

THE EXECUTIVE

Tuesday, 9 November 2004

Open Reports

**Agenda Item 5a More Choice in Lettings Allocations Policy
(Pages 1 - 25)**

Agenda Item 5b New Conditions of Tenancy (Pages 27 - 41)

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THE EXECUTIVE**9 NOVEMBER 2004****REPORT OF THE DIRECTOR OF HOUSING AND HEALTH**

This report is submitted under Agenda Item 5. The Chair will be asked to decide if it can be considered at the meeting under the provisions of Section 100B(4)(b) of the Local Government Act 1972 as a matter of urgency, so as to avoid delay in receiving approval.

MORE CHOICE IN LETTINGS	FOR DECISION
<p><i>This report concerns policy issues affecting the Council and its rehousing services.</i></p>	
<p><u>Summary</u></p> <p>The new allocations policy - More Choice in Lettings, replaces a complex points system and complies with the amendments to Part VI of the Housing Act 1996, introduced by the Homelessness Act 2002. The scheme is simple, transparent, balances housing need with waiting time and offers choice to all applicants. The new policy will ensure that existing tenants who wish to transfer have their application considered on the same basis as new applicants. This report requests that the Executive agrees to adopt a new allocations policy More Choice in Lettings, to be implemented 1 April 2005.</p> <p><u>Recommendation</u></p> <p>The Executive is asked to agree:</p> <ol style="list-style-type: none"> 1. The new allocations policy More Choice in Lettings to be implemented, 1 April 2005; 2. That the scheme will be open to all applicants aged 16 or over; 3. That the current practice of dealing with homeless applicants, waiting list and transfer applicants differently will be abolished in line with the legislative requirements; 4. Authorise transitional protection for category A medicals, but otherwise review all existing applications under the new criteria; and 5. Agree the effective date of an application is indicated by the date at which the need arose. <p><u>Reason</u></p> <p>The introduction of More Choice in Lettings complies with the requirements of the Homelessness Act 2002 and will produce a lettings system which is more open and transparent, contributing to the community priority of developing rights and responsibilities.</p>	

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1. **Background**

- 1.1 The Executive agreed to certain changes in the existing Allocations Policy in January 2004, to address the fact that current policy was not compliant with existing legislation. Executive also agreed that the service should move to an allocations scheme that introduced choice in lettings.
- 1.2 An allocations scheme has been developed that embraces legislative changes and complies with the amendments in the Homelessness Act 2002 which requires local Authorities:
- To ensure the widest possible access to social housing for applicants by removing the power to implement blanket exclusions to certain categories of applicants. Housing Authorities do however have the power to exclude applicants who are ineligible for rehousing due to immigration controls and those who have demonstrated anti-social behaviour).
 - To rationalise the reasonable preference categories so they are squarely based on housing need balanced with waiting time. Recent case law requires authorities to take account of cumulative preferences.
 - To ensure that existing social tenants seeking a transfer of accommodation can have their application dealt with on the same basis as new applicants.

2. **More Choice in Lettings**

- 2.1 The proposed allocations policy is attached as appendix 1.
- 2.2 Each applicant will be assessed in accordance with part VI of the Housing Act 1996 as amended. Reasonable preference must be awarded to applicants who fall within one of the following categories;

If they are:

- Homeless as defined by law.
- Homeless persons owed certain duties by any Housing Authority
- Occupying insanitary or overcrowded housing or living in unsatisfactory housing conditions.
- If they have serious medical or welfare problems which are directly related to their current housing circumstances.
- If they need to move to a particular locality in the district to avoid hardship either to themselves or to others. For example an elderly or disabled person may need to move closer to a relative to enable them to give support.

2.3 Cumulative Reasonable Preference

The Reasonable Preference categories will not be treated in isolation from one another. An applicant who qualifies under more than one category will have this taken into account when assessing housing need, in accordance with recent case law. An applicant who falls within two Reasonable Preference categories will be given more priority than an applicant who falls within one.

2.4 Additional Preference

Additional Preference may be awarded to certain applicants who fall within the Reasonable Preference categories and have an urgent housing need, these include:

- Applicants owed a homelessness duty as a result of being;
 - A victim of domestic violence
 - A victim of racial or sexual harassment
 - A witness of crime or victim of crime who would be at risk of intimidation amounting to violence or threats of violence if they remained in their current home

Or

- Applicants who need to move because of urgent medical grounds.

Additional Preference will be awarded in these situations, if circumstances are such that it is **impossible for an applicant to remain in their current accommodation.**

2.5 No Reasonable Preference

If an applicant does not fall within the Reasonable Preference or Additional Preference categories listed above the application will receive low priority within the scheme.

3. **How Properties will be allocated**

3.1 The vast majority of properties will be advertised in a fortnightly magazine. Direct offers will be limited. Applicants will be invited to bid for properties, as indicated in the policy. The bids will be arranged in order of priority.

Group 1 - Council interest, additional preference, special schemes.

Group 2 - Waiting list and transfer applicants with cumulative or reasonable preference.

Group 3 - Waiting list and transfer applicants with no reasonable preference.

Within each group applicants will be ranked in date order.

4. Issues for consideration

- 4.1 The Homelessness Act 2002 imposed a duty upon Local Authorities to consider all 16 and 17 year olds to be in priority need. Consequently the full housing duty can only be fulfilled by seeking a permanent housing solution, therefore whilst we may insist on a rent guarantor the policy should enable all applicants over the age of 16 to apply.
- 4.2 Consideration has been given to the pro's and cons of moving to a new system with the minimum of transitional protection. Gradual implementation will hamper the ability to advertise the majority of vacant properties and defeat the objective of having a transparent system. Moving to More Choice in Lettings with immediate effect will result in winners and losers (a sample of case studies is shown in appendix 2). On balance it is proposed to limit transitional protection to outright medical priority cases ("A" medicals).
- 4.3 It is proposed that applicants are assessed on the basis of their housing need and their effective date for bidding purposes is indicated by the date the need arose, rather than the cumulative waiting time from their first application. This will ensure that the Council's housing stock is allocated subject to the changing demands of applicants (see appendix 3 for outcomes with both effective date and cumulative waiting times).
- 4.4 If agreed this policy will supersede all existing lettings and allocations policies and procedures with effect from 1 April 2005. This date will also see the implementation of the decision made in January 2004 by the Executive to remove the blanket practice of allocating all houses to tenants seeking a transfer.

