

<b>SUBJECT:</b>	<b>Gypsy &amp; Traveller Pitch Allocation Policy</b>
<b>MEETING:</b>	<b>Individual Cabinet Member Decision</b>
<b>DATE:</b>	<b>28<sup>th</sup> February 2018</b>
<b>DIVISION/WARDS AFFECTED:</b>	<b>All</b>

**1. PURPOSE:**

- 1.1 To seek Cabinet Member approval for the introduction of the Gypsy & Traveller Pitch Allocation Policy for any future Council owned Gypsy and Traveller Site in Monmouthshire (Appendix 1). This is a follow up to the report received by the Adult Select Committee on 23rd January 2018.

**2. RECOMMENDATIONS:**

- 2.1 To approve and adopt the Gypsy and Traveller Pitch Allocations Policy with immediate effect.

**3. KEY ISSUES:**

- 3.1 Under the requirements of the Housing (Wales) Act 2014, the Council carried out its duty to assess the needs of the Gypsy and Traveller community in 2015 when it undertook the Gypsy and Traveller Accommodation Assessment (GTAA). The GTA identified a need for eight pitches in Monmouthshire over a five year period.
- 3.2 The Welsh Government's Managing Gypsy and Traveller Sites in Wales strongly recommends that Local Authorities operate such a policy as a positive and proactive means of engaging with Gypsy & Travellers. Councils are expected to publish their policies and procedures for allocating pitches, including assessment criteria, expected timescales and how to apply and how priority need is defined. Where a waiting list is in operation, the Local Authority should clearly explain how the list operates and inform applicants of their general position on the list when requested.
- 3.3 The Policy (Appendix 1)
- 3.3.1 The proposed policy is intended to be structured similar to the Monmouthshire Homeseach allocations policy.
- 3.3.2 The proposed policy sets out the criteria that will be used to establish eligibility and ineligibility to register for a pitch in Monmouthshire and the criteria that will be used to assess need.
- 3.3.3 The proposed policy would ensure an appropriate 'needs assessment' is completed and a system of prioritisation is applied to determine that pitch allocation is based on those households with the greatest need.
- 3.3.4 All applicants will have their housing needs assessed and be placed in one of five housing needs bands according to their circumstances.
- 3.3.5 The Bands will be bands 1 to 5 with band 1 being the highest priority and band 5 the lowest priority. Please refer to the Policy.
- 3.4 Who is Eligible?

- 3.4.1 The waiting list is open only to Gypsy and Traveller households aged 18 and over.
- 3.4.2 The policy uses the definition contained within Managing Gypsy and Traveller Sites in Wales Guidance 2015:

*(a) Persons of a nomadic habit of life, whatever their race or origin, including –*  
*(i) Persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently, and*  
*(ii) Members of an organized group of travelling show people or circus people (whether or not travelling together as such); and*  
*(b) All other persons with a cultural tradition of nomadism or of living in a mobile home.*

- 3.5 Consultation was undertaken with members of the Gypsy and Traveller Accommodation Assessment Project Group that was formed specifically to oversee the drafting of the Council's Gypsy and Traveller Accommodation Assessment (GTAA) (See Appendix 2).
- 3.6 The consultation ended on the 15<sup>th</sup> December with one comment received (See Appendix 3).

#### **4. OPTIONS APPRAISAL:**

- 4.1 Option 1: Not to adopt the Policy: Not to adopt this would be contradictory to the expectations of Welsh Government and will leave the Council without a robust, transparent and equitable mechanism of allocating pitches in the future
- 4.2 Option 2: To adopt the Policy: The recommended option: By adopting the policy it provides the framework in which to allocate pitches based on the need and it will align as much as it can with the Council's bricks and mortar policy (Homesearch) thereby conferring equality while meeting the distinct needs of Gypsy and Traveller community.

#### **5. EVALUATION CRITERIA:**

- 5.1 There will be a review of the policy within 12 months of the decision date to determine whether the policy has been successfully implemented. To aid future reviews an evaluation assessment is attached (Appendix 4).

#### **6. REASONS:**

- 6.1 The development of the policy formed part of the action plan arising from the undertaking of the Gypsy & Traveller Assessment undertaken in 2015 and subsequently agreed by the Cabinet
- 6.2 Without a robust policy in place Monmouthshire County Council could be acting in a way contrary to its agreed policies and/or stated objectives and failing to do what it is required in law or alternatively acting in a way that is contrary to the law.
- 6.3 Section 103 of the Housing (Wales) Act 2014 places a duty on a local authority to exercise its powers under Part 5 of the Mobile Homes (Wales) Act 2013 to provide sites on which mobile homes can be stationed. Section 104 of the Housing (Wales) Act 2014 confers powers on Welsh Ministers to compel an authority to exercise its power under s103 if they are satisfied that authority has failed to do so.

#### **7. RESOURCE IMPLICATIONS:**

- 7.1. There are currently no financial or resource implications at this stage.

#### **8. SUSTAINABLE DEVELOPMENT AND EQUALITY IMPLICATIONS:**

8.1 The Future Generations Evaluation has been completed and no negative implications were identified (See appendix 5)

**9. SAFEGUARDING AND CORPORATE PARENTING IMPLICATIONS**

9,1 The policy supports and contributes positively to these priorities (Appendix 5)

**10. CONSULTEES:**

10.1 Gypsy and Traveller Accommodation Assessment Project Group

**11. BACKGROUND PAPERS:**

Gypsy & Traveller Assessment, 2015; Gypsy & Traveller Assessment Welsh Government Guidance

**12. AUTHOR:** Stephen Griffiths, Strategy & Policy Officer

**13. CONTACT DETAILS:**

**Tel:** 01633 644455

**E-mail:** [stephengriffiths@monmouthshire.gov.uk](mailto:stephengriffiths@monmouthshire.gov.uk)

**Gypsy and Traveller Pitch Allocation Policy****1.0 INTRODUCTION:**

- 1.1 This policy precedes the availability of Gypsy and Traveller pitches in Monmouthshire. The policy has been adopted to positively engage with the Gypsy & Traveller Community prior to the establishment of pitches, as required by the Housing (Wales) Act 2014.
- 1.1 This document explains how Monmouthshire County Council allocate their Gypsy and Traveller pitches.
- 1.2 Where relevant effort has been made to align or match the Policy with the Monmouthshire Common Allocation Policy and Procedure 2013 to ensure uniformity of the selection process when allocating accommodation, whether pitches or bricks and mortar.
- 1.3 The Council understands that the accommodation needs for Gypsy and Traveller communities may differ from those communities that choose to live in bricks and mortar. This is seen in their semi nomadic life style and patterns of extended family support, which is an essential part of their cultural beliefs, so although the Gypsy and Traveller Allocation Policy is framed within the parameters of the Common Allocation Policy additional factors have been taken into consideration when determining household need that support and compliment their cultural beliefs.

