do not accept all or some of the proposed changes to the scheme as stated Appendix A. This is not recommended as monitoring of the amendments introduced in 2020 has shown them to be effective in achieving the desired aims and the Allocation Scheme will not be up to date with the amendments required to ensure that it remains relevant and compliant with current legislation.

4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 It is recommended to accept the proposed amendments to the Housing Allocation Scheme as detailed in Appendix A of this report.
- 4.2 Accepting the preferred recommendations will assist homeless prevention and will ensure that the scheme continues to remain relevant and up to date with current housing policy.

5. RISK

- 5.1 The risks associated with this proposal, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated are within the Council's risk appetite and will be managed as per the Policy.
- 5.2 The change in adding prevention cases to the new Band C and reducing the number of direct lets to applicants in temporary accommodation has not led to a significant increase in the length of stay in temporary accommodation for households and has not resulted in additional costs to the Council because of the need for more nightly paid temporary accommodation.
- 5.3 Regular monitoring of the key indices of success of the temporary amendments made in 2020 have been undertaken and added to the dashboard on homelessness activity.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 The current Housing Allocation scheme was introduced in 2020. The scheme was devised after an extensive consultation process with both internal and external stakeholders.
- 6.2 If the recommended proposals are accepted by the Communities, Housing and Environment committee, the Council is under a statutory duty to

provide a copy of the proposed amendments to every housing association with whom the Council has a nomination agreement and to afford them a reasonable period in which to comment on the amendments.

- 6.3 Previously, the changes made to enable the 12 month pilot to progress were universally welcomed by our housing association partners. However, if negative responses are received from our housing association partners, these will be reported to the next available meeting of the CHE Committee.

7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Upon agreement of the proposed recommendations and after consultation with our main housing providers, all relevant stakeholders will be issued with the updated scheme. The updated Housing Allocation scheme will also be published on the Councils website.

8. REPORT APPENDICES

The following documents are to be published with this report and form part of the report:

- Appendix A: Housing Allocation Scheme – Table of Amendments
- Appendix B: Housing Allocation Scheme version 2.2

9. BACKGROUND PAPERS

Homelessness Reduction Act 2017

Housing Act 1996

Housing Allocation Scheme Review – Communities, Housing and Environment Committee Report - February 2020

Housing Allocation Scheme

Table of Amendments

Section	Current wording	Amended wording	Reason for amendment
9.5	Returning Resident – the applicant must have been residing in the borough for a continuous period of at least 2 of the last 5 years but does not currently live within Maidstone Borough. The only exception to this are applicants being released from prison where their sentence exceeds 5 years. The Senior Homechoice Officer may accept an applicant as being a returning resident in exceptional circumstances.	Returning Resident – the applicant must have been residing in the borough for a continuous period of at least 2 of the last 5 years and may not currently live within Maidstone Borough. The only exceptions to this are applicants being released from prison where their sentence exceeds 5 years. The Senior Homechoice Officer may accept an applicant as being a returning resident in exceptional circumstances.	Clarification that applicants who are currently living in the borough may also qualify for local connection eligibility through being a past resident, in addition to those who are not currently residing in the Borough.
9.6	n/a	Applicants who currently hold a social housing tenancy in their name within Maidstone Borough will automatically meet the local connection criteria.	This will enable existing social housing tenants to move between housing stock easier.
9.8	Persons placed in Maidstone Borough by another local housing authority under the provision of	Persons placed in Maidstone Borough by another local housing authority under the provision of	This amendment provides clarity to those who are able to appear on the Housing Register, rather than

	the homelessness legislation will not become eligible for an offer of accommodation until the period of 5 years has expired from the date of their placement and would not amount to a local connection for other family members under paragraph 9.3. When a Relief Duty may be owed under Part 7 of the Housing Act 1996, the Homechoice and Strategy Manager may use discretion for the purpose of enabling a referral to another local authority.	the homelessness legislation will not become eligible to meet the local connection criteria stated in paragraphs 9.2, 9.5 and 9.6 above until the period of 5 years has expired from the date of their placement and their tenancy within Maidstone Borough would not amount to a local connection for other family members under paragraph 9.3. When a Relief Duty may be owed under Part 7 of the Housing Act 1996, the Homechoice and Strategy Manager may use discretion for the purpose of enabling a referral to another local authority.	just being excluded from being nominated for a new tenancy through the Housing Register.
11.4	n/a	Applicants who currently hold a social housing tenancy in their name within Maidstone Borough will not need to meet the financial circumstances qualifying criteria.	This removes the financial cap for existing tenants, as their transfer will not result in a net loss of available stock and will enable existing social housing tenants to move between housing stock more easily.
11.6	A household's gross income of £40,000 will also constitute sufficient financial means. This figure includes any benefits received.	A household's gross income of £50,000 will also constitute sufficient financial means. This figure includes any benefits received.	Increase of household's income to meet the qualifying criteria reflects that the cap has not been raised in 10 years.
11.9	n/a	The Senior Homechoice Officer has the discretion to accept exceptional cases where the applicant's	In exceptional cases, the criteria as stated in section 11 can be overruled.

		financial circumstances may mean securing alternative housing (e.g. privately renting) may prove difficult given the household's needs.	
Appendix A	<p>Eligibility</p> <p>EEA Nationals, but not UK citizens</p> <p>Valid passport for each household member Evidence of at least one year's completed employment in the UK prior to May 2011 Evidence of any employment since May 2011, for example a wage slip or P60 Any other evidence that proves eligibility for subsidised housing</p> <p>Non-EEA Nationals</p> <p>Valid passport for each household member Proof of indefinite leave to remain Any other evidence that proves eligibility for subsidised housing.</p>	<p>Eligibility</p> <p>Applicants who are not UK citizens will need to meet the eligibility criteria as stated in the current guidance issued by the Ministry of Housing, Communities and Local Government and provide the relevant evidence.</p>	<p>Non-UK citizens will need to meet the latest eligibility criteria as issued by the Ministry of Housing, Communities and Local Government.</p>

Allocation Scheme

Version 2.2
November 2021

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Aims and Priorities

Maidstone Borough Council's Allocation Scheme has been designed to ensure that access to subsidised housing supports the needs of residents, the corporate aims of the Council, as well as reflect current legislation. The Council's vision is for our residents to live in decent homes, enjoy good health and well-being and for a pleasant environment with a successful economy. There is an extremely limited supply of subsidised housing within Maidstone and this scheme is designed to work with our housing providers to make best use of the stock available and promote Maidstone as an attractive place to live.

Maidstone Borough Council's Allocation Scheme is designed to treat all applicants for subsidised housing in a fair and equitable manner. The Allocation Scheme is designed to offer applicants some choice in their accommodation and ability to express preference on their accommodation type and location. This individual choice and preference must be balanced with the needs of all applicants and the need for the Council to offer best value through its housing services. Applicants should be aware that the housing stock in Maidstone is limited and that they may be moved to a more suitable property faster if they are more flexible in the type or location of the property that they require.

The Council awards additional priority to applicants in work or who assist their local community in other ways, such as serving in the Armed Forces or undertaking voluntary work. The scheme is also designed to support the Council's objectives of the Homelessness and Rough Sleeper Strategy 2019-2024 and of the Strategic Plan 2019-2045 in preventing both homelessness and rough sleeping.

Part 1 – Introduction

1 Lettings not covered by the policy

- 1.1 The following are examples of lettings not covered by, or specifically excluded from the Allocation Scheme, under the provision of the Housing Act 1996:
- Offers of non-secure tenancies to homeless households pursuant to any duty under Part 7 of the Housing Act 1996;
 - The conversion of introductory tenancies into secure tenancies or their Housing Association equivalent;
 - Offers of tied accommodation made to Council employees;
 - Offers or nominations of accommodation made at the Council's own instigation for example offers to tenants being moved from their homes to allow major works to take place;
 - Transfer of tenancies made by a Court Order under the Matrimonial Causes Act 1973 or other family legislation;
 - Granting or disposal of tenancies by order of a Court.