5. Consultation

- 5.1 A letter has been sent to all secure tenants to explain MCIL proposals and invite comments, in accordance with Section 105 of the 1985 Housing Act. All waiting list applicants will be written to over the coming weeks. Staff briefings are under way and housing associations have received a presentation. Consultation with internal and external stakeholders, the private and voluntary sector are scheduled.

6. Conclusion

- 6.1 The introduction of More Choice in Lettings is an exciting opportunity for Barking and Dagenham to adopt an allocations policy that is simple, transparent, balances need and waiting time and offers genuine Choice to applicants.
- 6.2 A future report to Executive will provide recommendations following a review of all special schemes, other existing allocations procedures including a revised rent arrears policy following recent consultation with members.
- 6.3 The future report will also outline cost implications of introducing More Choice in Lettings

The following Background Papers were used in the preparation of this report:
Executive report January 2004.

**LONDON BOROUGH OF BARKING &
DAGENHAM**

ALLOCATIONS SCHEME

POLICY AND PROCEDURES

INTRODUCTION

This document outlines the policy and procedures for the London Borough of Barking and Dagenham Housing Allocations scheme called More Choice in Lettings (MCIL).

The Housing Allocations scheme introduced with effect from 01.04.2005 replaces a complex points system and fully complies with amendments to Part V1 of Housing Act 1996 made by the Homelessness Act 2002, which;

- Ensure the widest possible access to social housing for applicants by
 - removing the power for authorities to implement blanket exclusions of certain categories of applicant. In its place housing authorities are given the power to decide that individual applicants are unsuitable to be tenants as a result of serious unacceptable behaviour; and
 - breaking down existing barriers to cross-boundary applications. Housing authorities must consider all applications, and cannot exclude applicant who for example, are not currently resident in the borough. However, in determining relative priorities for an allocation, authorities are able to have regard to whether or not applicants have a local connection with the district;
- to rationalise the reasonable preference categories so they are squarely based on housing need;
- to ensure that existing social tenants seeking a transfer of accommodation can have their application considered on the same basis as new applicants;
- to ensure that any necessary assistance is available free of charge to those who are likely to have difficulty in making an application for housing.

It tells you how to apply for housing, how we decide on priority, what help you can be given and how offers are made. If you do not understand anything in this document please contact:

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More Choice in Lettings

Aims of the Policy

The policy aims to:

Offer applicants a more active role in choosing accommodation taking account of individual circumstances and waiting time.

Meet the wider objectives of this district's housing needs as set out in the Authority's Housing Strategy.

Maximise the use of and efficiently let all housing stock available to the Council.

Provide applicants with sufficient information to make informed choices about opportunities for rehousing and understand the criteria and process adopted by the Council.

Offer applicants open and fair access to housing, provide choice and recognise diverse needs.

Promote sustainable communities.

To reflect a balance between the housing needs of existing tenants and new tenants, whilst ensuring best use of our stock.

Realise better service quality and deliver a Best Value lettings system.

Who can apply?

Anyone over the age of 16. (This includes Council and RSL Tenants)

Applicants aged 16 and 17 years will require a rent guarantor before taking up any property.

Exceptions to who can apply

If you are subject to Immigration Control and your status specifically excludes you from public housing assistance, or if you are not habitually resident in the common travel area (England, Scotland, Wales, Ireland, Channel Islands and the Isle of Man) you will not be able to apply for a home under the scheme.

The Council can also exclude you from joining the Scheme if, your behaviour as a tenant or the behaviour of a member of your household is or has been in the past unacceptable (for example, if your landlord is evicting you or you were previously evicted from accommodation because of serious anti-social behaviour).

European Union accession: Eligibility for Housing allocation and Homelessness assistance).

Applicants from the enlarged European Economic Area will be subject to Accession Treaty legislation (Immigration & worker registration regulations 2004).

How to apply

All new applicants and existing tenants must complete a More Choice in Lettings application form. These are available at the following offices.

Heath Alibon and Eastbrook
Community Housing Partnership
2 Stour Road
Dagenham
Essex
RM10 7JF

CHP 2
Community Housing Partnership
127 Ripple Road
Barking
Essex
IG11 7PB

Wellgate
Community Housing Partnership
2 Stour Road
Dagenham
Essex
RM10 7JF

CHP 4
Community Housing Partnership
Valence Office
Becontree Avenue
Dagenham
Essex
RM10 3BU

Or a form can be sent to you if you telephone: 0208 227 2403/2798. Once you have completed the form you should return it or post it direct to the Application section. If you have difficulty completing forms and are unable to visit the office a home visit will be arranged.

How your application will be assessed

Reasonable Preference

The council will investigate your circumstances and assess your needs to decide whether or not you have **Reasonable Preference** for rehousing.

The law states that the Council must give Reasonable Preference to people who fall into any of the following categories.

If they are

- homeless as defined by homelessness law.
- Homeless persons owed certain duties by any Housing Authority
- Occupying insanitary or overcrowded housing or living in unsatisfactory housing conditions.
- If they have serious medical or welfare problems which are directly related to their current housing circumstances.
- If they need to move to a particular locality in the district to avoid hardship either to themselves or to others. For example an elderly or disabled person may need to move closer to a relative to enable them to give support.

Cumulative Reasonable Preference

The Reasonable Preference categories will not be treated in isolation from one another. An applicant that qualifies under more than one category will have this taken into account when assessing their housing need.

An applicant who falls within two Reasonable Preference categories may be given more priority than an applicant who falls within one.

Additional preference

Additional Preference may be awarded to certain applicants who fall within the Reasonable Preference categories and have an urgent housing need, these include:

- Applicants owed a homelessness duty as a result being;
- A victim of domestic violence
 - A victim of racial or sexual harassment
 - A witness of crime or victim of crime who would be at risk of intimidation amounting to violence or threats of violence if they remained in their current home
- Or
- Applicants who need to move because of urgent medical social grounds.

