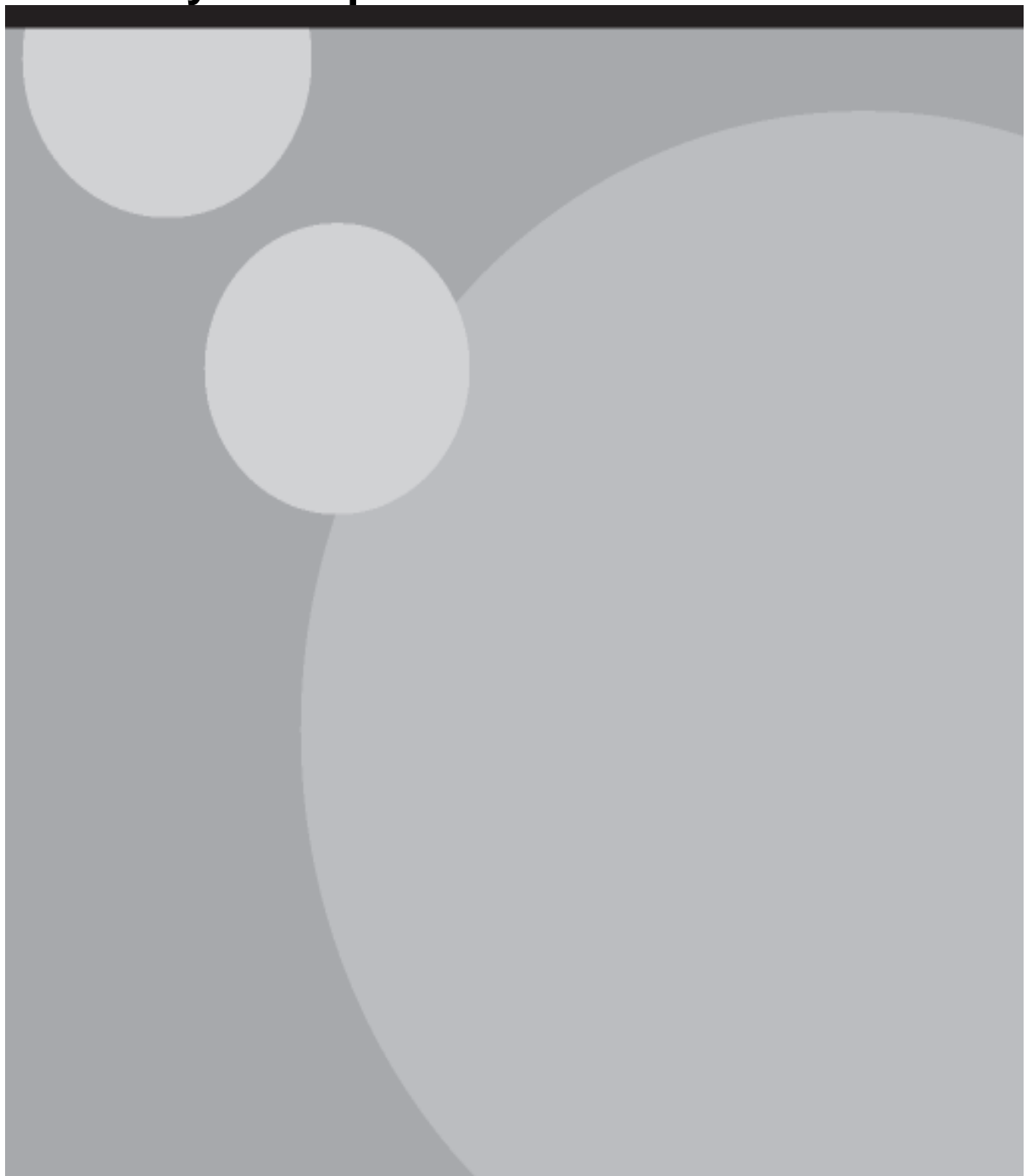




Allocation of accommodation: guidance for local housing authorities in England

Summary of responses to consultation



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Chapter 1: Introduction

- 1.1 In January 2012, the Government published for consultation draft statutory guidance on social housing allocations for local authorities in England.
- 1.2 The draft guidance was intended to assist local authorities to take advantage of the provisions in the Localism Act 2011 which give them greater flexibility to manage their waiting list and make it easier for them to move existing social tenants to more suitable accommodation. The guidance also encouraged local authorities to:
 - make full use of the existing flexibilities within the allocation legislation to ensure that social homes go to people who genuinely need and deserve them the most, such as hard working families and existing and former members of the Armed Forces
 - consider how they can help people in their area who are looking to adopt or foster a child, including working together with children's services to remove any potential barriers
 - employ a modern measure of overcrowding when assessing whether families in crowded homes should have priority for social housing
 - prioritise tenants who want to downsize, helping those – whose children have flown the nest – to move to smaller, more manageable properties
- 1.3 Alongside the guidance, the Government consulted on two sets of draft regulations relating to the Armed Forces. The regulations were designed to ensure that former Service men and women who have urgent housing needs are always given 'additional preference' (high priority) for social housing; and that Service personnel who move from base-to-base do not lose their qualification rights.
- 1.4 The consultation process closed on 30 March 2012.
- 1.5 We have now considered all the responses received. Chapters 2 and 3 of this document summarise the responses to the consultation. Chapter 4 sets out next steps in the light of the consultation responses.
- 1.6 We are grateful to the many organisations and individuals who took the time to respond to this consultation.