**2.0 THE LEGAL FRAMEWORK:**

- 2.1 In drafting this Policy Monmouthshire County Council has had regard to the following legislative and guidance provisions:
- Housing (Wales) Act 2014
  - Part VI Housing Act 1996, as amended by Homelessness Act 2002 and Housing (Wales) Act 2014, sets out the legal framework for the allocation of accommodation by local authorities and registered social landlords
  - WAG Circular 30/2007 –
  - Managing Gypsy and Traveller Sites in Wales Guidance 2015:
  - Equality Act 2010
  - The Human Right Act 1998
  - The Freedom of Information Act 2000 (s.19)
  - The Data Protection Act 1998

### **3.0 POLICY STATEMENT:**

3.1 Monmouthshire County Council is committed:-

- To the development of balanced and sustainable communities
- To providing a fair and comprehensive service to all persons eligible for having a need, including those registering for a caravan pitch under this policy;
- To providing affordable caravan pitches for rent for people in housing need
- To seek to promote social inclusion;
- To acknowledge that Gypsy and Traveller families are a recognised ethnic group;

### **4.0 THE AIMS OF THE ALLOCATION SCHEME ARE:**

- To ensure that the allocation of pitches is clear, fair and consistent;
- To ensure that pitches are allocated on the basis of priority need.
- To adhere to relevant legislative and regulatory framework.
- To assist Monmouthshire County Council in meeting its statutory and corporate responsibilities towards Monmouthshire citizens.

4.1 A 'pitch' is an area designed to accommodate one household and typically includes an amenity block, a mobile home and spaces for parking and touring caravan.

### **5.0 THE ALLOCATION WAITING LIST:**

5.1 Monmouthshire County Council will operate a waiting list based on bands (levels) of need to assist the allocation of pitches (Appendix i).

5.2 To apply to join the waiting list and be assessed for a pitch allocation applicants will be asked to complete an application form and provide supporting evidence of proof of identity and address.

### **6.0 WHO CAN APPLY?**

6.1 The waiting list is open only to Gypsy and Traveller households aged 18 and over.

6.2 The policy uses the definition contained within Managing Gypsy and Traveller Sites in Wales Guidance 2015:

*(a) Persons of a nomadic habit of life, whatever their race or origin, including –*

*(i) Persons who, on grounds only of their own or their family's or dependant's educational or health needs or old age, have ceased to travel temporarily or permanently, and*

*(ii) Members of an organized group of travelling show people or circus people (whether or not travelling together as such); and*

*(b) All other persons with a cultural tradition of nomadism or of living in a mobile home.*

## **7.0 WHO CANNOT APPLY?**

7.1 Applicants who are subject to immigration control. The Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014 informs the eligibility of persons for allocation of social housing and the eligibility of homeless applicants for housing assistance under Parts 6 and 7 of the Housing Act 1996. By law the Council cannot allocate housing accommodation to anyone who is subject to immigration control within the meaning of prevailing immigration law. The Council reserve the right to seek independent advice to resolve the issue of eligibility.

## **8.0 HOW 'NEEDS' ARE ASSESSED AND PRIORITISED.**

8.1 The Gypsy and Traveller allocation policy aligns as much as is practicable to the bricks and mortar housing allocations scheme, therefore to ensure that pitches are allocated to those families most in need a banding system based on the level of priority will be adopted by the Council.

8.2 Households with the greatest need will be placed in the highest priority band (see paragraph 11, below).

8.3 An applicant may be bypassed for an allocation as per the Bypassing Policy and Procedure (see Appendix ii).

## **9.0 LOCAL CONNECTION:**

9.1 The policy will prioritise households who have a local connection to the county over those who do not.

## **10.0 OVERCROWDING:**

10.1 Overcrowding is defined as when there are more vans on a pitch than is permitted and permission has to be sought from the landlord to be staying there from your landlord. For houses, the definition contained within the Common Housing Register (Homeseach) Policy document will apply.

## **11.0 THE BANDING SCHEME:**

11.1 Applicants will be placed into 1 of 5 bands depending on their level of need as follows (See Appendix 1 for a more details):

### **Band 1 - Exceptional Need**

- You have a caravan or access to a caravan, which is your principal home, but nowhere to locate it (for at least six months). You may need to provide evidence of this and a home visit will be required to verify this (see 12.1)

### **Band 2 - High Need**

- You are living on a MCC site which is overcrowded (with permission).
- You are living on a private site situated within Monmouthshire which is overcrowded.
- You are living in a house situated in Monmouthshire which is overcrowded.

### **Band 3 - Medium Need**

- You are living on a MCC owned site which is not over-crowded
- You are living in a house that is not overcrowded.
- You are living on a private site within Monmouthshire that is not overcrowded

### **Band 4 - Low Need**

- You have a caravan or access but nowhere to locate it and have lived like this for less than six months.
- You have no local connection but are overcrowded.

### **Band 5 - No Need**

- You have no local connection and are adequately housed either in a house or on another site

## **12. EXCEPTIONAL CIRCUMSTANCES (See appendix iii):**

12.1 We may, in exceptional circumstances, take other needs into account when prioritising applicants; an assessment of need will be made based on the information included on the application and any other supporting information. Written evidence from a professional is required in these cases.