Additional Preference will be awarded in these (and possibly other) situations, if we are satisfied that your circumstances are such that it is **impossible for you to remain in your current accommodation**.

Transitional Protection

Transitional protection will be given to all category A medicals and Management transfers. All other waiting list and transfer applicants will be reviewed under More Choice in Lettings.

No Reasonable Preference

If you do not fall within the Reasonable Preference or Additional Preference categories listed above your application will receive low priority within the scheme.

How the Council will allocate property

The changes introduced by the Homelessness Act 2002 amendments are designed to enable housing authorities to offer applicants a choice of accommodation while continuing to give reasonable preference to those with the most housing need.

We have replaced a complex system of applicant prioritisation with an assessment procedure, which reconciles housing need and waiting time. We will assess whether or not an applicant falls into one or more reasonable preference categories and whether or not his/her circumstances are so severe that he/she should be awarded additional preference. Within these categories the length of time an applicant has been waiting will be the deciding factor in determining who is rehoused.

We will also be introducing a system whereby we advertise available properties inviting applicants to bid for them. Essentially this will enable applicants to choose where they want to live. However, not all properties that become available will be advertised because in certain limited circumstances we will continue to make direct offers.

Direct Offers

Additional Preference

Where an applicant has been awarded additional preference he/she can bid for properties, which become available. The Council will however in order to address the urgency of the situation endeavour to make one direct offer of suitable accommodation to him/her. If this offer is refused the applicant may continue to bid for properties, however their additional preference will be removed.

Allocation to Persons of a Particular Description

The law allows our allocations scheme to contain provision about the allocation of particular accommodation to persons of a particular description whether or not those persons have reasonable preference. The scheme should therefore be flexible enough to incorporate considerations other than statutory preference categories. These secondary criteria must not however dominate the scheme at the expense of the statutory preference categories. The persons to whom we will make direct offers are attached in group one of appendix A.

More choice in lettings

Under the scheme properties, which become available will be advertised on a fortnightly basis in a property magazine. The purpose of this is to invite applicants to bid for the properties.

How to bid

Applicants can bid for any property that is of the appropriate size in accordance with their assessed need. This can be done either by telephoning the bidding hotline or on the More choice in lettings website. Applicants can bid for any two properties, which become available within a fortnight. Bids must be submitted before the closing date, which is always 14 days from the date when the property was advertised. At the time the applicants submit their bids the system will identify their position in the queue for that particular property. Applicants can subsequently before the closing date access the system to establish whether their position has worsened and may therefore opt to withdraw their bid. Should an applicant withdraw their bid, they may submit a bid for another property within the same fortnight.

Effective Date

For existing applicants their registration date is the date when they first applied to the Housing Register or for new applicants when we receive their application. However, should an applicant's assessed housing need change necessitating the provision of accommodation with more or less bedrooms than originally needed; the effective date will be that when the new need arose.

How Properties will be allocated

Housing Applicants will be placed in one of four groups. This is described in more detail in Appendix A.

As a general principle the property will be allocated in the following way:

- We will utilise the system to identify whether any applicants who have bid for a particular property have been awarded additional preference. If so, these will be ranked in date order and the property will be offered to the applicant with additional preference who has been waiting the longest.
- If no bids have been received from applicant's who have been awarded additional preference the system will enable us to rank the applicants who fall within the Council's interest group.
- If no bids have been received from applicant's from within the Council interest group the system will enable us to rank the applicants who have bid by the number of reasonable preference categories they have been awarded. The property will then be offered to the applicant with the greatest number of reasonable preference categories who has been waiting the longest
- If no bids have been received from applicants who fall within any reasonable preference categories the property will be offered to an applicant with no reasonable preference who has been waiting the longest.
- If the applicant who has been offered the property refuses it, the property will be offered to the next person in line in accordance with the above formulation.

Other factors determining priority

Our allocations scheme attempts to reconcile waiting time and housing need. These are the overriding factors, which we are required to consider in determining priority. We can however take other factors into account to determine the priority of applicants. These include:

- Behaviour-an applicant's behaviour or that of a member of his/her household that affects his/her suitability to be a tenant. Unacceptable behaviour for example minor rent arrears may result in the applicant receiving less priority than would otherwise be the case.
- Local connection- Consideration will be given to whether or not the applicant has a local connection with this Borough. This means, the Council will take account of whether the applicant is normally resident or employed within this Borough or the applicant has family connections or special circumstances that require him/her to live locally. If the applicant does not have a local connection this may result in him/her receiving less priority than would otherwise be the case.
Attached at Appendix B is the Council's local connection criteria, further details for determining priority are attached at Appendix C.

Can we cancel a registration?

The applicant's registration can be cancelled in the following circumstances:

- If he/she is rehoused by a council or another social housing provider, such as a housing association. If the applicant wishes to apply for a move from his/her new address, then he/she will have to make a fresh application.
- If he/she becomes the owner of a property.
- If he/she does not reply to any reviews that the Council may, from time to time, conduct. For example, if he/she has made no bids in the last 6 months, we may write to the applicant and ask if he/she still wishes to stay on the scheme. If he/she does not reply to this letter within 28 days, we will cancel his/her registration. If he/she subsequently re-applies, his/her registration date will start again and will not be backdated to the earlier date. If he/she had a previous application that had been cancelled for this, or any other, reason we will not generally reinstate his/her on the scheme with his/her old registration date unless it can be proved that an official error has occurred or the applicant was unable to respond due to exceptional circumstances.

What size of property will we allocate?