2 The Legal Framework

- 2.1 Maidstone Borough Council keeps a Housing Register of people who want to be considered for subsidised housing. The Council's Allocation Scheme operates in accordance with the statutory provisions contained in the Housing Act 1996 (as amended).
- 2.2 The Housing Act 1996 (as amended) requires all Local Authorities to introduce a lettings scheme to reflect the priorities defined by the Act, and to give reasonable preference to:
- People who are homeless (within the meaning of Part 7 of the 1996 Act (amended 2002));
 - People who are owed duties by any Local Authority under Section 190(2), 193(2), 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any housing authority under section 192(3), as repealed by the Homelessness Reduction Act 2017 but not amended within the Housing Act 1996;
 - People occupying unsanitary housing or who are overcrowded or living in unsatisfactory housing conditions;
 - People who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others);
 - People who need to move on medical or welfare grounds including grounds relating to disability.

3 Eligibility for Allocation of Housing

3.1 Certain persons subject to immigration control are not eligible for the allocation of housing under s160ZA (1) (a), (3) and (5) under the Housing Act 1996 (as amended). This includes:

- Over-stayers and visitors to the country
- Illegal entrants
- Asylum Seekers
- People in the country on condition that they have no recourse to public funds
- "Persons from abroad" who fail the habitual residence test
- "Persons from abroad" who are in breach of the European Community Right of Residence directive
- "Persons from abroad" who have been the subject of a sponsorship agreement for less than 5 years and whose sponsors are still alive.

3.2 The above list provides examples. It should be noted that the statutory framework for eligibility is subject to alteration by the Secretary of State.

3.3 An applicant is able to request a review of the Council's decision by writing to the Senior Homechoice Officer (see Appendix B).

4 Equality and Diversity

4.1 The Council has given due regard to the Equality Act 2010, particularly;

- Part 2 - Chapter 1, Protected Characteristics and Chapter 2 Prohibited Conduct; and
- Part 11 - Chapter 1, Public Sector Equality Duty and Chapter 2, Positive Action, in drafting and applying the Allocation Scheme.

4.2 The Council operates an equality and diversity policy and is committed to delivering a fair and equitable service that is appropriate and accessible to all sections of the local community, as well as working to eliminate discrimination on any grounds.

4.3 The implementation of a clear and consistent Allocation Scheme goes hand in hand with careful equalities monitoring. As part of the housing register application, we ask questions around ethnicity, disability, sexuality, religious beliefs, age, employment and support needs. The data provided by the applicant will help us to monitor that the scheme is operated in a fair and non – discriminatory manner as well as for service improvements.

4.4 It is important that the Allocation Scheme is understood by all current and prospective applicants. Straight forward information through leaflets are available in a variety of formats and where appropriate, interpreters are used for applicants seeking advice and assistance.

5 Access to Personal Information

- 5.1 An applicant has the right to see and to confirm the accuracy of information about them which is held by the Council.
- 5.2 In order to request access to personal information, applicants can make a Subject Access Request by sending an email to dataprotectionofficer@maidstone.gov.uk
- 5.3 The Homechoice Team will collect and prepare the information within 28 days. Files may be edited where necessary to exclude information restricted by law or evidence provided by a third party, for example a healthcare professional. In the latter case, information can only be released if the professional concerned has given their written consent. Applicants wishing to see information provided by third parties must seek consent from the third party(s) involved.
- 5.4 If the applicant considers the personal information they have received is inaccurate, they may request that it is amended or removed from their records. If the Homechoice and Strategy Manager agrees the information is incorrect, appropriate action will be taken to amend the records.
- 5.5 General Data Protection Regulation (GDPR) states individuals have the right to have personal data erased. This is also known as the 'right to be forgotten'. The right is not absolute and only applies in certain circumstances.
- 5.6 Disclosure of information may be denied by the Council in any of the following circumstances:
- The information could prejudice criminal proceedings;
 - Legal professional privilege could be claimed;
 - A care professional is of the opinion that disclosure could result in a risk of serious harm to the applicant or others as a result of disclosure.
- 5.7 The Council will not pass information to a third party without an applicant's consent unless they have a legal right to obtain it.

6 Review of the Scheme

- 6.1 To ensure the continued effectiveness of the policy, certain improvements may need to be made to ensure the policy is kept up to date. Minor amendments can be made once approved by the appropriate Director. The Chairman and Vice Chairman of the Communities, Housing and Environment Committee will be advised of the change with the opportunity to provide comments within one calendar month before the amendments are incorporated.

7 Review of decisions requested by applicants

- 7.1 Applicants have a statutory right to request a review of a decision relating to their application, (Housing Act 1996 as amended). Where an applicant wants to introduce a medical issue not previously considered under the original application the applicant must follow the procedure set out in paragraph 10.2 Medical Grounds. In addition, Appendix B lists those subjects on which applicants can request a review, together with the timescale for requesting a review and receiving a response. All requests for a review must be made in writing (this can be in the form of an email).

Part 2 – The Housing Register

8 Entry on to the Register

- 8.1 The Council operates a 'closed list' housing register and there are qualifying entry requirements in order to be accepted onto the register. As the supply of subsidised housing in the borough is limited, the Council will concentrate its resources, which includes its access to subsidised housing (nominations) and staff resources on those applicants most likely to receive an offer of accommodation.
- 8.2 In order to be accepted onto the register all applicants must meet the two qualifying criteria; these are local connection (see Section 9) and housing need (see Section 10). Applicants will not be accepted on to the housing register until all the requested information has been provided. Incomplete new applications will not be processed and the applicant will be contacted to provide the required information. The applicant will be given 28 days to provide all their relevant information; otherwise, the application will be declined. Applicants owed a homelessness duty may be given a further 28 days to provide all their relevant information at the discretion of the applicant's caseworker. A list of relevant documents is contained in Appendix A.
- 8.3 Where an application is accepted onto the housing register the applicant's priority date will be set as the date when a valid application was received, i.e. the date that the completed application and all required supporting information was received by the Council.
- 8.4 Applications will not normally be accepted from persons under 18 years of age, except those owed duties by any Local Authority under sections 189B to 195 of the Housing Act 1996 or under section 65(2) or 68(2) of the Housing Act 1985.
- 8.5 Local Connection will not be deemed to be an overriding factor when it is necessary for an applicant to leave an area, such as in cases of domestic abuse.

9 Local Connection

- 9.1 In order to access the housing register, applicants need to fulfil at least one of the following local connection criteria.
- 9.2 Resident – the applicant has been residing within Maidstone Borough for a continuous period of 2 years immediately prior to the application. The Council may confirm these details with other information held internally by the Council e.g. Council Tax and Housing Benefit records.
- 9.3 Family - the applicant must have immediate family that has been residing within Maidstone Borough for a continuous period of 5 years immediately prior to the application. The Council may confirm these details with other data held internally.