## **13 ALLOCATION OF PITCHES:**

### **13.1 Verification**

13.1.1 Applicants who are offered a pitch will be verified for their suitability and if accepted will be offered a pitch agreement regulated by the Mobile Homes (Wales) Act 2013 to sign. The agreement sets out the terms and conditions for taking a pitch.

13.1.2 In response to changes in welfare benefits and legislation, all new applicants will be required to complete an affordability assessment to ensure the pitch is affordable. Where the pitch is considered to be unaffordable, an applicant will be bypassed for an allocation.

13.1.3 If the visit identifies new information, their application will be re-assessed, which could affect an application. This may result in an offer being withdrawn, the applicant changing bands, being removed from the housing register or being excluded from the register (See Appendix iv for exclusion policy).

13.1.4 An application will be deferred until the applicant provides proof of their change of circumstances. If there is a delay, this may result in an offer being withdrawn.

## 13.2 Allocation

13.2.1 Vacant pitches will be offered to applicants in the highest band with the earliest entry date, that is, the date in which they were placed into the band.

13.2.2 Applicants who are offered a pitch will be verified for their suitability and if accepted will be offered a pitch agreement regulated by the Mobile Homes (Wales) Act 2013 to sign. The agreement sets out the terms and conditions for taking a pitch.

13.2.3 Should more than one applicant in the same band with the same effective date bid for a property, the following selection process will be used to determine the successful applicant:

- 1st choice – The applicant who can demonstrate cumulative (multiple) need
- 2nd choice - The applicant who can best use the property (i.e. size)
- 3rd choice - The applicant who applied to the register first
- 4th choice – The applicant who submitted their bid first

13.2.4 Applicants may be bypassed in line with the Bypassing Policy and Procedure. Applicants have the right to review this decision.

## 13.3 Allocations between Priority Groups

13.3.1 When a pitch becomes vacant consideration will in the first instance be given to applications in priority band 1. If there is no one in priority band 1 applicants in priority band 2 will be considered. If there is no one in either priority band 1 or 2 consideration will be given to applicants in priority groups 3 then 4 and lastly 5.

## 14 APPEALS / REVIEW; COMPLAINTS and SAFEGUARDING PROCEDURE:

14.1 Applicants have a right to request a review if they believe that a decision is wrong if:



- Their application has been refused or they have been removed from the register, on the grounds of eligibility.
- Their application has been excluded from the register on the grounds of serious unacceptable behaviour.
- If they feel all details have not been considered and as a result they have been demoted to a lower band.

14.1.2 Applicants must request review in writing within 7 days of receiving the original decision.

14.1.3 Reviews will be conducted by the Housing & Communities Manager.

14.1.4 All complaints will be investigated in accordance with the organisation's internal complaints procedure.

## Appendix i

<p><b>BAND 1</b>  <b>Urgent Housing Need</b>  <b>Priority within this Band will be by date of entry into Band 1 not original date of application</b></p>
<ul style="list-style-type: none"> <li>• You have a caravan or access to a caravan, which is your principal home, but nowhere to locate it (for at least six months).</li> <li>• Your current living circumstances are having a seriously adverse effect on the physical or mental health of either yourselves or a member of your household.</li> <li>• Your current accommodation is unsanitary or unfit to occupy.</li> <li>• You are experiencing harassment.</li> <li>• You have exceptional medical need where an urgent and immediate move is necessary because current living arrangements present an immediate or substantial risk to life.</li> <li>• You have an exceptional welfare need</li> </ul>
<p><b>BAND 2</b>  <b>High Housing Need</b>  <b>Priority within this Band will be by date of entry into Band 2 not original date of application</b></p>
<ul style="list-style-type: none"> <li>• You are living on a MCC site with permission which is seriously overcrowded – you require 2 or more than the permitted number of caravans or trailers on your current pitch in order to accommodate household members.</li> <li>• You are living on a private site situated in Monmouthshire which is seriously overcrowded. - You require 2 or more than the permitted number of caravans or trailers on their current pitch in order to accommodate household members.</li> <li>• You are living in a house which is overcrowded.</li> <li>• You are a homeless household and you are owed Section 75 Duty</li> <li>• You have children regularly attending school within Monmouthshire.</li> <li>• Your current accommodation is lacking basic amenities</li> <li>• You have a high medical need</li> <li>• You have a high welfare need</li> </ul>
<p><b>BAND 3</b>  <b>Medium Housing Need</b>  <b>Priority within this Band will be by date of entry into Band 3 not original date of application</b></p>
<ul style="list-style-type: none"> <li>• You are living on a MCC council owned site which is not over-crowded</li> <li>• You are living in a house that is not overcrowded.</li> <li>• You are living on a MCC private site that is not overcrowded</li> <li>• You are a homeless household and owed Section 66 or 73 Duty</li> <li>• You are Intentionally Homeless</li> <li>• You have medium medical need</li> <li>• You have medium welfare need</li> <li>• You are living on a council site with permission which is overcrowded – you require 1 or more than the permitted number of caravans or trailers on your current pitch in order to accommodate household members.</li> <li>• You are living on a private site which is overcrowded. - You require 1 or more than the permitted number of caravans or trailers on their current pitch in order to accommodate household members</li> </ul>
<p><b>BAND 4</b>  <b>Low Housing Need</b>  <b>Priority within this Band will be by date of entry into Band 4 not original date of application</b></p>
<ul style="list-style-type: none"> <li>• You have a caravan or access to caravan but nowhere to locate it and have lived like this for less than six months.</li> <li>• You have no local connection but are overcrowded.</li> <li>• You have low medical need</li> <li>• You have low welfare need</li> <li>• You have reduced preference due to two refusals.</li> </ul>
<p><b>BAND 5</b>  <b>No Housing Need</b>  <b>Priority within this Band will be by date of entry into Band 5 not original date of application</b></p>
<ul style="list-style-type: none"> <li>• You have no local connection and are adequately housed either in a house or on another site</li> </ul>

## Bypassing Policy and Procedure

### 1. Policy Principles:

- Blanket bans will not be used.
- A decision to bypass an applicant will only be taken according to the criteria set out in this document.