Large homes are in short supply. We therefore have to make sure homes are fully occupied but not overcrowded. To ensure consistency we use the following guidelines to determine the size of accommodation, which will be offered to different sizes of household. The table below shows the size of home that you can normally apply for:

SINGLE APPLICANT	BEDSIT
SINGLE APPLICANT/COUPLE WITHOUT CHILDREN	1 BEDROOM
PREGNANT WOMEN CHILDLESS COUPLES RELEASING LARGER HOUSE PARENT/S WITH 1 CHILD PARENT/S WITH 2 CHILDREN (SAME SEX) PARENT/S WITH 2 CHILDREN OF DIFFERENT SEX WHERE BOTH ARE UNDER 10 YEARS OF AGE TWO ADULTS (NOT CO-HABITING COUPLE)	2 BEDROOMS
PARENT/S WITH 2 CHILDREN OF DIFFERENT SEX WHERE ONE HAS REACHED THE AGE OF 10 PARENT/S WITH 3 CHILDREN PARENT/S WITH 2 SAME SEX CHILDREN WHERE THE AGE GAP BETWEEN THEM IS 10 YEARS OR MORE PARENT/S AND 4 CHILDREN (DUE TO THE SCARCITY OF 4 BEDROOM PROPERTY PEOPLE WITH 5 CHILDREN WILL ALSO RECEIVE CONSIDERATION)	3 BEDROOMS
PARENT/S AND 5-7 CHILDREN PARENT/S WITH 3 CHILDREN OF DIFFERENT SEXES WHERE THE AGE GAP BETWEEN THEM IS 10 YEARS OR MORE	4 BEDROOMS

* Subject to property availability single persons and couples with access rights to children may be considered for additional bedrooms in flats above the fifth floor.

In certain circumstances there may be health or social grounds to support the need for households to have additional bedrooms to the situations described above

Refusals of Accommodation

In general applicants will not be penalised for refusing any offers of accommodation made to them through the scheme. However if a homelessness applicant refuses an offer of suitable accommodation made in accordance with the principles of the allocation scheme (excluding direct offers) action will be taken to cancel the applicant's homelessness application, evict him/her from temporary accommodation and he/she will have to find their own accommodation.

Notification and Reviews

Notification

If the local authority decides that an applicant is ineligible due to his/her immigration status or unacceptable behaviour the applicant must be notified in writing and be given clear grounds for the decision.

If the local authority decides not to give the applicant any preference under the scheme because of unacceptable behaviour serious enough to make him/her unsuitable to be tenant of the authority the applicant must be notified in writing and be given clear grounds for the decision.

Applicants must be notified that they have the right on request to be informed of any decision about the facts of their case which have been or are likely to be taken into account in considering whether to make an allocation to him/her.

Reviews

The local authority must inform an applicant that he/she has the right to request a review in certain circumstances. These are:

- An applicant has the right to request a review of a decision that he/she is ineligible due to his/her immigration status or unacceptable behaviour and the right to be informed of the decision on review and the grounds for that decision.
- Applicants have a right to request a review of a decision not to give the applicant any preference under the scheme because of unacceptable behaviour is serious enough to make him/her unsuitable to be a tenant of the authority.
- Applicants have the right to request a review of a decision about the facts of the applicant's case, which have been or are likely to be taken into account in considering whether to make an allocation to him/her.

The local authority when informing the applicant of his/her right to a review must also inform the applicant that he/she has the right to be informed of the decision of a review and the ground for it.

Transparency

Housing Authorities operating an open advertising scheme, whereby applicants can apply for particular properties are expected to provide information about the properties, which have been let. For example, what level of priority the successful applicants had or the date on which they applied to go on the authorities' waiting list.

Such feedback is crucial as it enables applicants to assess their chances of success in subsequent bids. It can also assist applicants in refining their preferences.

Confidentiality

The fact that a person is an applicant for an allocation or housing accommodation shall not be divulged (without consent) to any other member of the public.

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The Groups

Group 1 Council Interest

- Council decants / Land disposal/ Private decants
- Additional Preference
- Under occupation
- Tied accommodation (Council)
- Remaining in occupation (non assignment / succession) this group also needs policy update
- Care leavers/ MH/ Physical disability/ learning disabled / probation. Foster carers
- Specials (delegated authority)

Group 2

Non LBBB Tenants with one or more Reasonable Preference

Group 3

LBBB Transfer Cases with one or more Reasonable Preference

Group 4

Non LBBB tenants and LBBB transfer cases that have no Reasonable Preference

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Local Connection

The Council has agreed a local connection criteria, if an applicant does not meet this criteria this will result in him/her receiving less priority than would otherwise be the case. The following categories of local connection have been adopted:

- Having lived 3 out of the last 6 years in Barking and Dagenham.
- Having lived 6 months out of the last 12 in Barking and Dagenham.
- Working in Barking and Dagenham.
- Having been placed in temporary accommodation outside the borough by the council or health care trust and with the council or trust providing continuing support services, or having accepted a duty under homelessness legislation.
- Having been referred to a women's refuge outside the borough by the council or other Barking and Dagenham organisation, and having lived in Barking and Dagenham immediately prior to occupying the temporary accommodation.
- Being a member of Her Majesty's Forces who either enlisted from an address in Barking and Dagenham in which she or he resided for a minimum of 3 out of the previous 6 years, or will have permanent employment in Barking and Dagenham on discharge.

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Former property ownership and profits

Any applicant with more than £25,000 of assets will not be awarded any priority within the allocation scheme.

The existing policy in respect of specific medical or disability needs will continue to apply.

Applications from elderly owner occupiers

Elderly owner occupiers that apply to register on the Housing Register will be jointly assessed by the Housing and Health Department and the Director of Social Services to establish if the applicant meets the following criteria.

- That all options have been fully explored and have found to be unsuitable for the owner occupier;
- That the applicant or spouse is of pensionable age
- That the applicant has a disability or life threatening condition which is aggravated by their current living arrangements. The case would need to be assessed by the Authority's Medical Adviser and awarded an 'A' medical recommendation.

If the applicant meets the above criteria and it has been established that only re-housing into Council accommodation will solve that applicant's particular problem then the case will be referred to the Head of Housing, Strategic Development, for consideration.

Under-Occupation Transfers

These are transfers for council tenants who are occupying accommodation larger than their needs and are willing to move to smaller accommodation.

The following financial incentives are offered:-

- Giving up 3 bedrooms, e.g. moving from a 4 bed to a 1 bed : £5,000
- Giving up 2 bedrooms : £3,500
- Giving up 1 bedroom : £1,000

This policy only applies to tenants giving up 2/3/ or 4 bed houses, ground floor 2 or 3 bed flats with gardens and ground floor 2 or 3 bed maisonettes with gardens.