1.7 Copies of this document and the finalised guidance on social housing allocations are available on the DCLG website at:

www.communities.gov.uk/publications/housing/allocationofaccommodation

1.8 Enquiries about this document should be addressed to Frances Walker at: frances.walker@communities.gsi.gov.uk

Chapter 2: Summary of responses

- 2.1 224 responses were received from local authorities, Private Registered Providers of social housing, arms length management organisations, local authority and landlord organisations, tenant and resident organisations, legal bodies, Councillors and Members of Parliament, voluntary and community organisations, other organisations with an interest in housing and members of the public. The table below sets out the full breakdown of the origin of responses:

Type of organisation	Total Number of responses
Local authorities & ALMOs	144
Local authority associations	4
Private Registered Providers	27
Councillors / MPs	2
Housing partnerships	14
Legal organisations	2
Voluntary and community organisations	13
Tenants and residents	3
Individuals / members of the public	5
Other organisations	10
	224

- 2.2 Not all respondents replied to each question and a number of responses either did not follow the structure of the questions or expressed equivocal views. Whilst therefore we have given a broad sense of support or opposition in relation to individual questions in the consultation document, it is not possible to provide precise numbers.

Chapter 3: Responses to questions

Question 1: Does your allocation scheme/transfer policy already provide for social tenants who are under-occupying to be given priority?

- 3.1 There were 175 responses to this question.
- 3.2 All the local authorities and housing providers that responded to this question give priority in their allocation scheme to social tenants who are under-occupying their property, or are reviewing their allocation scheme in order to do so.
- 3.3 Many respondents reported that they awarded under-occupiers different levels of priority, with the highest priority given to those tenants under-occupying by two or more bedrooms. Some authorities commented that they only prioritise those who under-occupy by two or more bedrooms.

“We give two levels of priority – a higher one for those under-occupying by two bedrooms, and some priority for those under occupying by one bedroom.”
Local authority

- 3.4 A number of authorities said that they were taking steps to identify properties in new developments that were suitable for elderly under-occupiers and making these available through local letting policies.
- 3.5 Many local authorities highlighted that, as well as awarding priority to under-occupiers, they also offered practical assistance and financial incentives to those who wanted to downsize to smaller properties. Some respondents indicated that this was crucial in order to support elderly tenants to move house, and suggested that this be acknowledged in the guidance.

“Giving priority to under-occupiers is not enough. Our offer includes concurrent offers of social housing to adult children, an option to retain a spare bedroom, casework support, financial assistance, brokered mutual exchanges [and] a pilot to ring fence attractive smaller homes.” Local authority

- 3.6 The voluntary and community sector organisations which responded to this question drew attention to the fact that the DCLG definition of under-occupation was different to that used by DWP, and asked for clarity on which measure authorities should use when deciding which households to prioritise. They also expressed concern that the guidance does not make it clear how under-occupiers are to be prioritised for transfers in relation to those in reasonable preference categories. They suggested that the guidance should explain in more detail how a balance is to be struck so that those with the greatest need continue to be prioritised.

Question 2: Do you intend to revise your allocation scheme in order to make it easier for under-occupying social tenants to downsize to more appropriately sized accommodation?

Question 3: If so, what changes will you be considering?

- 3.7 There were 147 and 102 responses respectively to these questions.
- 3.8 Around half of those local authorities and providers who responded to these questions said that they were planning to revise their allocation scheme in order to make it easier for under-occupying social tenants to downsize to more appropriately sized accommodation.
- 3.9 In most cases, local authorities and providers were planning to make these changes in light of the measure in the Welfare Reform Act 2012 which will apply size criteria for new and existing working-age Housing Benefit claimants living in the social rented sector from April 2013.
- 3.10 Of those that said they did not intend to change their allocation scheme, some commented that they considered sufficient priority was already allocated for under occupation. A number of local authorities reported that they intended to review the assistance package which they offered to encourage tenants to downsize to assess whether these should be enhanced.

“We will be looking at encouraging mutual exchange by use of an IT- based matching process from those customers who are on our waiting lists but have not expressed an interest in mutual exchange”. Private Registered Provider
“We are considering enhancing the practical assistance available to under-occupiers.” Local authority

Question 4: Do you agree that members of the armed forces and former Service personnel should not be disqualified on residency grounds? Is 5 years from the date of discharge an appropriate time limit for this restriction? If not, what would be a more appropriate period?

- 3.11 There were 196 responses to this question.
- 3.12 The vast majority of those who answered this question agreed that armed forces and former Service personnel should not be disqualified on residency grounds.

“The council recognises the special, if not unique, position of AF personnel & agrees that residency criteria should not be imposed.” Local authority

- 3.13 However, a number of local authorities felt that it was important for Service personnel to demonstrate a link to the area where they had

chosen to apply for social housing, through, for example, family ties to the area, employment, or residence before joining the armed forces.

“Whilst members of the armed forces shouldn’t be disqualified on residency grounds they should have some link to an area to help them settle and support sustainable communities.” Local authority

3.14 Most respondents thought that 5 years from the date of discharge was an appropriate length of time for this restriction.