- 9.4 Employment – the applicant must have employment or an offer of employment within Maidstone Borough. The place of work, rather than the business address, must be within Maidstone Borough. The employment must be for a minimum of 12 months and be for more than 16 hours a week. Self-employed applicants should provide documentation that confirms they regularly work or operate a business within the borough. For zero hour contracts see 18.4.1.
- 9.5 Returning Resident – the applicant must have been residing in the borough for a continuous period of at least 2 of the last 5 years and may not currently live within Maidstone Borough. The only exceptions to this are applicants being released from prison where their sentence exceeds 5 years. The Senior Homechoice Officer may accept an applicant as being a returning resident in exceptional circumstances.
- 9.6 Applicants who currently hold a social housing tenancy in their name within Maidstone Borough will automatically meet the local connection criteria.
- 9.7 Members of the Armed Forces – Certain members of the Armed Forces and their households will bypass the local connection criteria. For more detailed information as to which members of the armed forces this applies to, please see 18.6.
- 9.8 In cases where a duty is owed in accordance with the Part 7 of the Housing Act 1996 confirmed by a decision letter (in accordance with section 184) the Local Connection requirements will be those contained within the relevant legislation and Code of Guidance, which takes precedence over those contained within this document.
- 9.9 Persons placed in Maidstone Borough by another local housing authority under the provision of the homelessness legislation will not become eligible to meet the local connection criteria stated in paragraphs 9.2, 9.5 and 9.6 above until the period of 5 years has expired from the date of their placement and their tenancy within Maidstone Borough would not amount to a local connection for other family members under paragraph 9.3. When a Relief Duty may be owed under Part 7 of the Housing Act 1996, the Homechoice and Strategy Manager may use discretion for the purpose of enabling a referral to another local authority.
- 9.10 In exceptional circumstances the matter will be considered as part of the review process and discretion can be applied by the Head of Housing and Community Services, if an applicant is able to demonstrate a local connection that does not readily match the local connection criteria stated above. For example, applicants may have a need for support, special school placements or medical treatment which cannot be met in any other reasonable location. Applicants may also have felt the need to leave an area where they have a local connection. This is often supported by the police or another external agency. If the Head of Housing and Community Services is satisfied with the evidence provided in these cases, the applicant may be accepted onto the housing register.

9.11 Right to Move

9.11.1 The Council supports the Government's guidance on the Right to Move that permits Armed Forces personnel access to the housing register.

9.11.2 The Allocation Scheme supports increasing mobility for social tenants to enable them to meet their employment aspirations and to support them into work. Where a social housing tenant needs to move to Maidstone to take up a job or apprenticeship offer or live closer to work, they must be able to demonstrate to the Council's satisfaction that the work or job offer is genuine and that they need, rather than wish to move, and that if they were unable to do so, it would cause them hardship. The Council will consider and take into account the factors recommended by the Secretary of State in determining whether a tenant needs to move to be closer to work or take up a job/apprenticeship offer. These include:

- The distance and/or time taken to travel between work and home.
- The availability and affordability of transport, taking into account level of earnings.
- The nature of the work and whether similar opportunities are available closer to home.
- Other personal factors, such as medical conditions and child care, which would be affected if the tenant could not move.
- The length of the work contract.
- Whether failure to move would result in the loss of an opportunity to improve employment circumstances or prospects, for example, by taking up a better job, a promotion, or an apprenticeship

9.11.3 The Council will seek appropriate documentary evidence and may also contact the employer to verify the position (see Appendix A).

9.12 An applicant is able to request a review of the Council's decision not to agree local connection by writing to the Senior Homechoice Officer (see Appendix B).

10 Housing Need

10.1 Applicants must be in housing need to access the register and must qualify for one of the reasonable preference criteria as set out in S166A(3) of the Housing Act 1996. Further clarification is provided below.

10.2 Medical

10.2.1 To qualify on medical grounds, applicants must be able to demonstrate that their current accommodation is unsuitable for their households' needs due to a medical condition. This includes people who have a physical disability, mobility needs, mental illness or learning disabilities.

- 10.2.2 Applicants must be able to demonstrate to the satisfaction of the Homechoice Officer that their current accommodation is not suitable. Medical conditions include physical disabilities, mobility needs, mental illness and learning disabilities and documentation to support the application must be provided from an NHS medical professional, or an equivalent external agency.
- 10.2.3 If the Homechoice Officer is unable to determine if an applicant qualifies, all details will be sent to an independent medical advisor who will assess the application. The independent medical advisor's assessment will form part of the information to determine whether an applicant qualifies on medical grounds.
- 10.2.4 All applicants are entitled to one medical assessment for each member of the household that will be moving with them at no cost. Any further medical assessments must be paid for in full by the applicant unless there has been a significant change in the medical condition of an applicant or someone in the household.
- 10.2.5 The fee for a medical assessment will be £75. This will be reviewed annually by the Homechoice and Strategy Manager.
- 10.2.6 Following an initial application for a medical assessment, a request must be made in writing to the Senior Homechoice Officer which must include all documentation that an applicant wants to be sent for medical assessment. The Homechoice and Strategy Manager will then review whether a free medical assessment is appropriate.
- 10.3 Welfare
- 10.3.1 A move on welfare grounds may encompass a wide range of individual circumstances and will include, but not be limited to:
- Someone moving on from care.
 - Someone moving on from a drug or alcohol recovery programme.
 - Someone who wants to live independently but requires some additional support, such as someone with learning disabilities.
 - Someone who provides or receives care or support.
 - Someone who needs to leave their current accommodation due to being a victim of crime or intimidation or domestic abuse
- 10.3.2 A move on welfare grounds should be accompanied by supporting evidence from an appropriately qualified professional connected with the applicant. The Homechoice Officer will assess whether an applicant qualifies in this category.
- 10.4 Hazardous Properties
- 10.4.1 A property will be defined as hazardous by reference to the Housing Health and Safety Rating System (HHSRS) prescribed within The Housing Act 2004 Part 1 (or any replacement standard).

- 10.4.2 A property will be considered as being hazardous where an HHSRS assessment identifies:
- i) one or more Category 1 hazards, and where;
 - ii) a member of the applicant's household falls within the vulnerable age group for the hazard/s (as detailed in the relevant guidance), and;
 - ii) the hazard/s cannot be resolved within a period of 6 months.
- 10.4.3 Properties, located in Maidstone, assessed as containing Category 1 hazards that can be resolved within a period of 6 months will be subject to enforcement action to remove the hazard. The owner of the property will be responsible for all costs incurred in the resolution of the problem, including any requirement for temporary accommodation that may result due to the hazard.
- 10.5 Overcrowding & Under Occupancy
- 10.5.1 A household will be deemed to be overcrowded if, when the bedroom standard in section 15 is applied, the household is lacking one or more bedrooms and their home is not considered suitable for their needs. In larger properties, where there are additional rooms that would not be typically used as bedrooms, any additional rooms should be counted as providing bed spaces. This is with the exception of a kitchen/dining/living area.
- 10.5.2 Households that have moved to a property and made themselves intentionally overcrowded will not be eligible under this category.
- 10.5.3 Whilst under occupying is not necessarily a housing need it is in the interest of applicants and landlords that best use is made of existing accommodation. A household will be deemed to be under-occupying if they are an existing social housing tenant and when the bedroom standard in Section 15 is applied, the household exceeds its need by one or more bedrooms.
- 10.5.4 In determining whether a property is overcrowded or under-occupied the Homechoice Officer will apply an objective test based on the size and type of property and not on how the property is being used by the occupants.
- 10.5.5 The Homechoice and Strategy Manager has the discretion to consider exceptional cases where the bedroom criteria does not readily match the household type (e.g. bed space criteria.)
- 10.6 Hardship
- 10.6.1 Households will be deemed to be in hardship if they need to move to alleviate or prevent hardship. This includes, but is not limited to, those who need to move to give or receive care, and those who need to move to take up an employment, education or training opportunity.
- 10.6.2 Evidence of this must be provided and the Homechoice Officer will assess whether an applicant qualifies on the basis of hardship.