Council interest under-occupation transfers vacating 4-bedroom or larger accommodation have priority over other council interest under-occupation cases.

Applications by Squatters / Unauthorised Occupants

A squatter is defined as a person who enters and occupies premises whilst they are empty; an unauthorised occupant as someone who was living with the tenant and remained in occupation following the vacation or death of the tenant.

The following policies will apply to squatters and unauthorised occupants:-

- 1 Unauthorised occupants by reason of vacation by the tenant – where the tenant leaves due to relationship breakdown, consideration is given to transferring the tenancy to the spouse or partner. Where no such transfer is agreed legal proceedings can be instituted for either a transfer of the tenancy or an offer of alternative accommodation.
- 2 Unauthorised occupant by reason of death of the tenant – Officers have delegated authority to deal with applications where the applicant is legally entitled to succeed to the tenancy, or in certain other cases. Where no right to succession exists Officers will institute proceedings for possession which. Members will be requested to approve prior to any eviction taking place. However, should there be extenuating circumstances such cases will be reported to the Head of Housing, Strategic Development, for determination.
- 3 Squatters – Officers have delegated authority to deal with such cases including the use of the Criminal Law Act where appropriate.
- 4 Additionally, any cases having delegated circumstances will be referred to the Head of Housing, Strategic Development, for consideration.
- 5 Access to the Housing Register and offers of accommodation:-
 - 5 (i) For the purposes of access to the waiting list, any mesne profits and / or damages will be treated as rent arrears.
 - 5 (ii) Should such an applicant successfully bid for a vacant property, the Council will determine if the priority should be reduced on the basis of the applicant being unsuitable as a tenant.

Points Converted to Reasonable Preference and Waiting Time

Case	App Date	Points	Reasonable Preference (RP)	Property Requested	Comment
3 Bed Transfer	28.1.03	47	2	3 Bed House	Under the current points system this case would have a low priority. However, under the new system it would have a higher priority rating as it would have 2 reasonable preferences despite having a relatively early application date.
2 Bed Transfer	16.9.04	57	2	2 Bed House/Flat	Under the current points system this case would have good priority. Under the new system the case would have a high rating as it would have 2 reasonable preferences, records show that there are 9 other applicants with a longer application date and 2 reasonable preferences.
2 Bed Housing Register	30.4.04	64	2	2 Bed maisonette/ flat	Under the current points system this case would have a low to middling priority. Under the new system the case would have a higher rating as it would have 2 reasonable preferences
1 Bed Housing Register	8.8.00	108	2	1 Bed flat	Under the current points system this case would have a high priority. Under the new system the case would also have a high priority due to the two reasonable preferences and the early application date.

This table shows a sample of waiting list applicants in bed size converted from points to reasonable preference criteria

No of Beds	No of RP'S	Application Date	No of Points
4	2	19/07/01	96
	1	26/04/01	71
	1	01/05/01	81
	1	26/06/03	50
	1	11/04/04	45
	1	26/04/04	50
	1	26/05/04	44
	1	07/06/04	74
	1	30/06/04	55
	1	19/08/04	58
3	2	17/01/01	89
	2	13/06/02	148
	2	22/07/03	76
	2	23/01/04	72
	2	10/02/04	59
	2	13/09/04	50
	1	07/03/97	100
	1	11/04/97	110
	1	22/10/97	115
	1	05/11/97	86
	1	30/01/98	108
	1	16/06/98	73
	1	12/01/99	75
	1	01/06/00	86
	1	11/08/00	96
	1	20/11/00	96
	1	05/12/00	79
	1	24/01/01	78
	1	22/03/01	67
	1	04/04/01	65
	1	28/06/01	117
	1	01/08/01	126
	1	19/09/01	91
	1	23/10/01	102
	1	25/10/01	105
	1	23/11/01	119
	1	04/12/01	51
	1	05/12/01	108
	1	22/04/02	61
	1	24/04/02	63
	1	10/05/02	84
	1	09/07/02	69
	1	09/07/02	78
	1	02/08/02	101
	1	15/08/02	31
	1	23/10/02	95
	1	08/11/02	95

Effect of Application Date Change on Priority

Case	App Date	Points	RP	Property Requested	Comment
2 Bed Transfer	19.5.00	129	2	2 Bed House	If the applicant's family size changed to a 3 bed this would result in the effective date superseding the original application date, The new effective date would mean that they would join the bottom of the queue in the 3 bed category. However the applicants have 2 RP's and therefore have priority over other applicants with 1 RP.
2 Bed Housing Register	24.9.03	99	1	2 Bed Maisonette/ Flat	This application moved from the 1 bed list to the 2 bed list. Again the new effective date means that this will supersede the original application date. The effective date is the date that the new 'need' arose, i.e. an extra bedroom. The waiting time for a property in this new category will begin from the effective date.
1 Bed Housing Register	8.8.00	108	2	1 Bed Flat/ Bedsit	This application was awarded medical points which gave an additional reasonable preference. Although the medical points would result in the effective date superseding the application date, the application would gain more priority based on the increase from 1 reasonable preference to 2.
3 Bed Transfer	24.2.03	71	2	3 Bed House	At original application stage this application received 1 reasonable preference. Following this the application was awarded medical points. Although the award of medical points would result in the effective date superseding the application date, the application would gain more priority based on the increase from 1 reasonable preference to 2.

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THE EXECUTIVE**9 NOVEMBER 2004****REPORT OF THE DIRECTOR OF HOUSING AND HEALTH**

This report is submitted under Agenda Item 5. The Chair will be asked to decide if it can be considered at the meeting under the provisions of Section 100B(4)(b) of the Local Government Act 1972 as a matter of urgency, so as to avoid delay in receiving approval.