“We feel that 5 years is an appropriate time limit given that it may be some time after discharge from service that members of the armed forces may experience housing need.” Private Registered Provider

3.15 However, a significant minority considered that five years was too long, and that two or three years would be sufficient to allow a reasonable period for transition and resettlement, and to establish a local connection to a particular area.

“As we have such a shortage of social housing we are concerned that having a 5 year time limit would be unfair to the rest of the priority need groups on the register.” Local authority
“Five years may be generous; people could reasonably be expected to have moved into settled accommodation within three years.” Local authority

3.16 A small number of respondents suggested that local authorities should have the flexibility to set their own residency restrictions in relation to former Service personnel. Some commented that this was necessary to balance the needs of everyone in their community, whereas others suggested that this approach would ensure they could assess each case on its merits, particularly in cases where former Service personnel had been receiving medical treatment for mental or physical disabilities caused during the course of their duties.

3.17 There were a number of areas where it was thought that further clarification would be helpful:

- Some local authorities requested clarification about the definition of armed forces and former Service personnel
- Many local authorities asked whether Service personnel who had been dishonourably discharged should be excluded

3.18 A number of voluntary and community organisations highlighted other groups who may have difficulty in meeting residency requirements and suggested that local authorities should be encouraged not to disqualify these groups on those grounds. These might include other occupations where people are required to be mobile, such as the construction or entertainment industries, those escaping from intimidation or violence, or individuals who are leaving care or prison.

Question 5: Does the draft guidance provide sufficient clarity on how to implement the new power for housing authorities to set their own allocations qualification criteria? If not, in what areas would more guidance be useful?

3.19 There were 185 responses to this question.

3.20 More than half of those who responded to this question thought that the draft guidance provided sufficient clarity on how to implement allocations qualification criteria.

“The proposed guidance is sufficient. We welcome the flexibility to be able give preference to local people and manage local needs more effectively.” Local authority
“... the guidance does provide sufficient clarity. It is straightforward and clearly drafted with sensible provision regarding who qualifies.” Local authority

3.21 However, a significant minority requested further guidance on framing qualification criteria as they were concerned about the risk of legal challenge. In particular, respondents sought clarification on issues such as:

- How to set qualification criteria around income and assets (eg if the applicant owns their own home in another country)
- How to prioritise ‘good behaviour’ when setting qualification criteria
- How to restrict waiting lists, while promoting mixed and sustainable communities

3.22 A number of those who commented on this question requested clarification on how to ensure their qualification criteria were in line with their duties under the equalities legislation; and the relationship between qualification criteria and reasonable preference categories. In particular, respondents wanted guidance on whether an applicant for social housing who fell into one of the reasonable preference categories was also required to meet the qualification criteria before they could join the housing register.

“Advice on how LAs qualification criteria should relate to the requirement that allocations scheme give “reasonable preference” to applicants who fall within statutory “reasonable preference” categories would be helpful.” Local authority

Question 6: Do you agree that the bedroom standard is an appropriate measure of overcrowding for the purpose of according reasonable preference? If not, what measure do you consider would be more appropriate?

3.23 There were 171 responses to this question.

3.24 About two thirds of those who answered this question agreed that the bedroom standard was an appropriate measure of overcrowding for the purpose of according reasonable preference. A number of local authorities and other social landlords were already using the bedroom standard or something very similar (see response to question 8). Those in favour considered that the bedroom standard was well established and understood, and saw the advantage of promoting a consistency of approach across landlords.

"... the bedroom standard is a modern and readily understood measure."
Local authority

"The 'bedroom standard' provides a clear assessment tool for councils in establishing overcrowding reasonable preference without the need for burdensome inspections of properties." Local authority

3.25 However, a significant number of respondents, while generally in favour of the bedroom standard, considered that it might be modified. Suggestions included:

- Reducing the upper age limit from 21 to 18 (regarding this as the age at which a person becomes an adult) or 16 (in line with the Local Housing Allowance size criteria)
- Reducing the age at which children of different sexes could be expected to share from 10 to 9 or 7
- Taking into account whether the household had taken steps to secure more appropriate housing, or had sought to deliberately overcrowd their accommodation in order to obtain priority
- Taking account of the space and layout of the rooms in the property, and the local housing stock and levels of housing need generally

"We feel that to have a 20 year old and a 10 year old (same sex) in the same room is not right, also as you can see we have separate bedrooms at the age of seven for different sex, again in this day and age 10 is too old." Private Registered Provider

"We believe that the bedroom standard together with the space standard, which takes into account the size of a room, would be the most appropriate measure of overcrowding... The existing overcrowding standard which takes account of the ages of children, does nothing to address the additional space requirements of younger children and the equipment needed to raise babies/ young children." Local authority

3.26 A number of respondents did not consider the bedroom standard to be an appropriate measure.

3.27 Some preferred to – or wanted to continue to – employ the statutory overcrowding standards in the Housing Act 1985, while others

considered that the Housing Health and Safety Rating System (HHSRS) was a more appropriate measure of overcrowding. (Although one respondent who favoured the HHSRS thought it might be too burdensome to complete a HHSRS assessment for every application that suggests overcrowding may be an issue.)

- 3.28 A few respondents were concerned that a move from the statutory standards to the bedroom standard would vastly increase the number of households who should be accorded reasonable preference, putting more pressure on family sized housing. It was suggested that it was not appropriate that those who are missing one bedroom should compete with the homeless, those suffering domestic abuse or with urgent medical needs.
- 3.29 Some respondents were concerned about the potential inconsistency with welfare reform, and suggested that it might be preferable to adopt the size criteria used for the Local Housing Allowance for the purposes of measuring overcrowding as well as under-occupation.