- 10.6.3 Applicants who are applying due to financial hardship will need to provide a completed income and expenditure form for the household, in order for an assessment to be completed. A form to assist the applicant can be sent upon request.
- 10.7 Homeless
- 10.7.1 Housing need will apply to those applicants who are owed the S.195(2) Prevention Duty; S.189B(2) Relief Duty or S193(2) main housing duty. The date of the application will be set to the date of the original application for housing assistance confirmed by a member of the Housing Advice Team. Applicants who have their Prevention duty discharged as a result of a deliberately and unreasonable refusal to co-operate will no longer be considered to have a housing need under this category.
- 10.7.2 Applicants owed the S.195(2) Prevention Duty will not need to meet the Local Connection criteria as stated in section 9 of this scheme. Once the Prevention Duty has ended, in order to remain on the register, an applicant will need to demonstrate they have a local connection commensurate with section 9 and a housing need in accordance with section 10.
- 10.7.3 Housing need will apply to homeless applicants found to be intentionally homeless and owed the advice and assistance duty under S190(2) of the Housing Act 1996. Where an applicant is found to be intentionally homeless, their priority date will be set as the date of the decision letter. Once an applicant has obtained settled accommodation, their housing need will end. The application will be processed under the housing register and must meet the qualifying criteria for local connection. A fuller explanation of all homeless categories can be found here (<http://www.legislation.gov.uk/ukpga/1996/52/contents>)
- 10.7.4 Where an applicant who is rough sleeping has their situation confirmed by a partner agency e.g. Maidstone Day Centre or any other registered agency working within the Borough for this client group, then the applicant will be assessed as having a housing need.
- 10.7.5 Applicants who are of no fixed abode, where evidence has been provided, may be considered as having a housing need, either because they are overcrowded or because they may be threatened with homelessness. This will apply to applicants who are found to be not in priority need and whose Relief Duty has ended.
- 10.8 If an applicant does not meet any of the housing need criteria, they will not normally be allowed to have access to the housing register and will be unable to bid on properties. An applicant can request a review of the Council's decision to refuse an application on housing need by writing to the Council (see Appendix B).
- 10.9 In exceptional circumstances, the Head of Housing and Communities has the discretion to accept an application that does not meet any of the above housing need criteria.

11 Financial Circumstances

- 11.1 In order to access the Housing Register at the point of application, and upon request e.g., at the point of an offer of accommodation, applicants must provide details of all bank accounts, savings, investments and capital that belong to any member of their household.
- 11.2 An applicant's financial circumstances will be assessed at the time of their application and any material change in circumstances should be reported as a change of circumstances as per Section 16.
- 11.3 As subsidised housing is a limited resource, those who have the financial means to rent privately or to buy a property are unlikely to meet the qualifying criteria to enter the register unless a main housing duty has been accepted for them.
- 11.4 Applicants who currently hold a social housing tenancy in their name within Maidstone Borough will not need to meet the financial circumstances qualifying criteria.
- 11.5 When determining affordability for certain developments in Parish areas that are subject to specific planning requirements e.g. rural exception sites (see paragraph 38.5) the test applied is whether the applicant can afford the cost of housing in the Parish where the rural exception site has been delivered as opposed to the cost of their current accommodation where this is away from the Parish area.
- 11.6 The Council considers that a total of £16,000 in capital, investments and savings constitutes sufficient financial means to rent privately or buy a property. This includes equity from a property. The Council will only consider priority payments, such as rent and council tax, when taking debts into account.
- 11.7 A household's gross income of £50,000 will also constitute sufficient financial means. This figure includes any benefits received.
- 11.8 The Council will take into consideration any disposal of funds within 2 years of the application to assess financial circumstances. Where an applicant cannot demonstrate the appropriate disposal of funds, the Council may draw an inference as to how the funds have been used.
- 11.9 The Senior Homechoice Officer has the discretion to accept exceptional cases where the applicant's financial circumstances may mean securing alternative housing (e.g. privately renting) may prove difficult given the household's needs.
- 11.10 An applicant is able to request a review of the Council's decision to refuse an application on financial circumstances by writing to the Senior Homechoice Officer (see Appendix B).

Part 3 – Applying to join the Housing Register

12 Who can be considered part of an application?

- 12.1 The only persons who will be considered as part of an applicant's household will be:
- Partner
 - Children
 - Relatives
 - Carers
 - Any member of the household who can reasonably be considered residing with the applicant at the time of initial application

12.2 Children

12.2.1 Children are defined as members of the household who are under 18 years of age and the applicant must have legal responsibility for the children.

12.2.2 The test of normal residence as a member of the family will require residence as opposed to "staying" or "staying access" even in cases of joint custody or joint residence or similar orders. The Council in applying the test will consider whether there is a sufficient degree of permanence or regularity to constitute normal residence as a member of the household. Account may be taken of whether the child is dependent upon the applicant. The Council may also take into account the supply and demand for accommodation in the Maidstone Borough and any under-occupation that may result where a child spends part of the week with one parent and part of the week with another parent.

13 Pregnancy

- 13.1 Pregnancy must be reported to the Council as a change of circumstances and relevant proof of pregnancy must be supplied.
- 13.2 Upon entering the last trimester (usually the last 12 – 14 weeks) of a pregnancy, the pregnancy will be considered as an additional child for the purpose of assessing the bedroom needs of an applicant.

14 Area Preferences

- 14.1 Applicants should be aware that whilst their area preference will be respected, Maidstone has a limited supply of subsidised housing. In order to make best use of this limited resource, and for an applicant to maximise their chances of being housed, applicants should bid on all properties that are suitable regardless of location.

- 14.2 The Kent Homechoice website will provide details of bidding activity including details of successful bids. Information is provided through Kent Homechoice that will enable the applicant to make an assessment of how long it will take to be housed. Some areas are more popular than others and some property types attract more bids than others. As applicants can identify areas of the Borough where many or few vacancies of suitably sized accommodation may become available, they can make an assessment as to the likelihood of a property becoming available in that area.

15 Bedroom Allocation

- 15.1 Household composition determines the number of bedrooms in a home that an applicant can be awarded. The Council will use the bedroom standard recommended by the Secretary of State which allocates a separate bedroom to each:

- Married or co-habiting couple
- Person aged 16 years or over
- Two children of the same sex up to the age of 16
- Two children aged under 10 years regardless of sex

- 15.2 Extra bedrooms may be allocated in exceptional circumstances such as where an overnight carer is required (see paragraph 18.2) or an extra bedroom is required for a disabled child who would normally be expected to share a bedroom. This must be approved by a Senior Homechoice Officer.

- 15.3 An applicant is able to request a review of the Council's decision in respect of bedroom allocation by writing to the Homechoice and Strategy Manager (see Appendix B).

16 Being on the Register

- 16.1 Applicants must inform the Housing Service in writing or by email of any changes to their circumstances such as, but not limited to, change of address or composition of household within 30 days of the change occurring. This may result in a change to the band that the applicant has been placed in. This may affect an offer of accommodation if the information provided by the applicant is out of date and could result in the withdrawal of an offer.
- 16.2 Applicants are entitled to remain on the register until their housing need has been resolved unless they are removed by the Council, however, all applicants must be active on the register and bidding for properties whenever possible and appropriate.
- 16.3 Applicants are required to renew their housing register application every 12 months. The Council will contact applicants on an annual basis, reminding them of the requirement to renew, in order to remain on the Housing Register.

- 16.4 If an applicant fails to respond within 28 days of being asked to renew their application their application will be removed. When a new housing register application is submitted after one has been removed, the applicant will be treated as a new case. This means the applicants' priority date will be set at the date of the new valid application.
- 16.5 An applicant is able to request a review of the Council's decision to cancel an application by writing to the Senior Homechoice Officer (see Appendix B).