NEW CONDITIONS OF TENANCY	FOR DECISION
<p><i>This report concerns a Policy issue, which is the remit of the Executive. The Conditions of Tenancy form the basis of the agreement between the Council and its tenants and the Executive is required to make a recommendation to the Assembly on whether or not this document sets appropriate standards of behaviour and contractual obligation with Council Tenants living in the Borough.</i></p> <p><u>Summary</u></p> <p>The purpose of this report is to present the final draft of the proposed new Conditions of Tenancy. Included in this report are the details of the consultation process with all tenants in the Borough as well as details of a new section to the document following consultation. The report seeks Executive approval for the changes to the document, printing and distribution to all tenants, with final Notice of Variation.</p> <p><u>Wards Affected</u> – All Wards</p> <p><u>Recommendations</u></p> <p>The Executive is asked to:</p> <ol style="list-style-type: none"> 1. Agree to the recommend the revised wording and content of the re-drafted new Conditions of Tenancy set out in Appendix A of this report for approval by the Assembly. 2. Note the updated illustrations included following the consultation process; 3. Note new tenancy sign up packs have been introduced and work is now underway on updating and including appropriate leaflets on service areas; and 4. Approve the printing and distribution of the new Conditions of Tenancy to every tenant in the Borough <p><u>Reason</u></p> <p>The proposed new Conditions of Tenancy will bring all tenants up to date in regard to the legal conditions of their existing and future tenancies with the Council. This document clearly outlines the Tenant's and the Council's responsibilities in relation to the tenancies managed</p>	

by Landlord Services and strengthen significantly the Council's position on Anti Social Behaviour.

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1. Introduction

- 1.1 Following approval to update the Council's existing Conditions of Tenancy, a draft document with illustrations was prepared after extensive consultation with tenants through a CHP focus group, members and officers. This included the Borough Solicitor and a wide-ranging survey of other authorities and landlords.
- 1.2 Copies of the new Conditions of Tenancy were hand delivered to every tenant in the Borough with a Notice of Variation under section 103 (2) of the Housing Act 1985 (as amended). A return slip was included to allow tenants to comment on the document.
- 1.3 Responses from tenants have, and continue to be received. To date we have received 128 – 60 were signed and returned without comment; 64 were in agreement with comments; 2 needed translation and this is currently being undertaken; 1 was very negative and 1 was returned unsigned. Feed back overall has been very positive and there has been overwhelming support in favour of the proposed changes.
- 1.4 The section on Anti Social Behaviour was particularly well received, and tenants were please to see that LBBD was taking this matter seriously. However there were a number of concerns in regard to leasehold and freehold enforcement being as pro-active as tenancy enforcement. Enforcement on vehicle and parking issues was also of some concern, and the feeling was that these should be more forcefully applied. Praise was received in relation to the new Cleaning/Caretaker service and the Repairs Service, although a number of issues were raised due to failed appointments, delays in repairs and contractors clearing up before leaving site. 5 responses from older tenants raised concerns in regard to the maintenance of individual gardens in particular large trees, being their responsibility.
- 1.5 Where issues or problems were raised by tenants concerning their existing tenancy, these have been passed to the relevant housing office for investigation and response.

2. Background

- 2.1 During discussion at the Bye Laws and Anti Social Behaviour Working Party it was identified that the Councils' existing Conditions of Tenancy required updating and that they did not particularly provide a strong line on Anti Social behaviour and members of the working party were keen to see them overhauled and updated.
- 2.2 Officers were asked to look at a wide range of possibilities for change including the use of security initiatives such as using photo Id at either sign up for the home or at application stage.
- 2.3 The Executive agreed to set aside £83,000 to finance the introduction of a new set of Conditions of Tenancy. Officers were then asked to produce a new document in consultation with a focus group especially drawn together from the CHP's and consulting widely with other housing service providers.
- 2.4 **Compensation**
- 2.5 Members attention is drawn specifically to Section 18 of the redrafted document, that has been included as an outcome of the consultation process. This section informs the tenant of compensation that they may be entitled to claim and clearly sets out the type of compensation that will be considered i.e. loss of amenity. The Council now has a legal responsibility to highlight these details.

3. Next Stages

- 3.1 Once members have approved the final draft and the photographs and house style have been applied, the final version will be issued to all tenants along with appropriate notice, who are then given the opportunity to accept the new Conditions or, if they wish, to terminate their tenancy with the Council although this option is highly unlikely.

4. Costings

- 4.1 Officers are also preparing a new video/DVD to be shown to all new tenants and supported by a tenant's pack of information which is being piloted at the moment. The costs for these initiatives are being funded from the HRA as agreed last December at the meeting on 2nd December 2003.

5. Consultation

- 5.1 The Executive member for Housing, Councillor Liam Smith, has been consulted in the preparation of this report. Extensive Member consultation regarding the core document took place last year via the Bye Laws working party.

Background Papers

Executive Report 'New Conditions of Tenancy', 2nd of December 2003 (Minute 213).
Conditions of Tenancy Document – Final Draft

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Conditions of Tenancy changes

Definitions - Page 5 Fixtures and Fittings

Should include kitchen units as these are often the items that are removed

Page 6 – Estate Officer

A member of staff employed by the Council **for the purpose of tenancy management**

Page 6 – Sub-Let

Giving another person the right to live in part of the property, **with our permission only (see 4.10)**

Our responsibilities – Page 10 –

3.1 Consultation with you

The Council will consult all of its tenants about the management and maintenance of its property. We do this through Community Housing Partnerships, Tenants' and Residents' Associations and the Tenant and Resident Federation. All tenants are encouraged to join recognised associations/organisations. Your local housing officer **or our Participation Team** will give you information about existing organisations or advice on setting up an association if there are none in your area.

Page 10 – Notes – These should follow each numbered item and not be included at end of section, this allows for ease of reference and reading.

Page 10 – 3.3a

In certain circumstances, if we do not carry out repairs within a reasonable time, you can ask for another contractor to do the work. This is called the Right to Repair. If the second contractor does not carry out the repairs on time, you may be able to claim compensation. **You must give us notice of your intentions and the repair should be of an urgent nature and up to the value of £250.00 only.** You should contact a housing officer, the Housing Advice Centre, a Solicitor, a Law Centre or the Citizens Advice Bureau for more information.

You Rights – Page 12

Tenancy Succession

4.4 In certain circumstances you may also have the right to assign your tenancy.

This means you might be allowed to transfer your tenancy rights to a qualifying member of your household, subject always to the Council's approval. **Notice of assignment must be agreed by us prior to leaving the property.** Please contact your Community Housing Management Team for more information.

