

REPORT TO:	Housing & Community Services Committee	AGENDA ITEM: 8
DATE OF MEETING:	8th March 2012	CATEGORY: DELEGATED
REPORT FROM:	Director of Operations	OPEN
MEMBERS' CONTACT POINT:	Bob Ledger (ext 5775)	DOC:
SUBJECT:	Allocation of accommodation: Guidance for local housing authorities in England - Consultation	REF:
WARD(S) AFFECTED:	All	TERMS OF REFERENCE: HCS14

1. Recommendation

1.1 That Members:

- a. Note the '*Allocation of accommodation: Guidance for local housing authorities in England*' consultation document
- b. Consider and agree a response to the 15 consultation questions as detailed in this report for submission to the Department for Communities and Local Government (DCLG) by 30th March 2012.

2. Purpose of Report

- 2.1 To consider the Government's proposed new statutory guidance to local authorities on the allocation of social housing; and proposed regulations to improve access to social housing for former and serving armed forces personnel.
- 2.2 To agree a response to the 15 consultation questions as detailed in this report to DCLG by 30th March 2012.

3. Executive summary

- 3.1 The new guidance is intended to assist authorities to take advantage of the provisions in the Localism Act 2011, which are described as, giving back to local authorities the freedom to manage their own waiting lists, and make it easier for them to move existing social tenants to more suitable accommodation.
- 3.2 It also stated that the intention is to encourage authorities to make use of the existing flexibilities within the allocation legislation to ensure that social homes go to people who need and deserve them the most. Alongside the guidance, the Government is consulting on two sets of draft regulations relating to the Armed Forces. The regulations seek to ensure that former Service men and women who have urgent housing needs are given 'additional preference' (i.e. high priority) for social housing - so that they will

be at or near the top of housing waiting lists; and that Service personnel who move from base-to-base do not lose their qualification rights.

- 3.3 The consultation paper only affects the law in England.
- 3.4 The consultation document is divided into 6 main chapters, in which the consultation questions are based.
- Chapter 1 - Scope of guidance and definition of an allocation;
 - Chapter 2 - Overview of the amendments to Part 6 made by the Localism Act 2011;
 - Chapter 3 - Eligibility and qualification;
 - Chapter 4 - Framing an allocation scheme
 - Chapter 5 - Allocation scheme management;
 - Chapter 6 - Working with Private Registered Providers and contracting out
- 3.5 The consultation document is also supported by a series of appendices
- Annex 1 - Scope of Part 6 Exemptions;
 - Annex 2 - Indicators of the criteria in the reasonable preference categories (s.166A(3)(c) and (d))
 - Annex 3 - Rights to reside in the UK derived from EU Law;
 - Annex 4 - Worker authorisation scheme
 - Annex 5 - Habitual residence;
 - Annex 6 - Persons subject to immigration control who are ineligible for an allocation
 - Annex 7 - How to contact the Immigration and Nationality Directorate
- 3.6 The consultation is aimed primarily at local authorities. Housing Associations, social housing tenants and waiting list applicants, as well as voluntary and community organisations representing tenants and applicants also have an interest.
- 3.7 Copies of the full consultation document are available at:
<http://www.communities.gov.uk/publications/housing/allocationofaccommodation>

4. Detail / Proposed response

- 4.1 The consultation document is written as if it were already current operational guidance i.e. following the consultation it is likely to be ready for early adoption. For those councils (the vast majority and including ourselves) the detailed changes to our policy required by the guidance could be limited. The main ones appear to be:
- a) - The ability to only allow people onto the waiting list who have some degree of housing need.
- Currently anyone can go on our list. If an applicant is assessed as to be reasonably housed they are placed in our lowest category banding i.e. band C. The chances of a Band C applicant being rehoused are relatively slim. Although Band C applicants make up over 35% (598 applicants) of the waiting list our Committee agreed quota for allocating to Band C applicants is 3% of the stock turnover.
- At the commencement of our current policy in late 2008 there were around 800 applicants on the waiting list. In the intervening three years the list now has 1,663 applicants (*the number of applicants was over 2,000 in 2011 and has reduced as a result of a review and refresh of applications*). Consequently the administrative burden placed on the staff has more than doubled and we have

not increased our establishment – it has been a fair criticism of the housing service by applicants that at times we have been slow to respond to their housing application issues and this is entirely due to the workload. Therefore restricting applicants to the waiting list and specifically not allowing those that are currently adequately housed will alleviate some of the administrative burden.

b) Underoccupation.

- For us to consider whether we should give additional priority to those applicants underoccupying their current property particularly if this is a current social rented property and the applicant is benefit dependent.

We currently give some priority to underoccupation within the system but should we give more?

The welfare reform proposals, if agreed, will mean that non pensionable applicants will lose housing benefit proportionate to every unoccupied bedroom commencing April 2013. This will be difficult for many applicants to cope with and is also likely to affect rent arrears levels across the social housing stock. It may be possible to at least ease some of these effects if our allocations policy gave additional priority to underoccupation which in turn would also 'free up' more family housing. A critical view could be the presumption behind the change is that there is a ready supply of smaller accommodation for people to move into and, of course, there is not.

c) Armed forces personnel

- Should we give additional priority for applicants leaving the armed forces?

This proposal seems to have widespread support but maybe doesn't recognise that by giving any one-group additional priority means that someone else misses out. The draft guidance seems to suggest that the additional priority would take effect where two applicants have the same need but the one from the armed forces would get the preference. The reality is that we would need to decide what additional priority meant in practice when there may be 100 applicants for one property.

d) People in work, moving to find work or making a contribution to the community.