2. It is not possible to describe every situation where an applicant may be bypassed. The following checklist describes the most common:

<b>The property is not suitable for a disabled applicant's long term needs</b>	When considering an offer of accommodation to applicants with a disability, their current and long term
<b>Applicant not suitable for social housing allocation with communal entrances/facilities</b>	Applicants who are vulnerable or pose a risk to themselves or others can be bypassed.
<b>Applicants who are vulnerable and have high support needs or applicants who require a sensitive letting such as MAPPA cases</b>	<p>This may be where:</p> <ul style="list-style-type: none"> <li>• An applicant may be too vulnerable/lack capacity and considered not able to sustain a tenancy.</li> <li>• There may be a risk to the applicant or others, where for example, a MAPPA case needs to be housed.</li> </ul>
<b>Current arrears/former tenancy related debt</b>	<p>Where information on former tenant arrears only emerges after an offer is made, that offer may be withdrawn. This would be where the arrears are above 19 weeks' net rent or £500 (A payment plan would also need to be in place and paid for at least 13 weeks.) Applicants with a housing related debt up to £500 or 19 weeks net rent (whichever is lower), could be considered for housing, providing that they had agreed to a repayment plan and there is evidence that they are actively following the plan. Adherence with the plan would be checked prior to an offer of accommodation being made by the landlord concerned and would be at their discretion.</p> <p>Where information of pending or outstanding charges only emerges after an offer has been made, that offer may be withdrawn by that housing association. This would apply to charges for repairs with a total value of over £500.</p>

	needs will be assessed with regards to the suitability of the property.
<b>Medical needs</b>	Where the property does not meet the medical needs of the applicant.
<b>Pending information</b>	Where an applicant will not provide relevant information.
<b>Wrong banding</b>	Where the applicant's circumstances may have changed, which alters their band and means that they no longer qualify for the offer.
<b>Pre void inspection</b>	Where a pre-void inspection is carried out and a property has been damaged/neglected.
<b>Affordability</b>	Where it cannot be proved that welfare benefits will be paid to an applicant to sustain a tenancy or a person hasn't been employed for a minimum of three months (with an income sufficient to sustain a tenancy) or does not have sufficient enough savings to sustain a tenancy for at least 12 months, an applicant will be bypassed.
<b>Senior Officer Discretion</b>	Exceptional circumstances not listed in this table.

Where there are applicants who are extremely vulnerable or considered to pose a risk to themselves or to others, the Verifying Officer will decide whether they are ready to sustain a tenancy and what support package is required, so that an offer can be made.

The following bullet points illustrate the type of information the Verifying Officer can consider in determining whether an offer can be made and what support packages should be in place to help sustain the tenancy:

- Details of any long-term illness, health problems or disability that requires specific or specialist housing, care or support.
- Details of other care and support needs, for example because of vulnerability due to learning difficulties.
- Details of proposed, existing and previous packages of care provision provided by statutory or other bodies where known.
- Relevant and reasonable information with regard to previous history of anti-social behaviour that might impact on the safety of the community.
- Type of accommodation moving from and any additional available accommodation history.

## Exceptional Circumstances

### 1.0 Medical Priority

- 1.1. Applicants who have a medical need will be required to complete a Medical Assessment Form and to provide evidence to support the medical application.
- 1.2 Applicants will only be offered additional priority if their medical condition or that of a member of their household, necessitates a move. The medical assessment is not based on the seriousness of an applicant's condition, but is solely based on the impact of their current housing or in exceptional circumstances the location.
- 1.3 Additional priority will only be given to homeowners for a social housing allocation, where they can prove that they do not have financial resources or equity in a property, to purchase another suitable property.
- 1.4 Priority given due to unsatisfactory or unfit housing will be considered on a case by case basis in conjunction with Environmental Health. Some discretion will be needed, it will depend on how urgent the matter is before banding is decided.
- 1.5 The Verifying Officer will decide whether to award priority or not, on the basis of an assessment of the information provided in the Medical Assessment Form and any additional information provided by the GP, hospital or consultant or via suitable supporting evidence.
- 1.6 Applicants may be placed into one of the following bands following an assessment of their medical need:
  - **Band 1 – Exceptional Medical Need**, where applicants are unable to continue to occupy their current accommodation. Or the applicant is unable to leave hospital due to their current permanent housing being unsuitable. An applicant's circumstances will be reviewed after 3 months.
  - **Band 2 – High Medical Need**, where the medical condition and or disability, is having a significant detrimental effect on the ability to live independently.
  - **Band 3 – Medium Medical Need**, where a move to suitable alternative accommodation would significantly improve their health, or upon the recommendation of Monmouthshire County Council's Social Services, to enable them to live independently.

- **Band 4 – Low Medical Need**, where there is a low medical condition or disability and a move would improve their health.
- **Band 5 – No Medical Need.** Where there is no medical need or moving accommodation would not address the medical need. Or there is no evidence to suggest a move would produce a significant impact.

1.7 The medical assessment decision will not result in an applicant losing priority if they would otherwise have been placed in a higher band due to other circumstances.

1.8 Applicants can only re-apply for medical assessment or request that any medical priority already awarded is re-assessed, if there has been a change in their circumstances.

## 2 Welfare (Social) Priority

2.1 Applicants who demonstrate that they need to move for welfare or social reasons will be asked to complete a Welfare Assessment Form, to provide evidence to support.

2.2 Applicants will only be offered additional priority if their social wellbeing or that of a member of their household, is significantly affected by remaining in their current accommodation. This will normally relate to the location of the property but can occasionally be caused by the physical condition of the property.

2.3 Additional priority will only be given to homeowners, where they can prove that they do not have financial resources, or equity in a property, to purchase another suitable property.

2.4 The assessment is based solely on the impact of their current housing, on social well-being and whether a move to alternative housing would improve their welfare.