“It is our view that the bedroom standard is not the most appropriate available tool for measuring overcrowding. ... we propose bringing the bedroom standard into line with the LHA size criteria.” Private Registered Provider

- 3.30 Others, while not necessarily considering the bedroom standard inappropriate, considered that local authorities should be able to set their own criteria for measuring overcrowding, reflecting local circumstances.

“The bedroom standard would be one appropriate measure but not the only one. Local Authorities need to be able to take their local circumstances into account. The Code of Guidance should make clear that the bedroom standard is an appropriate measure but that housing authorities may have their own local bedroom standards appropriate to the demands on their stock.” Local authority

- 3.31 A small number of respondents said that they would prefer to use a more generous measure than the bedroom standard.

Question 7: Should this guidance provide advice on how to define ‘overcrowding’ for the purpose of according additional preference? If so, would an appropriate measure be two bedrooms or more short of the bedroom standard?

- 3.32 There were 168 responses to this question.
- 3.33 The response to this question was roughly evenly divided between those who considered that the guidance should provide advice on how

to define 'overcrowding' for the purpose of according additional preference – to provide clarity and consistency - and those who did not.

- 3.34 Generally speaking, those who were in favour of addressing this issue in the guidance, considered that two or more bedrooms short of the bedroom standard was an appropriate measure – with a small number of respondents saying that their allocation scheme already included this definition.

This would provide additional support to landlords making allocations decisions. Two bedrooms short of the required standard is a reasonable definition for 'severe overcrowding'. Private Registered Provider

"[We welcome] the suggestion that severely overcrowded households be given additional preference. Overcrowded households do currently qualify for reasonable preference but families can still wait long periods of time for a suitable allocation; both because of a lack of supply but also due to the overall weight given to overcrowding within allocations policies. Assigning additional preference to the most severely overcrowded families would ensure they are identified and prioritised for more immediate re-housing." Voluntary and community organisation

- 3.35 A few respondents favoured guidance, but suggested that other measures would be more appropriate, or that the definition could be usefully expanded or clarified. Comments here included:

- Agree that the definition should be 2 bedrooms or more short – but measured against the Local Housing Allowance size criteria rather than the bedroom standard
- Or 2 bedrooms short of locally defined bedroom standard
- The definition should be based on the statutory overcrowding standards or the Housing Health and Safety Rating System
- The definition should also take account of the size of bedrooms, or incorporate the statutory space standard
- The definition should allow for a wide range of factors to be taken into account
- The definition should stipulate who is part of the household, or should advise how to deal with the situation where more than one household share a property
- Guidance should allow for reduced priority, if a household refused a reasonable offer to end the severe overcrowding

"It would be helpful for the guidance to define severe overcrowding. It would also be helpful to specify that households will not have additional preference if they have refused reasonable options to relieve severe overcrowding, for example that non-dependants could rent privately or apply as a separate household." Local authority

3.36 About half of respondents were opposed to the idea of addressing this issue in guidance. This was usually because they considered it should be left for authorities to determine locally – taking account of local demand and the profile of the stock. Other reasons given included:

- There should not be two tier overcrowding
- It would raise expectations which cannot be met
- Unnecessary as overcrowding is not a significant problem locally
- A more generous standard is used locally

“The Guidance should not be too prescriptive in its advice on ‘severe overcrowding’ as this should be left to individual authorities to decide depending on other local priorities within the area.” Local authority

Question 8: How does your allocation scheme currently define ‘overcrowding’ for allocation purposes? Does it, for example, use the bedroom standard, the statutory overcrowding standards in Part 10 of the Housing Act 1985, or another definition? If the last of these, please provide brief details.

3.37 There were 162 responses to this question.

3.38 Most local authorities and other landlords either took into account the statutory standards in the Housing Act 1985 when defining overcrowding or employed the bedroom standard (or a variant of the bedroom standard). Where landlords used a variant of the bedroom standard, this usually involved applying different age limits.

“Our measurement of overcrowding is slightly more generous than the bedroom standard. In addition to gender separation at age 10, we also give overcrowding preference where one child is over 5 and the other is over 8. Our threshold for same sex separation is 16 as opposed to 21.” Local authority

3.39 A small number of authorities employed the Local Housing Allowance size criteria in place of the bedroom standard, and a handful of respondents based the award of a high band or high points on whether overcrowding in the property was sufficiently severe to present a category 1 hazard under the Housing Health and Safety Rating System. In addition, some landlords had devised a local definition of overcrowding.

“We work with 61 local authorities, and support the range of decisions that have been made on this subject. We do however take account of younger children sharing bedrooms and the longer term implications of overcrowding in rural areas, where larger accommodation is unlikely to become available in a particular village.” Private Registered Provider

3.40 Where landlords took account of the statutory standards for allocation purposes, these were often used to give a high priority - or the highest priority - under the allocation scheme, with a lower priority measured against the bedroom standard or a more generous local variant of that standard.

