

LETTING POLICY

1 SUMMARY

- 1.1 This report seeks Members agreement to review the current allocation policy and agree amendments in order to comply with the Homelessness Act 2002.

2 INTRODUCTION

- 2.1 On 28th February 2002 the Homelessness Act was introduced. Whilst most of its content concerns homelessness, it also introduced legislation that amended the Housing Act 1996 Part 6, which deals with the allocation of social housing.
- 2.2 Our current allocation scheme needs to be reviewed in order to comply with this Act. The draft Code of Guidance states that the amendments to our current policy have to be introduced in January 2003 (time subject to amendment by Government).
- 2.3 There is currently an outstanding item in the Housing Management Best Value Review to implement a new Letting Policy in line with the Homelessness Act 2002.

3 DETAILED CONSIDERATIONS

- 3.1 A copy of the draft new Letting Policy has been circulated separately to Members of this Committee. It is written in a more user-friendly style and incorporates all the amendments required to comply with the Homelessness Act 2002. The term 'allocating' with respect to offering a social housing tenancy has been largely superseded by 'letting', and is a reflection of a customer-orientated approach. Also Authorities are being urged to act more like private letting agencies and less as gatekeepers to scarce resources. Despite the change in style most of the content mirrors the current policy.

Details of the Changes to the Housing Act Part 6

- 3.2 **Amendments to Section 159 (5), (6) Housing Act 1996:**
'That applications for transfers from current social housing tenants now have to be treated on the same basis as other applicants in accordance with the provisions set out in the Authority's allocation scheme.'

Whilst the Council can continue to maintain a separate Housing Register and Transfer List, it may be challenged if there are different point levels for each and different grounds for points. The new draft policy therefore uses the existing point levels for the Housing Register and also applies them to the Transfer List, giving the same points for both.

- 3.3 It is seen as preferable to maintain two separate lists because running the two lists together would automatically put all the homeless applicants at the top of the list due to the points for lacking, sharing facilities and being in temporary accommodation, that do not apply to the Council's existing tenants. If we were only to house homeless applicants this would greatly upset not only the Council's tenants but also tenants of partnership Housing Associations with whom we operate a transfer scheme in return for nomination rights. If no transfers took place there would be little movement in the system, fewer nomination rights and more management problems due to removing hope of a transfer to more appropriate accommodation.

- 3.4 The new Letting Policy therefore still requires a 50/50 split between letting properties between the Housing Register and Transfer List. The government guidance recognises that this may be required e.g.

'If all or nearly all lettings go to homeless families this policy can become self-defeating since homelessness becomes the only route into social housing' Homeless Strategies' A good practice handbook DTLR Feb 2002, 9.2.3.

'Housing Authorities allocation schemes should reflect a sensible balance between meeting the needs of existing tenants and new applicants whilst ensuring the efficient use of stock' Allocation of Accommodation, DTLR Code of Guidance Consultation Paper, May 2002.

- 3.5 **Abolition of section 161 to 165 of the Housing Act 1996: *'The requirement to keep a Housing Register ceases, although there is nothing to prevent a housing authority from doing so if it wishes'.***

If a list is to be maintained it still needs to be called something. The Council needs to maintain a list in order to keep statistical records and contact applicants. As the public have become used to the term 'Housing Register' over the last six years, it would seem prudent to keep this name.

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- 3.6 **New Section 160A of the Housing act 1996:**
'Provides that only those eligible for housing accommodation may be allocated such accommodation and describes eligibility'.

The complete list of ineligible applicants due to immigration control are included in the proposed new Letting Policy and are the same as previously stated in the 1996 Act. The only additional ineligible person is {under Section 160A (7)} where Authorities may decide to treat a person as ineligible if they have been guilty of unacceptable behaviour serious enough to make them unsuitable to be a tenant, such that the authority could obtain a possession order under section 84 of the Housing Act 1985 and at the time of application are considered to still be unsuitable.