2.5 Applicants may be placed into one of the following bands:

- **Band 1 – Exceptional Welfare Need**, where applicants are unable to continue to occupy their current accommodation. Where failure to address this would cause exceptional hardship to themselves or others. The applicant's circumstances will be reviewed after 3 months.
- **Band 2 – High Welfare Need**, applicants needing to move urgently on welfare grounds or who need to move to a particular locality. Where failure to meet that need would cause serious hardship to themselves or others. This band will be reviewed after six months.

- **Band 3 – Medium Welfare Need**, where applicants are identified as having a medium need to move on welfare grounds. Where failure to meet that need would result in significant hardship to their social well-being.
- **Band 4 – Low Welfare Need**, applicants assessed as having a low welfare need and moving to alternative accommodation would improve their well-being.
- **Band 5 No Welfare Need** – This is where the applicant is assessed as having no welfare need or moving accommodation would not address the need. Or there is no evidence to suggest a move would produce a significant impact.

2.6 The outcome of a welfare assessment will not result in the applicant losing priority if they would otherwise be placed in a higher band due to other circumstances.

### **3 Effective Date for Applicants with a Medical/Welfare Need**

3.1 Where an application indicates a medical or welfare need, following assessment, the effective date will be the date of their housing application. This will only apply to those applicants who have made us aware of this need at the time of their application.

### **4 Change of Circumstances for Medical and Welfare Cases**

4.1 Applicants who have been awarded medical or welfare priority who subsequently submit a change in circumstances will have their medical or welfare priority removed. They will need to re-apply for medical or welfare priority.

## EXCLUSIONS POLICY

Where relevant effort has been made to align or match the policy to that operated under the Monmouthshire Homesearch Allocations Policy 2013.

### 1. INTRODUCTION:

- 1.1 This document is a sub-policy and procedure of the Gypsy and Traveller Waiting List Policy (GTWL). It describes the circumstances in which an applicant can be excluded from the GTWL and also describes how long we will exclude and what an applicant needs to do to have the exclusion removed. We are committed to minimising the number of exclusions we make, however, there will be certain circumstances when it will be necessary.
- 1.2 The policy applies to all applications on the GTWL including existing tenants who wish to transfer and other applicants who are not currently our tenants.

### 2. WHAT IS AN EXCLUSION?

#### 2.1. Exclusions.

- 2.1.1 Exclusion occurs when an applicant has been assessed and but for their behaviour would have been accepted onto the waiting list. They will remain excluded until certain conditions have been met, for example, a certain period has elapsed, their conduct has changed; or there has been a change in circumstances. Generally the applicant will be expected to take prescribed action to address their untenable behaviour, such as making payments to reduce rent arrears. We will seek to avoid using prescribed actions that are likely to be unreasonable for an applicant to meet.
- 2.1.2 In addition, a joint allocation will not be made where one applicant is excluded from the register.

#### 2.2 Inclusion.

- 2.2.1 When an applicant has satisfied the prescribed measures to address the behaviour which has resulted in their being excluded they will then be assessed on their housing need. The onus will be on the applicant to prove that his/her behaviour has improved sufficiently and been sustained, before consideration will be given to accepting the applicant onto the GTWL.

### 3. LEGAL FRAMEWORK:

- 3.1 This Policy is framed and governed by relevant legislation and code of guidance, the following acts and provisions;



- Part VI Housing Act 1996, as amended by Homelessness Act 2002 and Housing (Wales) Act 2014, sets out the legal framework for the allocation of accommodation by local authorities and registered social landlords.
- Anti-social Behaviour, Crime and Policing Act 2014)
- The Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness 2015.

### 3.2 In particular the following provisions Under the Housing Act 1996

- S.160A (7) of the 1996 Act a local authority may, where it is satisfied that an applicant (or household member) is guilty of unacceptable behaviour serious enough to make them unsuitable to be a tenant at the time their application is considered, decide to treat the applicant as ineligible for an allocation.
- S160A (8) provides that the only behaviour which can be regarded as unacceptable for the above purposes is behaviour by the applicant (or household member) that would, if the applicant had been a secure tenant of the local authority at the time, have entitled the authority to a possession order under s.84 of the Housing Act 1985 in relation to any of the discretionary grounds in Part 1 of Schedule 2, other than Ground 8. These are fault grounds and include behaviour such as non-payment of rent, breach of tenancy conditions, conduct likely to cause nuisance or annoyance, and the use of property for immoral or illegal purposes. Under s.84 of the Housing Act 1985, the court can only make a possession order if satisfied in all the circumstances that it is reasonable to do so.
- S160A (3) provides that a person subject to immigration control, within the meaning of the Asylum and Immigration Act 1996, is ineligible for accommodation unless prescribed in the Allocation of Housing and Homelessness (Eligibility) (Wales) Regulations 2014.
- S167 (4A)(d) provides that an applicant has the right to request a review in relation to eligibility or loss of preference and the right to be informed of this right. They must also be informed of the ground(s) for any decision affecting eligibility or resulting in reduced preference.

3.3 And under the Anti-social Behaviour, Crime and Policing Act 2014, if an applicant's conduct entitles possession under the act, a landlord is entitled to decide that the applicants is ineligible for an allocation.

## 4. **POLICY AIM:**

4.1 The aim of the policy is

- To ensure fair and equal treatment for all applicants.
- To efficiently manage access to accommodation where applicants have breached the terms of their tenancy agreement.
- To minimise exclusions.
- To recognise individual circumstances and acute housing need.
- To ensure that the applicants excluded are formally monitored.
- To reinstate applicants to the GTWL at the earliest opportunity once they have addressed the reason that has led to their exclusion.
- To be accountable through an open and transparent appeals process.
- To ensure that applicants for housing are given fair and equal treatment regardless of disability, gender, age, race, culture, sexual orientation, marital status or religion in line with the partner landlord's equalities policies.
- To be sensitive to applicants' individual needs and tailor our services and approach, where practical to do so.
- To ensure that all applications are processed within the legal framework as detailed in the Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness 2015.
- To ensure that vulnerable applicants are not disproportionately affected by this Policy.