Part 4 – Housing Register bands

17 Bands

17.1 The Council operates a system known as banding to measure an applicant's housing need. When an application is received, it is assessed and placed into one of four bands depending on the housing needs of the applicant. These bands reflect the reasonable preference criteria set out in the relevant legislation.

17.2 The bands are as follows:

- C – Community Contribution and Homelessness Prevention
- H - Homeless
- M – Medical and Health Assistance
- R – Reasonable Preference

17.3 In order to achieve the aims and priorities (Page 3) a greater number of properties per applicant will go to Band C; the intention being to encourage applicants into this band. Applicants in Band M are likely to need housing based on a medical requirement. The Council will work with its housing providers to match adapted properties to applicants with a specific need for this type of housing.

18 Band C - Community Contribution and Homelessness Prevention

18.1 This band is for those applicants who have a housing need (see section 10) and in addition entry into this band requires either a community contribution which is defined below, or the applicant is owed a duty under S.195(2) of the Housing Act 1996.

18.1.1 Any applicant to whom a Relief Duty is owed under S.189B; a main housing duty under S.193(2) or S.193C(4) has been accepted under the Housing Act 1996 or; is confirmed as a rough sleeper, will be placed in Band H – Homeless applicants, regardless of if they meet the following community contribution criteria.

18.1.2 Community contribution is defined by, but not limited to, the following criteria:

- Persons who are members of the Armed Forces or their families (see paragraph 18.6)
- Persons undertaking voluntary work
- Persons in employment
- Persons who are foster carers or adopters (see paragraph 18.5)
- Persons providing care (see paragraph 18.2)

18.1.3 Community contribution must be supported by evidence to demonstrate the persons within the application fit into one of the criteria set out in the following paragraphs.

- 18.1.4 Applicants must fulfil the community contribution requirements as stated in 18.1.2 at the point of application in order to enter this band.
- 18.1.5 Applicants must continue to fulfil the community contribution criteria whilst they are on the register and be able to prove that they fulfil the criteria when an offer of accommodation is made.
- 18.1.6 Where an applicant is placed in Band R, they are eligible to move into Band C once they have demonstrated that they meet the community contribution criteria.
- 18.1.7 If an applicant believes that they fulfil the community contribution test in another way, they should provide as many details and evidence of their contribution as they can to the Senior Homechoice Officer who will decide if they qualify.
- 18.1.8 An applicant is able to request a review of the Council's decision that the community contribution criteria are not met by writing to the Senior Homechoice Officer (see Appendix B).
- 18.2 Persons Acting as Carers
- 18.2.1 Any applicant in receipt of the Carer's Allowance will qualify as a carer.
- 18.3 Persons Undertaking Voluntary Work
- 18.3.1 The Council believes that voluntary work provides a fundamental role in providing a community contribution and the allocation of housing reflects the importance of this.
- 18.3.2 An applicant will qualify if they volunteer for a not for profit group or organisation that works in or is based within the borough.
- 18.3.3 Applicants must be able to prove that they volunteer for a minimum of 10 hours a week and have done so on a consistent basis for at least 6 months. A letter or email from an employee of the group/organisation to confirm this is required.
- 18.4 Persons in Employment
- 18.4.1 Employment must be for a minimum of 16 hours per week and with a contract of employment for at least 12 months. Self-employed applicants should provide documentation that confirms they regularly work a minimum of 16 hours per week. In relation to zero hours contracts if the applicant can provide evidence of continuous employment over a 12 month period this will be sufficient.
- 18.5 Persons who are Foster Carers or Adopters
- 18.5.1 KCC approved adopters and foster carers will fulfil the community contribution qualification. Those who are applying to be a foster carer or adopter will not qualify for community contribution until they have been approved by KCC and provided documentation confirming this.

18.5.2 As foster children are not included in bedroom allocation, an applicant who is an approved foster carer can request an additional bedroom to allow them to continue fostering.

18.5.3 When an applicant is an approved adopter, they are entitled to request an additional bedroom so as not to prevent them adopting a child.

18.6 Persons who are Members of the Armed Forces or their Families

18.6.1 Members of the Armed Forces, and their families, often struggle to fulfil local connection requirements due to having to move from base to base. As such, any household that fulfils the following criteria will bypass the local connection and housing need criteria and will automatically have a community contribution.

The criteria are:

- Current member of the Armed Forces
- Served in the Armed Forces within the last 5 years (except where the applicant has been dishonourably discharged).
- Bereaved spouses and civil partners of members of the Armed Forces leaving Services Family Accommodation and where the death of the spouse was wholly or partially attributable to their service.
- Members of the Reserve Forces who need to move on medical or welfare grounds as a result of their service.

18.6.2 Members of the Reserve Forces qualify for community contribution but must fulfil the local connection criteria.

18.7 Homeless Prevention

18.7.1 Applicants who are owed a prevention duty under S.195(2) of the Housing Act 1996. Prevention duty applies when a local authority is satisfied that an applicant is threatened with homelessness and eligible for assistance.

18.7.2 If the prevention duty is ended and a relief duty is accepted as the applicant has become homeless, they would be eligible to remain on the housing register if they meet the local connection criteria as stated in section 9 of this policy. If eligible, from the date that the Relief Duty is accepted, their application would be placed in Band H – Homeless Applicants.

18.7.3 If the prevention duty is ended for another reason (e.g. The applicant has refused to cooperate with their caseworker or they have refused an offer of suitable accommodation) they would no longer be eligible to remain on the housing register unless they have evidenced that they meet the two qualifying criteria of housing need and local connection.

19 Band H – Homeless Applicants

- 19.1 This band is for all applicants to whom a Relief Duty is owed under S.189B or a main housing duty under S.193(2) or S.193C(4) has been accepted under The Housing Act 1996. This band is also for applicants found to be intentionally homeless and owed a duty under S.190(2) and applicants found to be not in priority need, or who are rough sleeping. For more information see Section 10.7.
- 19.2 An applicant placed in this band will have their application date set to the date that a homelessness application with all the relevant supporting documentation was made to the Council, unless they were already accepted on to the Housing Register due to having an alternative housing need or have found to be intentionally homeless, see paragraph 10.7.3.
- 19.3 Homeless applicants owed the main housing duty under S.193(2) will be expected to actively seek a property via the Kent Homechoice Scheme and the Council may place bids on behalf of the applicant or apply auto-bidding. The Council may seek to find and directly nominate to a suitable property in order to discharge its housing duty.

20 Band M – Medical and Health Assistance

- 20.1 This band is for people who have a housing need due to significant medical grounds whose current accommodation is not suitable for them due to medical needs, such as a physical disability, or where another housing need exists but the applicant has a significant medical need and requires an adapted property. Evidence of a medical condition must be supported by documentation from medical professionals or appropriately qualified persons (see section 10.2). It is the Council's intention to match where possible adapted properties to this band.

21 Band R – Reasonable Preference (Unsuitable Housing)

- 21.1 This band is for those applicants who have a housing need due to unsatisfactory housing conditions, such as statutory overcrowding or insanitary or hazardous properties, those with a medical need not requiring specific adaptations, or those that need to move to prevent or alleviate hardship or on the grounds of welfare. Other applicants who do not meet the requirements of Band C, Band H, or Band M will join this band if they qualify to join the housing register.