“For assessing bedroom deficiency, we use a matrix. Ours is more generous than the bedroom standard - we believe that children over the age of about 5 should not be expected to share a bedroom with a sibling of the opposite sex, as reflected in our current policy. We also think that adult children of 18 years or more should have their own room rather than 21.” Local authority

For assessment of urgent needs due to severe overcrowding (which would attract a Band A award) we do use part 10 and this is assessed by our Private Sector Housing Officers.” Local authority

3.41 Some respondents took into account other factors in determining the level of priority to give to overcrowded families including:

- whether the household had caused deliberate overcrowding
- whether the household was required to share facilities
- the age gap between children who were required to share a bedroom or number of children required to share a room
- the number of bedrooms which the household currently occupied, compared to the number they would be entitled to under the allocation scheme
- the amount of space in a bedroom as well as the number of bedrooms

“An applicant will not be eligible for overcrowding priority if they have

- *moved into accommodation knowing that by doing so it would become overcrowded, or*
- *allowed somebody to move into their accommodation, thus making them overcrowded.*

When considering the above the Assessing Officer should consider the reasonableness of the applicant’s actions and the alternatives available to them at the time.” Local authority

Question 9: The Government proposes to regulate to require housing authorities to frame their allocation scheme to provide for former Service personnel with urgent housing needs to be given additional preference for social housing. Do you agree with this proposal?

3.42 There were 181 responses to this question.

3.43 The majority of those who responded to this question supported the proposal that local authorities should frame their allocation scheme to provide for former Service personnel with urgent housing needs to be given additional preference for social housing.

“Our current allocation scheme provides for additional preference to be given to former Service personnel with urgent housing needs. We have re-housed 13 former Service personnel from January 2010 to date and we are committed to continuing to use additional preference to give former Service personnel in housing need greater priority for social housing, for up to 5 years after their date of discharge from the Armed Forces.” Local authority

“We agree with this proposal as some veterans are leaving the Armed Forces with very complex needs that need to be addressed to prevent their issues escalating so putting an extra financial burden on authorities.” Veterans’ organisation

3.44 Where respondents did not support the proposal, this was generally because they were concerned that the effect of the regulations might be to favour ex-Service personnel at the expense of others in urgent housing need.

3.45 A small number of respondents (mistakenly) understood the regulations to require all former members of the Armed Forces to be given additional preference, whether or not they were in urgent housing need. Some viewed this with concern; a few welcomed it; while others were unsure whether this was the case and sought clarification. One respondent suggested that a new reasonable preference group should be created for members of the Armed Forces, arguing that this would avoid confusion and simplify matters.

3.46 A number of respondents, while supporting the regulations in general, considered that they should be qualified in some manner. Suggestions included that the regulations should:

- only be applicable for a limited period of time following the date of discharge (5 years, 2 years, or 12 months were suggested)
- only apply to those who have seen active service
- not apply where the applicant had been dishonourably discharged
- not apply where the Service man or woman had left the Armed Forces voluntarily after only a short period of service (3 or 5 years were suggested)

“We would agree with this proposal as long as
i. Dishonourable discharge is excluded and
ii. It is applicable for a limited period of time following the date of discharge.
We would agree to 5 years as suggested in [question] (4).” Local authority

3.47 A number of respondents gave qualified support to the proposal – on the proviso that they were still able to take factors into account in determining priorities. Factors suggested included those set out in the allocation legislation, i.e. local connection, financial resources and behaviour. However, others were also proposed such as:

- the Service person’s rank or occupation
- whether they had already had an allocation of social housing
- whether they had intentionally left their previous home

“Yes but on the basis that some local connection exists to the borough such as close relatives, previous or current residence or employment.” Local authority

3.48 A small number of respondents sought clarification that they would not be prevented from applying qualification criteria to applicants where the additional preference regulations apply.

3.49 There was also some call for clarification of the terminology in the regulations, that is to say what was meant by (a) urgent need (b) former Service personnel and (c) additional preference. A small number of respondents called for more detailed guidance on this, to ensure consistency of approach across local authority areas (particularly where authorities were part of a pan-local choice based lettings scheme).

“We agree with the proposal as long as clear definitions are provided regarding the definition of former Service personnel and the method of verifying this status.” Local authority

3.50 One respondent (a veterans’ organisation) suggested that the regulations should not be restricted to former Service personnel but should apply to seriously injured personnel while in service as well; while some respondents suggested that the regulations should be extended to bereaved and separated families.

Question 10: Does your allocation scheme already make use of the flexibilities within the allocation legislation to provide for those who have served in the Armed Forces to be given greater priority for social housing? If so, how does your scheme provide for this?

3.51 There were 165 responses to this question.

3.52 In responding to this question, about 60 local authorities said that they already made use of the flexibilities within the allocation legislation to provide for current or former members of the Armed Forces to be given greater priority for social housing; or that they had just revised or were in the process of revising their allocation scheme to provide for this. A

small number of Private Registered Providers commented that their allocation policies also provided for (ex)Services personnel to be prioritised in some way.

- 3.53 Where authorities said that they were revising or had just revised their allocation scheme to give greater priority to members of the Armed Forces or former Service personnel, this was often in light of the Military Covenant.