## **5. POLICY CONTENT:**

### **5.1 Implementation of the Policy**

5.1.1 Applicants subject to MAPPA Level 3 are exempt from this policy due to the need to manage these applicants and the statutory duty placed on the Authority as a partner to MAPPA and the RSL's as a duty to co-operate body.

5.1.2 Each application will be assessed on an individual basis, with relevant and available information taken into account.

5.1.3 We will work collaboratively with the police and probation services and other agencies to share information as appropriate.

### **5.2 Reasons for Exclusion**

5.2.1 Applicants can be excluded for unacceptable behaviour - the following reasons (not exhaustive) can constitute unreasonable behaviour:

- Outstanding current and /or former tenancy debt (social or private)
- Anti-social behaviour/ASB Injunction
- Tenants who have had their tenancy demoted due to ASB.

- Other breach of tenancy conditions (social or private)
- Refusals (after 3rd refusal)
- Use of property for immoral or illegal purposes
- Immigration status/ineligible person from abroad
- Criminal convictions
- Being violent towards a partner or members of the family (potentially without conviction).
- Obtaining a tenancy by deception, for example, by giving untrue information or by withholding information.
- Paying money to illegally obtain a tenancy.
- Allowing the condition of a property to deteriorate beyond a level deemed reasonable by the Verifying Officer
- Having lost accommodation provided in connection with employment due to conduct making it inappropriate for the person to reside there.

5.2.2 Unacceptable behaviour is defined as behaviour which would, if an applicant or member of their household was a secure tenant, entitle MCC to possession under Grounds 1-7 in, Schedule 2 of the Housing Act 1985. To be reasonably classed as unacceptable behaviour there must be a belief that the court would be prepared to grant a possession order based on the behaviour (normally an outright order should be expected). The circumstances at the time of the application must also still mean the applicant is unsuitable. Previous unacceptable behaviour or even an outright possession order, may not justify a decision to treat the applicant as ineligible where that behaviour can be shown by the applicant to have improved.

5.2.3 When determining unacceptable behaviour a three stage test will be applied as laid down by paragraphs 2.32 – 2.44 of 2015 Code of Guidance for Local Authorities on the Allocation of Accommodation and Homelessness.

5.2.4 It is not necessary for the applicant to have actually been a tenant of the local authority or RSL when the unacceptable behaviour occurred.

5.2.5 When considering cases of rent arrears for exclusion, consideration should be given as to whether the rent arrears are caused by Welfare Benefit Reform or directly attributable to the actions of the applicant. Consideration should also be given to arrears prior to Welfare Benefit Reform. Also, any pre-tenancy advice given to tenants concerning financial capability.

### 5.3 **Applying and Removing an Exclusion**

### 5.3.1 Property Related Debt:

For the purpose of this policy, when an assessment is carried out all property related debt will be taken into consideration, associated with either a current or former tenancy with any private or social housing provider in the UK. Only debts that are both recoverable and not statute barred will be taken into consideration. These include (but are not limited to) any:

- Current or former tenancy rent arrears;
- Outstanding re-chargeable repairs;
- Current and former housing related service charge arrears;
- Bed and breakfast charge arrears
- Housing benefit or universal credit housing element over-payments;
- Associated court costs.

5.3.2 Property related debts apply to both the applicant, spouse, joint applicant and partner of their prospective household.

5.3.3 Where the property related debt is over £500 or the equivalent of 19 weeks net rent (whichever is lower), the application for housing would be automatically excluded. The applicant would not be actively considered for a pitch until such time as they have:

- Entered into a repayment plan with the former and current landlord;
- Made a minimum of 13 consecutive weekly payments, at an agreed level; and
- Repaid a minimum of 25% of the debt.

5.3.4 This process can only be circumvented where the debt is repaid in full. Or where highly exceptional and significant circumstances exist, and the need to move is considered urgent. Although, this does not mean recovery of the debt will not be pursued by the relevant landlord.

5.3.5 Applicants with a housing related debt of below £500 or up to and including 18 weeks net rent, could be considered for housing immediately providing that they had agreed and were actively following a repayment plan. Adherence with the plan would be checked prior to an offer of accommodation being made by the landlord concerned and would be at their discretion.

5.3.6 Where the applicant or a member of their prospective household has entered into a repayment plan to clear a property related debt before the application for housing was made, the criteria set out in paragraphs 5.3.5 would still apply.

- 5.3.7 Once accepted on the waiting list, regular agreed payments should be maintained up to the point of an offer of accommodation. If this is not the case, the applicant will be given 48 hours to make up the missed payments otherwise the offer will be withdrawn.
- 5.3.8 The review process and the circumstances when the exclusion will be removed are to be decided on a case by case basis.
- 5.3.9 Sanctions under this policy will be implemented at the point the application is registered save for those cases where information has come to light during the course of the 'live' application. This is to ensure that the applicant is made aware at the earliest stage of the application and is able to address their behaviour.
- 5.3.10 For applicants who are referred under this policy during their live application or at the 'offer' stage, because information has come to light, it will be for the RSL to show that this information was not available at the time of registration or would not have come to light under normal investigative procedures. Failure to show this may result in the applicant not being excluded.
- 5.3.11 An exclusion can be removed at an applicant's request. In most cases a review will be reconsidered when there is clear evidence that:
- The applicant (or a member of their prospective household) has addressed their behaviour to the satisfaction of the Reviewing Officer.
  - There has been no cause for complaint against the applicant (or members of their prospective household) for a continuous period of 12 months (depending on the severity of the behaviour) from the point where action has been agreed with the applicant to address their behaviour or other identified problems. The onus is on the applicant to inform Monmouthshire County Council's Housing Strategy that any condition imposed has been met to resolve the exclusion. Applicants that are considered vulnerable, will, however, still be contacted by Housing Strategy to discuss their prescribed actions and enquire if they are able to be restored to the housing register.
- 5.3.12 Excluded applicants will be eligible to join or re-join the GTWL once their unacceptable behaviour has been addressed. Their effective date will be the date that their exclusion was lifted.
- 5.4 Notifying Applicants of the Exclusion**
- 5.4.1 Applicants will be notified in writing if their application for housing is subject to the sanction. Applicants will be told why they have been excluded, how long it is for, what they need to do to address the behaviour, and how to inform the Housing Strategy that their behaviour has

been addressed. They will also be advised of the appeals procedure. If considered necessary this information will also be given verbally and/or translated.