Part 5 – Allocations

22 The Bidding Process

- 22.1 Kent Homechoice (Choice Based Letting Scheme) is the mechanism the Council uses to enable applicants to bid on housing within the borough. Kent Homechoice is a web based scheme on which landlords advertise vacant properties. Kent Homechoice is a partnership between the 13 Local Housing Authorities in Kent and over 30 housing association landlords. Upon acceptance to the register, applicants will be sent details of their application number, which band they have been placed in, and details of the user guide for the website.
- 22.2 Applicants should familiarise themselves with the website as soon as they are able to.
- 22.3 Properties are advertised daily and all applicants are allowed to bid on up to three adverts while the bidding is open. Applicants should place bids on as many properties as they are able to that meet their requirements.
- 22.4 Applicants will be expected to actively seek a property via the Kent Homechoice Scheme. If an applicant is not placing regular bids, the Council may suspend their application. The applicant will be contacted within 7 days and asked to explain their reason for not bidding. If the applicant fails to respond with a valid reason within 14 days their application will be removed. If the reason for non-bidding relates to their inability to use the Kent Homechoice system, the Council will provide assistance to the applicant and the application can be reinstated by the Senior Homechoice Officer without any penalty. Alternative forms of bidding are available, such as by telephone or text messaging. In some circumstances, the Council may place bids on behalf of an applicant.
- 22.5 Applicants are able to see on Kent Homechoice whether they have been successful in bidding on a property, and if not, where on the shortlist they have been placed. Applicants within the same band will be prioritised in the order of their priority date, i.e. the date that the completed application and all required supporting information was received by the Council. The longer someone has been in housing need, the more likely they are to be successful.

23 Adverts

- 23.1 All adverts placed on the Kent Homechoice website are intended to be an accurate description of the property and include any alterations that have been made to assist independent living. Adverts are placed by the landlord and are not the responsibility of the Council. If an advert does not accurately reflect the property this should be drawn to the attention of the landlord. Applicants who are unhappy with the standard of the advert are advised to complain to the relevant landlord. Where necessary, e.g. persistently poor adverts whether notified by applicants or staff to the Homechoice and Strategy Manager will be referred to the Kent Homechoice Manager for further action to be taken.

24 The Quota

- 24.1 The Council will set a quota to allocate the percentage of properties for each band. This quota will be set at the beginning of every financial year for the following year and, if appropriate, following an amendment to the Allocation Scheme.
- 24.2 The quota will be reviewed on a regular basis to ensure that best use of the housing stock is maintained. This review will be undertaken by the Homechoice and Strategy Manager. Any recommendation to change the quota must be approved by the Head of Housing and Community Services and the Chairman or in their absence the Vice Chairman of the Community, Housing and Environment Committee.
- 24.3 Properties which have been adapted to suit those with specific needs, such as those with flush floor showers, disabled access or stair lift etc will be advertised to the Medical and Health Assistance Band (Band M) first.
- 24.4 Properties that are subject to age restrictions (e.g. sheltered housing) or specific planning conditions such as Local Needs Housing will be advertised to all bands.

25 Direct Allocations

- 25.1 The intention of the Council and its Housing Partners is that all vacancies are advertised and let through Kent Homechoice. However, there are occasions when it is not practical to do so. For example, when the Council is ending its Main Housing Duty and Relief Duty, as reflected in the Homelessness Reduction Act. Alternatively, some properties may not attract any bids and to minimise the number of empty properties in the borough the Council will match an applicant to a suitable property without the applicant necessarily bidding on the vacancy.
- 25.2 In the case where no bids have been received on a vacancy that was advertised to a specific Band, the advert will be extended and opened to all bands. In the event that no bids are received from any applicant the landlord can request a nomination from the Council which will constitute a direct allocation. These offers will be a suitable offer of accommodation and the usual penalties for refusal will apply.

25.3 A direct offer of accommodation can be a property that is either subsidised rent or private sector. The Council must make best use of whatever stock is available in the Borough. This may result in an offer of accommodation in the private rented sector.

25.4 The Council may agree with a landlord that certain properties in specific locations are more difficult to let. With the prior agreement of both parties these properties may be advertised to all Bands in the first instance. In certain cases, the Council may negotiate a reciprocal letting arrangement with another local authority, where one authority provides a vacant property on the basis that the receiving authority will provide one of their vacancies to the other authority at a later time.

26 Nominations

26.1 The Council will nominate applicants to a property in accordance with the Allocation Scheme. The Council acknowledges that some housing providers retain their own allocation policy. There may be circumstances where the Council's nomination is declined by the housing provider. In those circumstances the applicant will be referred to the relevant housing provider by the Council to enable them to challenge the decision made by the housing provider, if the applicant wants to do so.

26.2 Where a successful nomination is made the housing provider will attempt to contact the applicant. If the applicant does not respond to the housing provider within 7 days of the initial contact the nomination will be deemed to be refused and paragraph 29.2 will be applied. Whilst being considered for an offer of a property, applicants will not be short-listed for other vacancies.

27 Ineligibility for an offer

27.1 At the point of nomination, some applicants may be ineligible for an offer of accommodation. The Council reserves the right to determine an applicant ineligible for an offer of accommodation if it considers the applicant has been guilty of unacceptable behaviour serious enough to make them unsuitable as a tenant. The Council will contact the applicant to inform them of decisions made under this section.

27.2 The reasons for determining an applicant ineligible for an offer may include (but are not limited to) the following:

- current rent arrears or rent arrears from previous tenancies within a reasonable period (e.g. 6 years) from either private or social tenancies, equivalent to a minimum of 8 weeks rent
- arrears with Maidstone Council for a debt in relation to a tenancy, loan or other financial assistance provided by the Housing Service
- a history of anti-social behaviour or has wilfully damaged previously rented accommodation

- 27.3 The Homechoice and Strategy Manager can apply discretion when determining if an applicant should initially be suspended from the register in accordance with section 27.4. Examples of where discretion may be applied are where the applicant is able to demonstrate a repayment agreement is in place and has been maintained for a reasonable period or where the applicant's rent charge has been found to be unaffordable by the relevant housing officer and the debt accrued at no fault of the applicant.
- 27.4 Applicants found ineligible under section 27.2 will be suspended from the register for 6 months. The application will be reviewed and reassessed after this time and another suspension may be applied. If after a further 6 month suspension period an applicant is still found to be ineligible, they may be removed from the register.
- 27.5 If an applicant has failed to provide the relevant information for their application to be verified or they haven't notified the Council of a change in circumstances that would result in a material change to their housing needs, they may be ineligible for an offer at the point of nomination.
- 27.6 An applicant may be asked to provide additional or updated information in order to verify their application at the point of nomination. If an applicant fails to respond to this request within 28 days their application will be considered incomplete and removed.
- 27.7 An applicant's priority date will be amended to the date on which they become eligible for an offer of accommodation.
- 27.8 An applicant is able to request a review of the Council's initial decision that they are ineligible for an offer by writing to the Senior Homechoice Officer (see Appendix B).

28 Suitability

- 28.1 The suitability of an offer of accommodation is considered for all applicants as part of the allocations process. The test of suitability will be determined by the statutory basis of the offer (see paragraph 28.5)
- 28.2 Suitability of accommodation will be determined by the following factors:
- Bedroom standard
 - HHSRS assessment
 - Affordability
 - Accessibility for those with mobility issues
- 28.3 Location will not ordinarily be a factor in suitability unless there are specific concerns relating to an area. In these cases, the Senior Homechoice Officer will decide if the offer was suitable or not. The Council will follow the relevant Code of Guidance (issued by the government) and case-law to determine the relevant factors to be considered in determining suitability.

- 28.4 An applicant is able to request a review of the Council's decision that an offer was suitable by writing to the Homechoice and Strategy Manager (see Appendix B).
- 28.5 For applicants owed a housing duty under Part 7 of the Housing Act 1996, in assessing suitability of a final offer of accommodation, consideration will be given to relevant legislation and guidance. Applicants will have the right to request a review of the suitability of any offer of accommodation offered to discharge a duty under sections 189B to 193C and 195. Applicants should be advised of their right to request a review having accepted an offer, as this secures the accommodation whilst the review is considered.