Page 13 – Improvements

4 If you move and you have substantially improved your home, **(with our permission)** you may be entitled to some compensation. **However you may also be required to reinstate the standard fixtures or fittings that were in place at the Commencement of your tenancy.** Please speak to your Community Housing Management team for more information.

4.13 Certain small urgent repairs which might affect your health, safety or security are covered by the Right to Repair Scheme. If they are not done within the specific time, you have the right to ask the Council to get another contractor to carry out the repair(s). If the second contractor fails to do the repair work in time, you can ask the Council to pay compensation. **You must give us notice of your intentions and the repair should be of an urgent nature and up to the value of £250.00 only.** You should contact a housing officer, the Housing Advice Centre, a Solicitor, a Law Centre or the Citizens Advice Bureau for more information.

4.18 We advise applicants that the data held by the authority in respect of your housing application will be used for cross system and cross authority comparison purposes for the prevention and detection of fraud.

Item 4.18 renumbered to 4.19 and item 4.19 renumbered to 4.20

Rent – Page 15 – Rent Payment

5.2 You must pay your rent every two Weeks, **1 week in arrears and 1 week in advance,** or at any other interval to which we agree. You can pay monthly by arrangement through your bank.

Page 15 – Rent arrears

5.8 If you have rent arrears, this may affect your eligibility to apply for a transfer to alternative accommodation or to receive an offer of alternative accommodation if you have already registered for a transfer.

5.8d If you breach a possession order for rent arrears you will be considered a tolerated trespasser which may cause problems or delays with your Right To Buy application.

Changes to your rent

5.11 We may change your rent at any time. We will tell you of any change in rent at least **28 days** before the change, but we reserve the right to change your rent even if you do not receive this notice.

Remove 5.11a

Page 16 – notes

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Page 16 – Notes

5.5a Some tenants pay for extra services with their rent, for example, for a Concierge or landlord controlled heating. We will tell you if this applies to you. **These charges are not covered by Housing Benefit payments and therefore you are responsible for payment.**

5.8a If you have rent arrears and would like to move home, Council Staff will discuss with you how you can best pay off your rent arrears, **in order to prevent delays or refusal in your application**

Anti-Social Behaviour – Page 18

In title part of section

Barking & Dagenham Council takes anti-social behaviour, crime and the fear of crime very seriously indeed. In order to protect the majority of peaceful residents in our homes this section sets out clear guide lines on what we consider to be unreasonable and anti social behaviour.

Housing Act 1996 – S.153 A(1) provides that ASB is conduct which is capable of causing nuisance or annoyance (even if no complaint has been received) and which directly or indirectly relates to or affects the landlord’s management of its housing stock.

S.1(10) of the Crime & Disorder Act 1998 defines Acts of anti-social behaviour as acting in an anti-Social manner as a manner that caused or was likely to cause harassment, alarm or distress to one or More persons not of the same household as the Perpetrator.

6.1 Do anything which causes or is Likely to cause a nuisance to anyone in the local area. This includes, **but is not confined to**, allowing animals to cause a nuisance; repairing or abandoning vehicles; fly tipping or groups congregating on the estate causing nuisance.

Page 19 – Data Protection

6.15a - We advise applicants that the data held by the authority in respect of your housing application will be used for cross system and cross authority comparison purposes for the prevention and detection of fraud.

6.17 The following is anti-social Behaviour when it causes a nuisance:

7th bullet point - Excessive barking of dogs or dogs fouling, **or allowed to roam estate**

Page 20 – 6.17

Second bullet point - Parking cars in a way that blocks pedestrian or Vehicle access or causes damages to green **space** and/or other areas or the estate

Page 20 – Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Repairs - Page 23

7.10 You are responsible for properly and adequately plumbing in washing machines, other appliances and connecting gas appliances (**using a CORGI registered engineer**), and for any extra replacement pipe work that may be required.

7.16 Any work you have done at your property must be carried out by a competent and suitable experienced person. If we find work has been carried out in a way that has, or could, cause damage to the property or danger to someone, we will insist that you have the problem remedied. If the problem is not **addressed**, we may **deal with it** and charge you a reasonable cost for doing so.

Should move 7.22 to this part of section and Insert wording from 7.32

7.22 We advise you to insure the contents of your home. The council do not insure your contents and if you suffer loss because of, for example, a burglary or flood damage, you will need to make a claim from your own insurance policy. If you cause damage to other people's property by your washing machine flooding the flat below, for example you may be required to pay compensation and you will need adequate insurance cover for this type of risk as well.

Repairs – Our responsibilities - Page 24

This section should start with 7.23 and be renumbered accordingly through to 7.32. The following items show current item numbers with suggested numbers in brackets

7.22 (7.23)

7.23 (7.24)

- 7.24 (7.25)
- 7.25 (7.26)
- 7.26 (7.27)
- 7.27 (7.28)
- 7.28 (7.29)
- 7.29 (7.30)
- 7.30 (7.31)
- 7.31 (7.32)

7.32 This whole item should be at end of your Repair responsibilities and numbered 7.22

Page 26 – Temporary alternative accommodation Major works

7.45 Remove second from last word in paragraph ‘if’

Page 26 – Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Page 27 – Notes

7.6a To stop moisture building up we suggest you follow these reasonable steps:

Bullet point 6 – Prevent damage to woodwork and plasterwork by regularly wiping down and drying any surface and window where moisture settles. If mould growth develops you must clean it off using a suitable solution **i.e. 1 part household bleach to 5 parts water**

7.10a Gas appliances must be installed by a qualified **CORGI registered** person. Ask at your local housing office for advice

Page 28 – Notes

7.36 The Right to Repair Regulations provides that, in certain circumstances, if we do not carry out repairs in a reasonable time, you can ask for another contractor to do the work. If the second contractor does not carry out the repairs on time, you may be able to claim compensation. **You must give us notice of your intentions and the repair should be of an urgent nature and up to the value of £250.00 only.** You should contact your Local Housing Office or Citizens Advice Bureau for more information.