## **5.5 Appealing an Exclusion**

- 5.5.1 Applicants can exercise this right to review verbally or in writing. In the first instance any additional information should be sent to the Verifying Officer to enable them to informally reassess their decision. Known circumstances at the time of the review will be taken into consideration. Applicants will be given at least 5 working days to provide further information. If the Verifying Officer is satisfied that the decision to exclude is correct they will forward the case to the Reviewing Officer who will undertake a formal review of the original decision. The Reviewing Officer will request any additional information within 28 days of the papers being received from Housing Strategy Officer and will make a decision after 28 days.
- 5.5.2 Applicants will be notified of the outcome of the appeal within 21 days from the date of receipt of the appeal letter.

The Reviewing Officer will consider:

- Whether the application would result in the applicant being awarded reasonable preference under the Council's allocation scheme. If so, whether the applicant's circumstances (or those of a member of the applicant's household) are so exceptional that the exclusion decision should be overturned.
- Will assess the case using guidance criteria and will record all decisions reached with full reasons on that decision. The applicant will receive a written decision with the full reasons set out.
- Please note that the council cannot waive the eligibility exclusion rules for applicant's who are legally not allowed to access social housing under the eligibility rules set by Welsh Government and such cases will not be referred to Reviewing Officer.

## **6. STAFF TRAINING AND DEVELOPMENT:**

- 6.1 The Council will provide detailed training for staff of the MHR landlords who implement this policy and procedures. This ensures that we meet our legal duties and follow good practice guidance.

## **7. MONITORING AND REPORTING:**

- 7.1 Monitoring is essential to evaluate how effectively we meet our legal requirements and the policy and procedural guidance.
- 7.2 The following indicators will be monitored by the Council:

- No. of exclusions and a breakdown of the reasons;
- The average length of time applicants are excluded by reason;
- The number of excluded applicants as a percentage of the total number of applicants on the GTWL;
- The number of appeals of exclusion;
- The number of appeals upheld and decisions over-turned by reason;
- The length of time between receipt of the appeal letter and notification of the appeal outcome.

## **8. REVIEW:**

- 8.1 The Council will review this policy 3 years, or earlier if required in light of changes in the law or good practice guidance.

Members of the group comprised of the following organisations:

- MCC Elected Members
- SE Wales Regional Equality Council including the Gypsy & Traveller Liaison Officer
- Equalities Officer (MCC)
- Adult Social Services (MCC)
- Rural Programmes Manager (MCC)
- Specialist Environmental Health Officer (MCC)
- Monmouthshire Housing Association
- Melin Homes
- Planning Policy Department (MCC)
- Housing Options Team (MCC)
- Children's Services - Safe Guarding in Education
- Principal Officer Inclusion Officer - Children and Young People (MCC)
- Deputy Head of Gwent Education Minority Ethnic Service (GEMS
- Senior Commissioning Officer, Supporting People (MCC)
- Housing & Communities Manager (MCC)
- Members of the G & T Community



### Consultation Comments / Queries

Arising out of the consultation one comment was received:

#### Comment

“I think your draft is far too early as you’ve told me that you haven’t even identified anywhere for a site to be built in Monmouthshire. So currently there are no pitches to allocate and this feels like putting the cart before the horse”

#### Reply

There is a Welsh Government expectation that local authorities produce an allocation policy even those authorities that do not currently have sites. This is seen as a positive step for engagement with the Gypsy and Traveller community and will form part of the evidence base that will inform any Gypsy and Traveller Accommodation Assessments in the future.

**Evaluation Criteria – Cabinet, Individual Cabinet Member Decisions & Council**

<b>Title of Report:</b>	Gypsy & Traveller Pitch Allocation Policy
<b>Date decision was made:</b>	23 <sup>rd</sup> January 2018
<b>Report Author:</b>	Stephen Griffiths

<b>What will happen as a result of this decision being approved by Cabinet or Council?</b>
<ul style="list-style-type: none"> <li>• Members of the Gypsy &amp; Traveller community will be able to register for appropriate future accommodation.</li> <li>• Its adoption will also contribute to the evidence base for future Gypsy and Traveller Accommodation Assessments.</li> <li>• It also serves as a means of engaging with Gypsy and Traveller Community</li> </ul>
12 month appraisal

<b>What benchmarks and/or criteria will you use to determine whether the decision has been successfully implemented?</b>
<p>the following will be monitored:</p> <ul style="list-style-type: none"> <li>• Number of applicants from the Gypsy and Traveller Community</li> </ul>


**What is the estimate cost of implementing this decision or, if the decision is designed to save money, what is the proposed saving that the decision will achieve?**

There are no costs or saving associated with the update

12 month appraisal

Any other comments



## Future Generations Evaluation (includes Equalities and Sustainability Impact Assessments)

<p><b>Name of the Officer</b> completing the evaluation Stephen Griffiths</p> <p><b>Phone no:</b> 01633 644455 <b>E-mail:</b> stephengriffiths@monmouthshire.gov.uk</p>	<p><b>Please give a brief description of the aims of the proposal</b></p> <p><b>Gypsy and Traveller Pitch Allocation Policy.</b></p> <p>The proposed policy sets out the criteria that will be used to establish eligibility to register for a pitch in Monmouthshire and the criteria that will be used to assess accommodation need..</p>
<p><b>Name of Service</b></p> <p>Housing &amp; Community Services</p>	<p><b>Date Future Generations Evaluation form completed</b></p> <p>12<sup>th</sup> January 2018</p>




1. **Does your proposal deliver any of the well-being goals below?** Please explain the impact (positive and negative) you expect, together with suggestions of how to mitigate negative impacts or better contribute to the goal.