29 Refusals

- 29.1 Refusals on the grounds of suitability will be assessed by the Senior Homechoice Officer based upon the suitability section (Section 28) of this document.
- 29.2 Applicants who refuse a property will have their priority date set to the date on which they refused the offer of accommodation, effectively reducing their priority within the band.
- 29.3 An applicant is able to request a review of the Council's decision to refuse an application by writing to the Homechoice and Strategy Manager (see Appendix B).
- 29.4 For applicants owed a housing duty under Part 7 of the Housing Act 1996, a Senior Officer within the Housing Advice Team will make a decision on whether the final offer of accommodation was suitable, considering any additional information provided by the applicant and whether, as a result of a refusal of the final offer, the housing duty owed to the applicant will be discharged. Applicants should be advised of their right to request a review having accepted an offer, as this secures the accommodation whilst the review is considered.

Part 6 – Miscellaneous

30 Gypsy and Traveller Sites

- 30.1 The Council recognises that because of the particular circumstances of the Gypsy and Traveller community it may not be appropriate to follow normal housing allocation policy.
- 30.2 Applicants can register their interest in vacant site plots by completing a Housing Register application form and indicating that they require a plot on a site.
- 30.3 Plots will be allocated, where available, to members of the Gypsy and Traveller community who can provide evidence that they live in or regularly frequent Maidstone borough. If they live in the Borough, evidence should be provided as stated in Appendix A of this scheme.
- 30.4 Applicants for vacancies will be considered in the order of when their completed application form and all required supporting information was received by the Council.

31 Applicants in Prison

- 31.1 If an applicant is due to be released from prison imminently and confirmation has been received from the Prison Service or Community Rehabilitation Company, an applicant may be considered as having a Housing Need. The normal local connection criteria would still apply. Where an applicant who is in prison does not meet the local connection criteria set out in Section 10 they will be unable to join the register and will be directed to the area in which they had a local connection prior to their sentence.
- 31.2 Applicants who have served a period in custody at a prison located in Maidstone, or at approved premises will not meet the local connection criteria on that basis alone.

32 High Risk Offenders

- 32.1 The housing of high risk offenders will be carried out as part of a multi-agency arrangement with the Police, National Probation Service, Social Services and other appropriate agencies and an Accommodation Specific Housing Risk Assessment will need to be completed by the National Probation Service.
- 32.2 An area or type of property acceptable to the Council will be agreed in partnership with the agencies involved. High risk offenders will be offered limited choice through Kent Homechoice. Where there are urgent issues, the Homechoice and Strategy Manager may consider a direct offer, taking into account all relevant matters concerning the applicant.

33 National Witness Mobility Scheme (NWMS)

- 33.1 The NWMS is funded and managed by the Office of Criminal Justice Reform in the Home Office and works with police forces and housing authorities to assist with the re-housing of seriously intimidated witnesses.
- 33.2 The scheme enables witnesses to relocate outside their area to a place of safety.
- 33.3 NWMS work with Maidstone Council. The Council will investigate whether it has a duty to assist with accommodation because the applicant is threatened with homelessness and it is not reasonable for them to return.
- 33.4 The applicant will need to complete a housing register form and the Senior Homechoice Officer will consider the appropriate priority. Due to the high demand for subsidised housing in the borough the Council will accept up to 2 nominations per financial year from the NWMS under this voluntary scheme.

34 Other Accommodation

- 34.1 There are a number of supported housing projects in Maidstone that are suitable for people with support needs. These include supported housing for:
- Young people
 - People with mental health needs
 - People with substance misuse needs
 - People with other vulnerabilities
 - People who are homeless
 - Offenders
 - People who require assisted housing
 - Almshouses
- 34.2 The Council has nomination rights to certain schemes managed by housing associations or other agencies. Some of the schemes provide long-term accommodation whereas others assume that there will be a requirement for the resident to move on either after a certain period or when they are capable of living independently.
- 34.3 Supported housing projects are often let on a short to medium term basis. Anyone in the last six months of their stay in supported accommodation will be defined as having a housing need but must still fulfil the local connection criteria. Applicants in supported accommodation for more than 2 years will fulfil local connection criteria by virtue of residency.
- 34.4 When the supported housing provider considers that the applicant is capable of sustaining a tenancy in general needs housing (with appropriate support) and provides evidence, the applicant will be deemed as having a housing need.

- 34.5 If an applicant is successful in securing a vacancy in a supported housing property, their housing register application will be suspended until the supported accommodation provider considers that the applicant is capable of sustaining a tenancy in general needs housing (see paragraph 34.4). The applicant will be required to complete a Change of Address form to update their Housing Register application.

35 Selection criteria and priorities for supported housing

- 35.1 Applicants who may require supported accommodation or support to be provided to sustain their tenancy will be referred to the relevant agency providing that support.
- 35.2 All applicants are assessed according to their needs and support requirements at the time of the referral, together with any potential risk they may present to themselves and others.
- 35.3 The assessment is made to determine the most appropriate type of accommodation for the applicant, the level and type of support and respective priority compared to other applicants.
- 35.4 Where a social or support service is provided in conjunction with the accommodation, only applicants who are considered to require and benefit from that service will be considered for that accommodation. Examples of this type of accommodation would include extra care housing for older people, housing designated for special needs such as young people, people with mental health problems, or those known to be sleeping rough or who have no housing whatsoever.
- 35.5 Some general needs accommodation will be allocated to those in need of floating support. Allocation to such properties will be agreed in partnership with the housing association concerned and the support provider. Such applicants may be nominated to that accommodation regardless of their position under the Allocation Scheme.

36 Processing applications from older people

- 36.1 Some accommodation has criteria defined by age which will be in the property advert. Applicants over the age of 60 will be considered for sheltered accommodation if assessed suitable by the housing provider. Some housing providers will accept applicants aged 50 plus. Applicants can also bid for designated sheltered accommodation through Kent Homechoice. They may also be referred by relatives, social workers or GPs, or the Council's medical advisor may recommend sheltered accommodation. If contact is made by a third party the applicant will need to be contacted and asked to complete an application form.

- 36.2 Once a bid is placed through Kent Homechoice, an officer from the housing provider recommends whether the applicant is suitable for sheltered accommodation or whether extra care is thought to be appropriate. Those who appear to need a higher level of support and/or care may be referred to adult services. A recommendation for extra care will also be dealt with through the housing register. Adult services may make a referral direct to the Council.

37 Adapted Properties

- 37.1 Where accommodation has been designed or adapted to provide facilities which are intended specifically for use by a disabled person, only applicants whose household includes a person who is considered to require those facilities will be able to bid for that accommodation. These properties will be advertised to applicants in the Health Assistance band (Band M). This might include a wheelchair accessible property or a property which has been substantially adapted.
- 37.2 In the event that there are no suitable applicants bidding on the property the Council may consider a direct allocation to an applicant requiring the facilities to make the best use of the adaptations. In the event that there is no suitable applicant in any of the Bands, the property may be re-advertised to allow applicants to bid for the property who do not require the adaptations.