Cleanliness in the Home – Page 31

8.5 Contact your housing office or call centre immediately if the drains of the property become blocked; and

8.8 dump rubbish or fly tip on any estate road, green space or communal area

Page 31 – Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

8.6a If we move items from communal areas such as landings, stairways or balconies, green space or estate roads, we will not be responsible for any loss you may suffer

Health & Safety – Page 33

Be safe – Last 2 words on first paragraph need to be in bold ‘**must not**’

9.8 throw anything through the windows of the property or from balconies or landings

9.9a Please contact the Cleansing Team in the Department of Regeneration and Environment, for further advice on the safe Disposal of syringes and medical waste.

9.15 park vehicles in areas set aside for emergency vehicles, or in front of bin chambers;

Page 34 – Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Animals – Page 36

10.5 allow your pets to cause a nuisance, for example, fouling communal areas and making excessive noise such as barking, or roaming the estate or communal areas

Page 37 – Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Gardens – Page 39

Page 39 – Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Vehicles – Page 41

12.6 park any vehicle, motor home, trailer, caravan or boat which is illegal, is not roadworthy, or is in disrepair on any land belonging to us. If you do, we may remove the vehicle. You will be charged a reasonable cost for its removal; **we may also take legal action against your tenancy.**

12.1a Written permission must be obtained from the Housing & Health Department and Highways in the **Department of Regeneration And Environment** etc

Page 42 – Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Using the property – Page 44

Page 44 – Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Page 45 – notes

13.3a The Council frequently finds that keys to dwellings have been sold on and that accommodation has changed hands and is no longer occupied by the **legal** tenant. The Council constantly run a tenancy audit that proposes to check **remove following at least 10%** all of the Council's homes etc

Furniture – Page 47

Notes –

The following paragraph should be moved to the title part of the section and follow on from – This section applies to tenants living in furnished accommodation

When you sign this tenancy agreement you will be given a list of furniture provided.

Page 47 – Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Ending your tenancy – Page 49

The following paragraph should be moved to the title section and follow on from – this section advises you what you must do when your tenancy comes to an end.

15.12 To avoid us repossessing your property you must – tell a local housing officer at your local housing office if you will be away from your home for more than four weeks.

Ending a joint tenancy – Page 49

15.12 We may take steps to evict anyone else who you have left at the property. We may charge you a reasonable cost for doing this.

15.12a We may charge you the reasonable cost of all repairs for which you are responsible and repairs that are needed because you abandoned the property.

15.13 If you are a joint tenant the whole tenancy will end if you or another joint tenant ends the tenancy. We will then decide whether to create a new tenancy for the tenant who is left, etc

15.13a If a new tenancy or continuation of the tenancy is granted and there are rent arrears on the joint account, Council Staff will discuss with you how you can best pay off the arrears.

15.13a If you have rent arrears and would like to move home, Council Staff will discuss with you how you can best pay off your rent arrears, **in order to prevent delays or refusal in your application**

Page 50 Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

15.a If a sole tenant dies, four weeks notice is not required. We may allow an extra week to enable the property to be cleared. Any outstanding debts should be paid from a deceased tenants estate. In these circumstances, further advice is available from your Community Housing Management team. **In cases Where there is no next of kin we will serve a notice on the families division to determine the tenancy.**

15.4a We will take reasonable steps to contact you regarding items left at the property. If we are not able to contact you the property will be stored for a short period, in line with the Councils policy. You should contact a housing officer for further information..

15.8a If you move and have substantially improved your home, (with our permission) you may be entitled to some compensation. However you may also be required to reinstate the standard fixtures or fittings that were in place at the Commencement of your tenancy. Please speak to your Community Housing Management team for more information.

Written Permission and improvements - Page 52

16.3 put a greenhouse, shed or outbuilding (over 2 metres square) in a private garden;

16.10 build a parking space or drive, or dropped kerb

Written Permission and improvements - Page 52

Page 52 Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

Written Notices – Page 54

Page 54 Notes -

All these notes should be moved to relate directly to the numbered item to allow for ease of reading and reference

There will be a new section on Compensation

Compensation – New Page

In certain circumstances you may be entitled to claim compensation. This section sets out the type of compensation you may be able to claim.

In the event the compensation for a loss of services is to the value of £25.00 or less the Council will make an appropriate credit to your rent account unless you specifically request the payment in another form.

Loss of Amenity

18.1 Where you pay a heating/hot water element in your rent account and there is a loss of this amenity, the Council will compensate you for any period over 48

hours that you are without heating/hot water. During such periods vulnerable tenants may request the temporary use of a heater.

- 18.2 Where major works are required to your home that result in the loss of a room during the works. The Council will compensate you for the period you are unable to use the room. Please speak to your Community Housing Management Team for more information

Repairs

- 18.3 Where an appointment is made in regard to a repair to your home and the Contractor breaks that appointment without providing 24 hours notice, then A compensation payment of £10.00 can be claimed.
- 18.4 In certain circumstances, if we do not carry out repairs within a reasonable time, you can ask for another contractor to do the work. This is called the Right to Repair. If the second contractor does not carry out the repairs on time, you may be able to claim compensation. You must give us notice of your intentions and the repair should be of an urgent nature and up to the value of £250.00 only. You should contact a housing officer, the Housing Advice Centre, a Solicitor, a Law Centre or the Citizens Advice Bureau for more information.

Removal & Disturbance Payments

- 18.5 The Council has a statutory duty to pay home loss, reasonable connection Charges and removal expenses (disturbance payments) to tenants who have been served with a possession order because:- (a) we wish to decant properties in order to renovate or dispose of the block or (b) we need to carry out major repairs to the property which cannot be done with the tenant in residence.

Where we do not have to get a court order to get possession of a decant property we may still make discretionary payments equivalent to home loss and removal expenses.

- 18.6 S.29 Land Compensation Act 1973 states that a tenant has the right to receive Home loss payment where they are permanently displaced from their home by a court order on grounds 10 or 10a. This may happen when the Council need to demolish, dispose or carry out major works to the property. Please contact your Community Housing Management Team for more information.

Tenancy agreement and income details forms contained in the back of the draft document will not be included in the final version

Your tenancy agreement – Page 55

Is there a policy of photographs taken for tenancy agreement? If so should show this on form.

Page 57

No next of kin details showing on form, should This be included?

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