Well Being Goal	How does the proposal contribute to this goal? (positive and negative)	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
<p><b>A prosperous Wales</b> Efficient use of resources, skilled, educated people, generates wealth, provides jobs</p>	<p>A neutral contribution.</p>	
<p><b>A resilient Wales</b> Maintain and enhance biodiversity and ecosystems that support resilience and</p>	<p>A neutral contribution</p>	

<b>Well Being Goal</b>	<b>How does the proposal contribute to this goal? (positive and negative)</b>	<b>What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?</b>
can adapt to change (e.g. climate change)		
<b>A healthier Wales</b> People's physical and mental wellbeing is maximized and health impacts are understood	It positively contributes to the health of Gypsy and travellers through the provision of good quality site accommodation.	
<b>A Wales of cohesive communities</b> Communities are attractive, viable, safe and well connected	It positively contributes by helping the Gypsy and Traveller community settle in the area while at the same time acknowledge their tradition of being mobile. This will decrease the need for the Gypsy and Traveller community to set up unlawful encampments in unsuitable areas.	Through the provision of official sites both transit and permanent sites.
<b>A globally responsible Wales</b> Taking account of impact on global well-being when considering local social, economic and environmental wellbeing	The Gypsy and Traveller Community will have better facilities that will contribute to better physical wellbeing and will offer the Community the opportunity to better integrated into the general community as a whole.	
<b>A Wales of vibrant culture and thriving Welsh language</b> Culture, heritage and Welsh language are promoted and protected. People	A neutral contribution	

Well Being Goal	How does the proposal contribute to this goal? (positive and negative)	What actions have been/will be taken to mitigate any negative impacts or better contribute to positive impacts?
are encouraged to do sport, art and recreation		

**2. How has your proposal embedded and prioritised the sustainable governance principles in its development?**

Sustainable Development Principle	How does your proposal demonstrate you have met this principle?	What has been done to better to meet this principle?
 <p>Balancing short term need with long term and planning for the future</p>	<p>The Policy has taken an evidenced based approach in determining the accommodation needs of the Gypsy and Traveller Community and offers a robust mechanism of allocating pitches based on levels of need both in the short term and for longer term planning.</p>	
 <p>Working together with other partners to deliver objectives</p>	<p>A steering group was set up comprising of important key stakeholders and members of the Gypsy and Traveller community for the purpose of overseeing and taking ownership of the GTAA. The introduction of the policy was a recommendation of the GTAA. Further consultation will be sought from the group after the paper has gone to Select.</p>	
 <p>Involving those with an interest and seeking their views</p>	<p>As above.</p>	

Sustainable Development Principle	How does your proposal demonstrate you have met this principle?	What has been done to better to meet this principle?
 <p>Prevention</p> <p>Putting resources into preventing problems occurring or getting worse</p>	Not applicable	
 <p>Integration</p> <p>Positively impacting on people, economy and environment and trying to benefit all three</p>	This requires further consideration.	

**3. Are your proposals going to affect any people or groups of people with protected characteristics?** Please explain the impact, the evidence you have used and any action you are taking below.

<b>Protected Characteristics</b>	<b>Describe any positive impacts your proposal has on the protected characteristic</b>	<b>Describe any negative impacts your proposal has on the protected characteristic</b>	<b>What has been/will be done to mitigate any negative impacts or better contribute to positive impacts?</b>
Age	None	None	
Disability	None	None.	
Gender reassignment	None	None	
Marriage or civil partnership	None	None	
Race	The assessment will have a positive impact on the Gypsy and Traveller community by the provision of suitable sites	None	
Religion or Belief	None	None	
Sex	None	None	
Sexual Orientation	None	None	
Welsh Language	None	None	



4. **Council has agreed the need to consider the impact its decisions has on important responsibilities of Corporate Parenting and safeguarding. Are your proposals going to affect either of these responsibilities?** For more information please see the guidance note <http://hub/corporatedocs/Democratic%20Services/Equality%20impact%20assessment%20and%20safeguarding.docx> and for more on Monmouthshire's Corporate Parenting Strategy see <http://hub/corporatedocs/SitePages/Corporate%20Parenting%20Strategy.aspx>

	<b>Describe any positive impacts your proposal has on safeguarding and corporate parenting</b>	<b>Describe any negative impacts your proposal has on safeguarding and corporate parenting</b>	<b>What will you do/ have you done to mitigate any negative impacts or better contribute to positive impacts?</b>
Safeguarding	None	<i>No negative impacts</i>	
Corporate Parenting	None	No negative impacts	

5. **What evidence and data has informed the development of your proposal?**

<p>Census Data</p> <p>Housing Register data</p>
---

6. **SUMMARY: As a result of completing this form, what are the main positive and negative impacts of your proposal, how have they informed/changed the development of the proposal so far and what will you be doing in future?**

<p>The main positive benefits of this policy are:</p> <ul style="list-style-type: none"> <li>• Additional accommodation options for Gypsy and Traveller households</li> <li>• The Council is better able to meet its statutory duties under the Part 3 Housing (Wales) Act 2014</li> <li>• The reduction in unlawful encampments within the County</li> </ul> <p>The main negative impacts are: None identified to date</p>
---

--

**7. Actions. As a result of completing this form are there any further actions you will be undertaking? Please detail them below, if applicable. Yes**

<b>What are you going to do</b>	<b>When are you going to do it?</b>	<b>Who is responsible</b>	<b>Progress</b>
Convening the steering Group to further consult on the policy.	November / December	Stephen Griffiths	completed
Re - submit to Select after consultation.	December / January 2018	Stephen Griffiths	
Submit to Cabinet	February 2018	Stephen Griffiths	
Review the Policy and submit to Select	February 2019	Stephen Griffiths	

**8. Monitoring: The impacts of this proposal will need to be monitored and reviewed. Please specify the date at which you will evaluate the impact, and where you will report the results of the review.**

<b>The impacts of this proposal will be evaluated on:</b>	During December 2018 - January 2019 and submitted to Select
---	---