- Our current policy reflects those in work in the District but currently commute in by giving such applicants some priority. Although it is a laudable aim to give priority to people wanting to move to find work how would we prioritise such applicants against those already resident in the District and unemployed? The welfare benefits system requires all those out of work to be actively seeking work unless there is a bona fide reason why the applicant can't work. Most local authority areas already have far too much demand for their accommodation than they can hope to meet. In addition if this proposal means giving priority to people who are adequately housed in another area (but want to move areas to find work) it seems to potentially contradict the proposal to remove from the waiting list those who are not in housing need.

Giving some priority to those making a community contribution is maybe more deliverable as a policy change although we need to carefully define and assess what we meant by this and there would be more administration and time spent in verifying information.

4.2 Any changes to our policy would first need the Housing and Community Services Committee to agree draft proposals which would then need to go for extensive consultation before coming back to the Committee for final approval. Our allocations policy was last reviewed extensively in the autumn of 2010 with the amended policy adopted by the February 2011 Housing and Community Services Committee.

4.3 Consultees are invited to respond in particular to the following questions. A suggested draft response is given in italics for members to amend/ agree as appropriate:

Q1. Does your allocation scheme/transfer policy already provide for social tenants who are under-occupying to be given priority?

Yes. The issue for us to consider is whether we should increase that priority still further particularly in the light of the proposed welfare reforms. The problem, is that smaller accommodation in this District is in equally high demand to that of family accommodation i.e. any change may help one grouping but there is a consequent effect on other groupings.

Q2. 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?

As we already give underoccupation some priority we intend to examine the likely effects of any change on other groupings before we commit to further prioritisation.

Q3. If so, what changes to your allocation scheme will you be considering – to make it easier for under-occupying tenants to downsize?

Our Choice Based Lettings system already gives a priority need to an underoccupying applicant. We would consider increasing the weighting of that assessed need in comparison to other identified needs.

In addition we would look at the feasibility of introducing positive incentives to encourage people to move such as a relocation package.

Q4. 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?

Anyone can register on this Council's waiting list and therefore at the outset service personnel are not disqualified. However if an applicant doesn't satisfy our local connection rule they can only bid for a very limited number of properties i.e. in our terms the issue is about removing that local connection rule.

Five years does seem a long time for the restriction to be lifted and could mean that someone could move area several times. We would suggest two years as the limit.

Q5. 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?

At first reading it appears so but until we get into detailed consultation on any proposed changes to our policy we cannot be definitive about this.

- Q6. 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?
The bedroom standard is that currently encompassed in our current policy and therefore we are in agreement with it.
- Q7. 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?
Yes and yes, as the bedroom standard is aligned to the statutory room definition.
- Q8. 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.
We currently use the statutory definition.
- Q9. 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?
On balance yes although the effect of the change is that someone else will be disadvantaged. Tackling the root cause of the problem (i.e. the shortage of affordable housing) would be the more equitable way of helping meet the competing demands of applicants. Although the government has plans and policies in place to increase the affordable housing stock the number of new build starts is at a very low level.
- Q10. 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?
No.
- Q11. 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?
Yes. Our policy does not currently prioritise service personnel in the way proposed and we will consider a change to our policy once the guidance is formally adopted. Any changes will be subject to consultation.
- 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?
Yes. The policy gives priority to people who wish to move to the District if they have work here.
- 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?

We would consider giving priority to people making a community contribution. The issue will be how is this objectively measured e.g. what level of commitment over how long a period of time?

Although it is a laudable aim to give priority to people wanting to move to find work how would we prioritise such applicants against those already resident in the District and unemployed? The welfare benefits system requires all those out of work to be actively seeking work unless there is a bona fide reason why the applicant can't work. Most local authority areas already have far too much demand for their accommodation than they can hope to meet. In addition if this proposal means giving priority to people who are adequately housed in another area but want to move areas to find work it seems to potentially contradict the proposal to remove from the waiting list those who are not in housing need.

Q14. Are there other ways in which housing authorities can frame their allocation scheme to meet the needs of prospective adopters and foster carers?

Yes we would consider recognising this as an assessed need to rank alongside others. It would presumably apply from the date the applicant was formally accepted by the adoption agency as a prospective parent.

Q15. Does the draft guidance provide sufficient clarity on the extent of flexibilities available to housing authorities when framing their allocation scheme?

At first reading it appears so but until we get into detailed consultation on any proposed changes to our policy we cannot be definitive about this. Our prevailing view though is that there should be a minimum of centralised direction.

4.4 Responses are required by DCLG by the **30th March 2012**.

5. Financial Implications

5.1 None arising directly from this report. .

6. Corporate and Community Implications

6.1 The consultation document invites views on the content of the new guidance and desirability and practicability of the proposed changes in the regulations.

6.2 The new guidance is intended to assist authorities to take advantage of the provisions in the Localism Act 2011 which give back to local authorities the freedom to manage their own waiting lists, and make it easier for them to move existing social tenants to more suitable accommodation.

6.3 The proposed guidance contributes to the Council's Corporate Plan objective of 'Safe and Secure'.

7. Background Papers

7.1 DCLG 'Allocation of accommodation: Guidance for local housing authorities in England' Consultation document can be downloaded from <http://www.communities.gov.uk/publications/housing/allocationofaccommodation>