- 3.7 This unsuitability clause will require more investigation into why an applicant has left previous accommodation and a change to the application form to give authority to the Council to make these investigations. The main aim of this clause is to ensure that applicants subject to an Anti-Social Behaviour Order in other areas or evicted due to committing crimes such as Racial Harassment or drug dealing (unless reformed characters), do not have access to social housing in the future, and create future management problems.
- 3.8 All other blanket exclusions for ineligibility are removed. The Council's current policy does not allow applications from anyone without a local connection, tenants of other Local Authorities or Housing Associations (except partnership RSL's operating within the District), or owner-occupiers unless over 60. These exclusions will become illegal and applications must be accepted from everyone living within England and Wales and not subject to immigration control or guilty of unacceptable behaviour. However at the same time this Authority already has more demand for its properties than it will probably ever be able to meet and cannot give much priority to people without a local connection and/or owner-occupiers.
- 3.9 Therefore in order to ensure that most priority is given to people living within the District, our new letting policy needs to give very high local connection points so that we meet the needs of our own residents first. It is advisable to give more points to those currently residing in the District (or have done for 3 out of the last 5 years) and less to those who only have a family local connection of a parent, sibling or adult child. This is to reduce priority to other Local Authority tenants who have a family connection and in addition may be very overcrowded and have medical conditions. As an Authority we need to give a greater

priority to our own tenants and applicants than those of other Council's, who need to solve their own housing issues.

3.10 Amendments to section 167 subsection (2A) Housing Act 1996.

This allows Authorities to take into account any local connection with the District, their previous unsuitable behaviour (already both covered) and the financial resources of an applicant, when determining priority. This can be used to reduce priority to those with sufficient income, savings or equity in a property. The draft letting policy therefore will only grant the high local connection points on the basis that they cannot afford to rent privately or purchase locally.

- 3.11 Currently this authority does not take a work connection as having a local connection with the District for application to the Housing Register but it is one of the criteria for assessing homeless applications. Local connection points could be awarded to anyone working within the District, or just to key workers, currently perceived as having problems obtaining affordable housing. However this would discriminate against all other workers and the term key workers could be widened to include firefighters, social workers, etc who may be on less pay. The attached draft scheme does include a clause of what could be taken as a limited working local connection for discussion.

**3.12 Amendment to section 166 Housing Act 1996:
*'That advice, information and assistance to apply, is provided free of charge to persons in their District'***

This provision is already provided by Housing, Health and Community Care.

**3.13 Amendment to section 167 of the Housing Act 1996:
*'The scheme must contain a statement as to the housing authority's policy on choice of accommodation or the opportunity for applicants to express choice'***

In order to comply a statement explaining the applicant's right to choose the areas they wish to live in has been included in the draft scheme.

3.14 Amendment to reasonable preference and additional preference categories under section 167, subsection (2) Housing Act 1996.

The reasonable preference categories, awarding some priority within the points system, have been reduced e.g. applicants no

longer have to be given priority for being pregnant or having dependant children. These two categories have therefore been removed from the grounds for points. However Authorities now have to give some priority to those found homeless even if there is no duty. The draft scheme therefore awards them only 2 points. Additional preference needs to be given to those with a very urgent need to move. The current scheme already provided points to cover both of these categories which have been included in the new policy.

- 3.15 The Secretary of State believes that allocation policies for social housing should provide choice for applicants whenever possible, while continuing to meet housing needs. There is a move away from points based allocation schemes which are seen as repressive, unwieldy and complicated, to choice-based letting systems, using bands and waiting time, in order to provide more choice to applicants. It wants Authorities to adopt 'advertising schemes' whereby applicants can apply for particular properties and all Authorities have to implement a choice-based scheme by 2010, with a target of 25% by 2005. The Office of the Deputy Prime Minister (ODPM) sees choice based lettings as being a simpler, fairer, more transparent system that empowers the customer as they apply directly for any vacant properties.
- 3.16 There are currently 27 choice-based letting pilot schemes operating and the Housing Management section would seek member authority to investigate the feasibility of introducing such as a system before 2010 taking into account the costs and benefits and reporting back at a later date to this Committee. Unfortunately because of time restraints on implementation such a radical change of procedure could not be considered for January 2003, resulting in these minor changes being needed in the interim period.