38 Local Lettings Policies

- 38.1 Local lettings plans are lettings policies which form part of the housing nomination process. They apply to a limited part of the housing stock where the Council has nomination rights and will be determined by site and when the properties are released for occupation. In consultation with relevant Housing providers, the Council may adopt a local letting policy. This is to achieve a balanced community on a new development or to tackle issues in an existing locality where there are management problems and the properties have become less desirable. The Council has referred to the principles agreed within the Kent Housing Group (Creating Successful Communities in Kent and Medway protocol) when drafting local lettings plans.
- 38.2 With the exception of paragraph 38.5, local lettings plans normally apply to the initial allocation on new developments. Where a local lettings plan is agreed for an established development the Council and relevant landlord may monitor the impact of the lettings plan to ensure it meets the stated aims of the plan.
- 38.3 The Council maintains a standard local lettings plan which will form the basis of all local lettings plans to assist developers, landlords and other interested parties in drafting the planning contribution agreement.
- 38.4 In order for the Council to meet the aims and priorities as stated at the start of this document, the Allocation Scheme takes priority over any agreed local lettings plan.

38.5 Where accommodation is subject to a planning agreement or other restrictions, only applicants who can meet the terms of the agreement or restriction will be allocated accommodation. This may be the case for housing in some rural areas which is intended for occupation by local people. The Council may also consider direct offers for properties subject to a local lettings plan or planning agreements.

39 Decants (urgently moving existing housing association tenants)

39.1 Decants apply to social housing tenants only. Where single properties are decanted, e.g. to undertake extensive planned or emergency repairs (where the tenants are required to be moved to temporary accommodation), the landlord will identify temporary accommodation from within their own stock and this will be allocated outside of the Kent Homechoice scheme. The tenant will return to their home following completion of the repairs.

39.2 Where large-scale redevelopment proposals require tenants to leave their homes whilst the properties or a specified area is redeveloped, the relevant landlord is required to consult with the Homechoice and Strategy Manager so that the approach can be agreed prior to the redevelopment scheme being confirmed. An appropriate Local Lettings Plan will be drafted that meets the requirements of the landlord, seeks to minimise the impact on the overall availability of vacant homes and on tenants, and where appropriate enables existing tenants to return to the same area.

40 Management Moves

40.1 Management moves will be the responsibility of the housing providers to operate and will not form part of the Allocations Scheme. Management Moves are intended to operate in exceptional circumstances where rapid housing to alternative accommodation is required within the landlord's stock, for example where the property has dangerous structural defect.

40.2 The landlord is required to notify the Council when such a move has been made, the reason and details of the properties concerned.

41 Reciprocals

41.1 Maidstone Borough Council has signed up to the Kent and Medway Reciprocal Scheme. This is a voluntary scheme between the 13 Kent and Medway authorities to support the duty to co-operate under S.213 of the Housing Act 1996. The scheme's aim is to prevent households from becoming homeless as a result of domestic abuse or violence / serious harassment from outside the home.

41.2 Where the Council has agreed to assist another Local Authority under this Scheme, the applicant will be assessed in accordance with this Allocation Scheme however, the local connection criteria will not apply.

42 Applications from Maidstone Borough Council Employees and Elected members

- 42.1 Applications from employees and elected members of Maidstone Borough Council (including applications where the employee or elected member is part of the household in the application) will be assessed in accordance with the Allocation Scheme and will have to meet the same qualifying criteria in order to be accepted on to the register.
- 42.2 Employees of Maidstone Borough Council should not use any internal housing systems to access their account or those of their family members and/or associates. Where a conflict of interest may arise, the officer should bring this to the attention of their line manager.

43 Glossary

Children

Children are defined as those aged under 18 for whom the applicant is legally responsible or has proven shared legal responsibility. An adult child for the purposes of local connection would be considered immediate family.

Domestic Abuse

Domestic abuse is defined as violence from an associated person, which includes partner, siblings, and parents. The violence may include an incident or pattern of incidents of controlling, coercive or threatening behaviour, violence or abuse between those aged 16 or over who are or have intimate partners or family members regardless of gender or sexuality. This can encompass, but is not limited to, the following types of abuse: psychological, physical, sexual, financial, and emotional.

Where a case of Domestic Abuse has been established and no other options are available/appropriate, including the Council's Sanctuary Scheme, the applicant will be placed into the relevant Band according to their characteristics.

Family

For the purposes of this Allocation Scheme, family will mean immediate family. This will include siblings, parents and children.

Hate Crimes

Hate crimes can be defined as violence/harassment based on an individuals' race, ethnicity, disability, gender or sexual orientation. The harassment may involve physical or verbal intimidation.

Where a case of hate crime has been established and no other options are available or appropriate, then a managed move may be agreed with a housing provider.

HHSRS

The Housing Health and Safety Rating System was established by the Housing Act 2004. It provides for the assessment of 29 health and safety hazards found in housing and a method by which they are rated to identify those hazards that present the greatest risk to occupiers.

Crime and Disorder

Where an applicant is the victim of a serious incident of crime or disorder in their home, the Council's Community Safety Unit will work with them to enable them to stay in their home, if that is the most appropriate option.

Social Housing Tenant

A social housing tenant is someone who rents a property from a local council or housing provider.

No Fixed Abode

Not having a fixed geographical location as a residence.

44 Appendix A

Documents required from the applicant to be accepted on to the housing register or upon consideration of an allocation of accommodation

Eligibility

Applicants who are not UK citizens will need to meet the eligibility criteria as stated in the current guidance issued by the Ministry of Housing, Communities and Local Government and provide the relevant evidence.

Additional Information

1. Proof of identity

For each named applicant photographic identification, for example, a valid passport or photo driving licence, or similar document and your national insurance number.

2. Proof of income

Salary/wage slips for the past two months
Proof of any income-related benefits received, for example, income support
Statements from all bank, building society and savings accounts for the past two months

3. Proof of your address/tenure

Tenancy agreement if there is a tenancy, if not recently addressed correspondence.

4. If you have children living with you

Birth certificate for each child, and
Proof of receipt of child benefit

5. If you have access to children that do not live with you full time

Residence Order if available, or letter from the child's full time carer detailing the access arrangements, including the frequency of visits, the length of time they have been in place, and any future arrangements.

6. If you own, or have ever owned, a property

Current mortgage statement and recent valuation of the property.
Confirmation of the amount received from the sale or transfer of the property.

7. Medical Information

Documentation provided from an NHS medical professional, or an equivalent external agency.

8. Voluntary, charitable work or training

A letter or email from an employee of the group/organisation to confirm that you volunteer or carry out charitable work for a minimum of 10 hours a week and have done so on a consistent basis for at least 6 months.

A letter or email from the college, university or training organisation providing the details of the course being undertaken including the start and finish dates of the course.

9. Right to Move

A contract of employment.

A formal offer/acceptance of employment letter.

Proof of current address.

Appendix B – Reviews

Section	Subject of Review Request	Officer Conducting the Review	Time Limit	Response Time
3	Eligibility for Allocation for Housing	Senior Homechoice Officer	28 days from decision	56 days from request
5	Access to Personal Information	Data Protection Officer	Not applicable	Within 28 days
9	Local Connection	Senior Homechoice Officer	21 days from decision	56 days from request
10	Housing Need	Senior Homechoice Officer	21 days from decision	56 days from request
11	Financial Circumstances	Senior Homechoice Officer	21 days from decision	56 days from request
15	Bedroom Allocation – Extra bedroom	Homechoice and Strategy Manager	21 days from decision	56 days from request
16	Being on the Register	Senior Homechoice Officer	21 days from decision	56 days from request
18	Community Contribution Band	Senior Homechoice Officer	21 days from decision	56 days from request
17 27	Ineligibility for an offer	Senior Homechoice Officer	21 days from decision	56 days from request
17 28	Suitability	Homechoice and Strategy Manager	21 days from decision	56 days from request
29	Refusals	Homechoice and Strategy Manager	21 days from decision	56 days from request
37	Local Lettings Policies	Homechoice and Strategy Manager	21 days from decision	56 days from request