“... this Council has already taken steps at the time of writing and is consulting on a proposal to award the highest banding to former service personnel in line with the Armed Forces Covenant.” Local authority

- 3.54 Respondents employed a wide range of mechanisms to provide for (ex)Service personnel to be afforded increased priority.
- 3.55 A significant number of those responding said that they give particular – or the highest - priority to former Service personnel who have sustained an injury or disability as a result of their service.
- 3.56 A further significant number indicated that they would give higher priority to applicants who had only a limited period to serve before leaving the Armed Forces or services accommodation (varying between 3 and 12 months); or were within a certain period after discharge (3 months in one case).
- 3.57 Some authorities applied their local connection rules more flexibly to members of the Armed Forces: allowing them to establish a local connection if they had lived in the district immediately prior to enlistment; or disregarding local connection altogether in the case of Service personnel.

“Our current allocation scheme places Members of the Armed Forces in the High Band for 6 months prior to discharge. Armed Forces personnel who have a local connection are given additional priority over those who do not have a local connection.” Local authority

- 3.58 Two authorities used waiting time to afford more priority: one providing for former Service personnel to have an additional 12 months waiting time within their band; while the other treated the date the applicant had joined the Services as the date of their housing application.
- 3.59 Two local authorities used direct lets to ensure that Service personnel are given appropriate priority or priority over all other applicants, while a further two set aside a small quota of lets for ex-Service personnel. One local authority indicated that it might use a local lettings policy for this purpose, while another that they might make use of an ‘emergency card’ which was designed to enhance priority in exceptional circumstances. Another one said that they had nomination rights to properties owned by Haig Homes.

“Ex service personnel (where they have been honourably discharged), are given additional priority over all other applicants, and made a ‘direct offer’.”
Local authority

3.60 Two local authorities included Service personnel within their ‘community contribution’ band or stream to increase their priority in certain circumstances.

Question 11: If not, do you intend to take advantage of the flexibilities in the allocation legislation to provide for former members of the Armed Forces to be given greater priority for social housing? If so, what changes might you be considering?

3.61 There were 145 responses to this question.

3.62 About 70 local authorities and provider respondents said they would consider providing for former (or serving) members of the armed forces to be given greater priority for social housing.

3.63 Many of those who answered in the affirmative did not specify what changes they would make but said that they would consider this as part of a future review of their allocation scheme – some of them adding that they would wait until the final guidance was available.

“Greater priority for former members of the Armed Forces will be considered as part of the ongoing Allocations Policy review and will be consulted on before any final decisions are made.” Local authority

3.64 Changes which respondents were considering to increase the priority of former or serving members of the Armed Forces included:

- Providing top priority to all Service personnel
- Assigning them to a higher band or increasing their points
- Disapplying a local connection criterion if this would otherwise lower their priority
- Backdating applications or awarding extra waiting time
- Treating service commencement date as date of application
- Awarding (homelessness) priority from the date of official notification of discharge, rather than 28 days prior to discharge
- Giving greater priority to those with medical or mobility issues
- Including a clear policy statement in the allocation scheme, committing the authority to re-housing former Service personnel
- Using local lettings policies or guaranteeing a quota of lettings
- Disregarding any lump sum received as compensation for an injury

or disability sustained on active service when assessing financial resources (although others indicated that they would be cautious about disregarding lump sum compensation unless it was insufficient to secure alternative accommodation)

“Yes, this will form part of our review of the lettings policy. Potential options for implementing this include a flag system for those in urgent housing need or utilising our existing provisions under our policy for an emergency housing status.” Local authority

3.65 Some respondents were more cautious, suggesting that they would want to consider a range of flexibilities but only where the Armed Forces applicant was in identified need; or that they would want to explore the full range of housing options available to Armed Forces personnel, not simply social housing. Some concern was also expressed about a lack of consistency if landlords adopted different practices.

“There is a concern that all allocation schemes should adhere to the same specific guidance to ensure all schemes award priority consistently rather than some allocation schemes being more flexible than others.” Private Registered Provider

“It is also worth adding that we would want to explore the full range of housing options with Armed Forces personnel, including for example Homebuy and private rented, so that they didn’t feel that they were being pushed down a certain route automatically.” Local authority

Q12 - Does your allocation scheme already provide for some priority to be given to people who are in work, seeking work, or otherwise contributing to the community? If so, how does your scheme provide for this?

Q13 - If not, do you intend to revise your allocation scheme to provide for more priority to be given to people who are in work, seeking work, or otherwise contributing to the community? If so, what changes might you be considering?

3.66 There were 168 and 163 responses to these questions respectively.

3.67 A little under half of local authority and provider respondents indicated that they already provided for some priority to be given to people in work, and to a lesser extent to those undertaking work related training, or otherwise contributing to the community. Very few provided for priority to be given to those seeking work.

3.68 A common approach was through the use of local lettings policies - often in relation to new housing schemes – or annual lettings plans,

which provided for a quota of lettings to go to locally defined groups including those in work, usually with the purpose of creating balanced communities.

- 3.69 Some respondents gave priority to those needing to move to take up work or training opportunities, often this was restricted to those who would otherwise have to travel excessive distances, or to those moving into the district. Sometimes this was limited to 'key workers'.

"Our current allocation scheme does provide to award additional priority to applicants seeking to move nearer existing employment or prospective employment, where a job offer has been made and where the distances to be travelled are excessive and no public private transport exists." Local authority

- 3.70 Where this was expressly provided for within a banding scheme, there was a variety of approaches – with some schemes using employment or community contribution as a factor in determining priorities between those in identified need, and others taking it into account as a determining factor only in relation to those with no need.