3.17 New subsection 4A Section 167. Housing act 1996

'The scheme must advise an applicant how he will be treated, the size of accommodation to be offered, likely time before such an offer may be made and notified of rights to review.'

The draft scheme includes this information as far as it is possible to assess.

4. CONCLUSIONS

- 4.1 Members need to consider the following factors when agreeing a future policy:

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- The Homelessness Act 2002 requires this Authority to review its letting policy and comply with the Act from January 2003. The Cabinet Office's Code of Practice on Written Consultation lays down 12 weeks as the standard minimum time for written consultation periods to be used by UK government Departments and their agencies and recommends that housing authorities use the same guidelines.
 - In order to meet the 12 weeks recommended consultation period and introduce the new letting policy from January 2003, the draft proposal needs to be considered and agreed as soon as possible.
 - The Head of Revenue and Housing Management realises that the new letting policy is an interim measure before considering a choice based letting system but there was insufficient time before implementation to consider a major change and the Housing Quality Network has recommended caution until the results of the pilot schemes are scrutinised, in order to learn from others mistakes.
- 4.2 The new Act introduces some fundamental changes to the current Letting Policy:
- the requirement to have an open register with few grounds for refusal to put on the list
 - the requirement to treat transfer applicants and new applicants in the same way
 - the requirement to offer choice whilst meeting needs
- 4.3 Whilst areas of low demand for social housing may welcome these changes, our reducing supply is already massively over-subscribed and little or no priority can be given to those who wish to live in the District if they do not have a local connection. The introduction of high Local Connection points should maintain the priority to house local residents.
- 4.4 Widening the local connection points to include those who are working in the District would harmonise practices between homelessness and housing management. Work connection can be limited to 'key workers' but definition is problematic.
- 4.5 Those who are already owner-occupiers or on very high income cannot be afforded the same priority as those on low income for whom obtaining low cost accommodation is there only option for housing. Social housing has traditionally been a form of tenure to assist these people and not as a way for owner-occupiers to release the capital in their homes, presumably so that they can later purchase at a reduced rate under Right to Buy legislation.

The restriction of the Local Connection points to those unable to purchase or rent privately should again maintain the status quo.

- 4.6 Maintaining a 50/50 split between letting properties to new applicants and transfer applicants will best meet the needs of our customers by ensuring that there is movement within the system, a continuation of nomination rights to partner Housing Associations and reduce management problems by maintaining hope for the betterment of one's housing conditions.
- 4.7 The application forms for housing will have to be amended in order that sufficient information is obtained about applicants past tenures and previous behaviour.

5 RESOURCE IMPLICATIONS

- 5.1 The new Letting Policy needs to be printed and distributed as part of the consultation process but there is budget provision of up to £3000 for this exercise.
- 5.2 Amendments will have to be made to the computer system in order to re-calculate the points this may be able to be amended internally by the new version 6 of the Housing Management computer system due to be installed in December 2002. If internal amendments are not possible then a quote will be obtained from Saffron for writing the programme.

6. LEGAL IMPLICATIONS

- 6.1 The Council is obliged to have a letting policy that complies with the Housing Act 1996 as amended by the Homeless Act 2002.

7 RECOMMENDATIONS

It is proposed that the Committee **RESOLVES** the adoption of the draft Letting Policy with support for the following:

- 1. Consideration to the implementation of a choice based letting system in the near future following a detailed report on its costs and benefits to Community Services Overview & Scrutiny Committee;
- 2. A more user friendly style of policy to be distributed with the application form;
- 3. To continue with the name 'Housing Register';

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4. To continue with a 50/50 split of letting properties between transfer applicants and new applicants in order to maintain movement, nomination rights and minimise management problems;
 5. To point all applicants under one scheme (the old Housing Register point scheme) in order that new applicants and transfer applicants are treated 'in the same way'.

And seeks Members decision as to:

6. Whether to widen the local connection points to include those working within the District and whether this should just be to 'key workers' and if so what definition of 'key worker' is preferred. (HRHM)

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Background Papers:

DTLR-Allocation of Accommodation
DTLR- Homelessness Strategies A good practice guide
Homelessness Act 2002

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