"Yes, for those needing to move for work reasons this is embedded throughout the bands depending on the degree of need. ... Within our Band C (medium need) we have included a criteria which recognised good tenant status for existing tenants that takes into account a range of factors including community contribution." Local authority

- 3.71 One authority gave a substantial number of additional points to people in work or specific work-related training. A further two authorities gave greater priority to working households where the council had accepted a homelessness duty towards them, in order to help them move more quickly out of temporary accommodation. Another respondent gave priority specifically to those under 25 and in work.

"[Our] current housing allocations scheme does give greater priority to working households in temporary accommodation where the Council has accepted a homelessness duty towards them. Where these households have been assessed as experiencing financial hardship because their income from working is not enough to afford the higher levels of temporary accommodation rents, they are awarded additional points to enable them to be housed more quickly through the Choice Based Lettings system." Local authority

- 3.72 Some concern was expressed about giving priority to work seekers as it was considered to be difficult to define or to verify, and there was a call for guidance on what constitutes 'community contribution'.

"We have an Economic Stream which is specifically open to applications from people in work. In addition, the Community Stream is open to those wanting to move to an area because they contribute to it in some way (including through paid or voluntary work) ... We do not think it practical to give priority to people seeking work, because most people out of work would be able to classify

themselves as seeking work and it would be too difficult/burdensome to verify whether they were actively seeking work.” Private Registered Provider

3.73 A little over half of those local authorities and other landlords who responded to question 12 reported that they did not currently give any priority to working households or those contributing to the community. In answer to question 13, just under a third of these said that they intended to change their allocation scheme to provide for this, while a further third were considering doing so or were undecided, and just over a third had no intention of doing so.

3.74 Those who had plans to change their scheme were considering a variety of measures, including:

- introducing a community contribution stream or band, to include for example people in work, in training, and otherwise contributing to the community - as volunteers, local employers, registered carers and witnesses in anti-social behaviour cases
- quotas
- property adverts
- additional points

3.75 Those who did not intend to use the allocation flexibilities for this purpose gave a number of reasons, including definitional issues – what is meant by work, seeking work, and community contribution.

3.76 Many of these concerns were shared by tenant organisations and community and voluntary groups.

“Whilst we agree that it is important to help, support and encourage people into work, it must be recognised that not everyone is in a position to move into work straight away, and that some people who face serious problems may never be able to seek work.

Voluntary and community group

3.77 A few said that, although they would not be changing their allocation policies generally to provide for this, they might make use of local lettings policies or key worker schemes to target some properties for people in work, while others said that they would wait for the final guidance to issue.

Question 14: Are there other ways in which housing authorities can frame their allocation scheme to meet the needs of prospective adopters and foster carers?

3.78. There were 170 responses to this question.

- 3.79 Several respondents said that they already gave adopters and foster carers the highest priority (or additional preference) under their allocation scheme, while others said that they proposed to – or were considering whether to – do so.
- 3.80 However, a significant number of respondents made clear that they would only award priority where the family had been approved to adopt or foster and the child was waiting to be placed. Several commented more generally that the adoption or fostering needs to be at a certain stage of the process before a household should be eligible for larger accommodation, and that guidance was needed to determine what stage would be appropriate.
- 3.81 Some respondents said that they would give priority only where there was a long term history of fostering, while others indicated that they would respond to requests from children’s services to place children on a case by case basis, or would use direct lets.
- 3.82 A small minority said that they already provided for ‘prospective’ foster carers or adopters to be given priority for social housing or that their allocation scheme was sufficiently flexible to allow for this. However, others considered that prospective adopters should not be given priority.

“To support our corporate parenting responsibilities, our current allocation scheme provides the highest level of priority to applicants accepted by the relevant authorities as prospective or existing adopters/ foster carers.” Local authority

“Our scheme already affords maximum priority to foster carers who need larger accommodation to enable them to foster more children, or where an applicant intends to become a foster carer. Their foster carer status must have been approved by the Council’s Fostering and Adoption Team. We will be considering extending this to include prospective adopters who do not have sufficient financial resources to resolve their own housing situation.” Local authority

- 3.83 Some local authorities already set aside a quota of larger properties to meet the needs of foster carers but others said they would not want to adopt such an approach because: it was considered as too rigid; they did not have sufficient larger sized stock or had too many other demands on it; or it militated against choice.
- 3.84 A number of respondents mentioned the need for local housing authorities and children’s services to work closely together, or put their successful approach down to close partnership working. However, a minority considered that the issue of ‘prospective’ foster carers or adopters could only be resolved if changes were made by children’s services to their assessment process.

“We consider that developing close relationships with Children and Young People’s Services is essential. Through doing this, the housing authority should be clear about the need for housing for adopters and foster carers. Where this is critical, schemes should include the provision for management discretion and the option to remove properties from the allocations process; direct lets could be an option here.” Local authority

3.85 A number of respondents thought the solution lay in using flexible or fixed term tenancies. Other suggestions and comments included:

- providing ‘temporary’ housing for this purpose
- including a clause in the tenancy agreement that the tenant would surrender the tenancy if they stopped fostering
- guaranteeing families, who move into a larger property in the private rented sector to foster, priority for social housing when they stop fostering
- employing a more generous bedroom standard (presumably when determining if a (prospective) adopter/foster household is overcrowded)
- local housing authorities and landlords agreeing that the property may be under-occupied until the child is placed
- local housing authorities consulting generally or with private registered providers on how to address the needs of adopters and fosterers
- funding extensions to the property to accommodate the child

“We consider this is an appropriate circumstance for a flexible fixed tenancy to be used and will refer to this in our tenancy strategy. In such instances the allocations policy could allow for an additional bedroom, but the tenancy issued would be reviewed after two years and appropriate action taken if adoption or fostering had not occurred.” Local authority

3.86 It was noted that the under-occupation measure in the Welfare Reform Act 2012 would not take account of foster children in determining the household size. While recognising that foster carers would be eligible to apply for Discretionary Housing Payment (which is being increased specifically to deal with this issue), a number of respondents suggested the final guidance could helpfully provide advice on the implications for allocation policies.

3.87 A small number of respondents said that families needing to move to larger accommodation to adopt or foster a child was not an issue in their area; or that this was a matter for individual landlords to decide in light of local circumstances; or that such households should not be afforded any priority for social housing.

Question 15: Does the draft guidance provide sufficient clarity on the extent of flexibilities available to housing authorities when framing their allocation scheme?

3.88 There were 164 responses to this question.

3.89 More than half of those who responded to this question thought that the draft guidance provide sufficient clarity on the extent of flexibilities available to housing authorities when framing their allocation scheme. While most of these respondents welcomed the guidance and considered that it got the balance about right, a few considered that it was over-prescriptive in places (for example, in relation to the Armed Forces and defining overcrowding).

“Yes, we feel that the guidance does provide sufficient clarity as to the extent of the flexibilities available... However ... we would like the guidance to be slightly less prescriptive in places to allow authorities more independence when setting their allocation policy, so that they can be better tailored to meet local requirements and needs.” Local authority

3.90 However, a few were concerned that the guidance lacked clarity or would have preferred more detailed guidance, and were concerned about the risk of legal challenge, or that this would lead to a wide variety of approaches and inconsistency between local authority areas. In particular, there was a call for more guidance on how to strike an appropriate balance between the reasonable preference requirements, local policy priorities and the Government’s policy priorities.

“The Guidance provides little to assist Local Authorities judge when their policy has given sufficient “reasonable preference”... While we are generally supportive of allowing us the freedom to make allocation decision to take account of local conditions, we are concerned that this will leave us open to legal challenge. Also very different allocation policies in different parts of the country may add to confusion about the allocation of social housing when we are trying to counter misconceptions held by the public.” Local authority

3.91 Some respondents sought further clarification – or suggested there should be more emphasis - on specific issues such as:

- possible indicators for the ‘hardship’ reasonable preference category
- consulting on and monitoring allocation policies
- implications of welfare reform
- meeting the needs of homeless – and disabled - applicants
- applying the equalities legislation
- maintaining choice based letting schemes
- partnership working with Private Registered Providers, including nominations
- setting quotas for lettings

Chapter 4: Next steps

- 4.1 The changes to the allocation legislation - Part 6 of the Housing Act 1996 – contained in sections 145 to 147 of the Localism Act 2011 came into force on 18 June¹. The finalised guidance was issued on 29 June and replaces all existing statutory allocation guidance. Local authorities will need to have regard to the guidance when exercising their allocation functions including framing their new allocation policies in light of the changes in the Localism Act.
- 4.2 There was a call from some respondents to consultation for the new guidance to be more extensive or more prescriptive. However, we have decided to maintain a light-touch approach, in the spirit of localism, and in order to maximise the opportunities for local authorities to innovate and to think creatively about how social housing can best be used to improve people's lives.
- 4.3 However, the final guidance has been revised in a number of respects, in response to suggestions and comments from consultees. The main changes are intended to:
- further strengthen the guidance on the Armed Forces to encourage local authorities to give sympathetic consideration to all service families in line with the Armed Forces Covenant; and expand the guidance on adopters and foster carers to other family and friends carers
 - make it clear that the Government expects local authorities to avoid providing social housing to people who already own a property, other than in exceptional circumstances
 - encourage local authorities to adopt a housing options approach alongside managed waiting lists, so that people seeking help with their housing are offered advice and support tailored to their needs, rather than simply being offered the opportunity to register for social housing. A strong housing options approach enables local authorities to direct help where it is most needed, and to avoid raising false expectations about access to social housing
- 4.4 Alongside the draft statutory guidance, we also consulted on two sets of regulations concerning the allocation of accommodation to members of the Armed Forces which would:
- require local authorities to give additional preference (high priority) for social housing to ex-Service personnel with urgent housing needs (the 'additional preference regulations'), and
 - prevent local authorities from adopting residency requirements for

¹ The Localism Act 2011 (Commencement No. 6 and Transitional, Savings and Transitory Provisions) Order 2012

members of the Armed Forces and those within 5 years of leaving the Services (the 'qualification regulations')

- 4.5 In the light of consultation, the Government has decided to make a number of changes to these regulations. Subject to Parliamentary approval, we propose to:
- extend both the additional and the qualification regulations to bereaved spouses and civil partners of members of the Armed Forces on their first move from services accommodation following the death of their spouse or partner; and to members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service
 - extend the additional preference regulations to serving members of the Armed Forces (not just to former Service personnel) who need to move because of a serious injury, medical condition or disability sustained as a result of their service
 - strengthen the qualification regulations, so that when setting their qualification criteria local authorities would be required to disregard – not just residency requirements – but any local connection to their district
- 4.6 We intend to lay the revised regulations as soon as possible.