

CABINET

15 September 2015

Title: Housing Allocations Policy	
Report of the Cabinet Member of Housing	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
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Accountable Director: Steven Tucker, Interim Director of Housing	
Summary: <p>By Minute 7 of its meeting on 4 August 2014, the Cabinet agreed a new Housing Allocations Policy to be introduced for all new applications with effect from 3 November 2014.</p> <p>Following a comprehensive training programme the policy was successfully implemented and applied to all new applications for social housing received on or after 3 November 2014.</p> <p>As a consequence the Council is now operating two very different allocations policies dependent upon the date of application. This approach lacks an element of transparency, has proved confusing for applicants and difficult for staff to administer and justify.</p> <p>At the request of the Cabinet Member for Housing, consultation was carried out over a 12 week period with a view to operating a single Allocations Policy. In order to operate a single Allocations Policy, it will be necessary to carry out a full review of all 13,500 housing register applicants registered before 3 November 2014. The outcome will be a significantly reduced housing register which will reflect demand from those with a connection to the borough and a recognised housing need whilst retrospectively rewarding those in this group that are working. This aspect should be widely publicised in accordance with the Council's vision.</p> <p>The Cabinet had also previously agreed that the Allocations Policy should be reviewed annually in view of the ever-changing housing market. Stemming from feedback from frontline staff in light of operational experience and following consultation, this report also proposes two policy changes:</p> <ul style="list-style-type: none">• To exclude owner occupiers from joining the housing register unless there are exceptional circumstances; and• To exercise the right to suspend applicants from bidding when they have refused three reasonable offers of accommodation.	

Recommendation(s)

The Cabinet is recommended to agree:

- (i) That the current Housing Allocation Policy be retrospectively applied to all applications;
- (ii) That the Housing Allocations Policy be amended as follows:
 - (a) That owner occupiers be excluded from joining the housing register unless there are exceptional circumstances; and
 - (b) To exercise the right to suspend applicants from bidding when they have refused three reasonable properties.

Reason(s)

To assist the Council to ensure that best use is made of Council stock and to ensure that properties are allocated to those with a connection with the Borough, and a recognised housing need. This should help the Council to 'enable social responsibility'.

1. Introduction and Background

1.1 Prior to April 2014 the Council's Housing Allocations Policy was framed by the Housing Act 1996 (as amended) and meant that the housing register was open to all with the exception of:

- Those subject to immigration control; and
- Those who had exhibited serious anti social behaviour.

1.2 The Localism Act 2011 allowed Local Authorities to determine who they would allow to join their Housing Register whilst taking account of statutory provisions. As a consequence and following discussions with Members and stakeholders, a new Allocations Policy was agreed by the Cabinet on 8 April 2014 (Minute 106) which had the following key features:

- Introducing a residential qualification of 10 years;
- Introducing exclusions to joining the waiting list;
- Priority for working households with a housing need;
- Flexible tenancies;
- Discharging the Council's homeless duty into the private sector.

1.3 The above changes were to apply to all new applications received from 1 September 2014.

1.4 This has meant that although all applications are on a single register, there have been different methods for assessing and ranking those applications received prior to 1 September compared to those applications received after 1 September 2014.

1.5 Following a reassessment of the rationale regarding the length of residential qualification and criteria for the allocation of Council homes let above social rent

levels the Cabinet, at its meeting on 4 August 2014 (Minute 7), agreed the following changes to the Allocations Policy to be effective from 3 November 2014:

- a) The residential qualification needed to join the Council's Housing Register be set at 3 years instead of 10 years (this decision also revoked the implementation of the 10 year requirement that was due to take effect from 1 September 2014); and
- b) Council tenancies with rents above social rent levels should be exclusively for working households and not restricted to borough residents (as agreed by Cabinet on 19 December 2013) if there was insufficient demand from working households within the borough.

2. Issues and Proposals

2.1 At the time that the changes agreed in April 2014 were first being discussed, there was a debate on the pros and cons of whether to retrospectively apply the new criteria to all applications on the Housing Register. Although there was always a clear desire for the policy to recognise applicants who were in employment it was felt, at that time, that other aspects of the changes should not be applied retrospectively. However, it was not possible to selectively apply certain aspects of a new policy to existing applicants - the policy either had to apply to all or be effective from a given date for new applications. Therefore, the view at that time was that the changes would only apply to new applications.

2.2 At the time of writing this report, the total number of applications on the Housing Register is approximately 14,500 of which approx. 13,500 were on the register prior to 3 November 2014. There have been 1,425 new applications but only approx. 1,000 have met the revised criteria and been eligible to be included on the register.

2.3 Of the 13,500 registered prior to 3 November 2014, 1,541 have no recognised connection with the borough and a further 5,640 have no housing need. As a result over 7,000 open applications have no prospect of re-housing but are still included on the register. These applications still have to be caseworked and administered despite the fact there is no prospect of re-housing.

2.4 Operating a Single Allocations Policy

2.4.1 Operational experience since 3 November 2014 has proven that the approach of effectively operating two policies lacks an element of transparency, is confusing for applicants and difficult for staff to administer and justify. The following example demonstrates the case for administering a single policy:

- If an application was received on or after 3 November 2014 and the household were overcrowded and the applicant or their partner were working, they would receive a reasonable preference (priority) for being overcrowded and a reasonable preference (priority) for working.
- If the application had been received before 3 November 2014 the application would have been awarded the reasonable preference (priority) for being overcrowded but would not have been awarded the reasonable preference for working.

- 2.4.2 Therefore two applicants with the same circumstances have different levels of priority and this has led to operational difficulties. It has also led to some applicants asking to close their existing housing register application so that they can make a new application and benefit from the award of the working reasonable preference (priority). Whilst this would increase their level of priority, they would be adversely affected as they would lose their previous waiting time by making a new application.
- 2.4.3 It is therefore considered prudent to adopt and operate a single policy that demonstrates equality across the entire register and makes best use of staff resources.
- 2.4.4 In order to achieve this it will be necessary to review all 13,500 applications and, where appropriate, notify the applicant that they have been removed from the list. This notification would come with an automatic right of appeal and would, therefore, be a very labour intensive process. However it would result in a significantly reduced housing register with only those with a recognised housing need and established residential qualification remaining on the list.
- 2.4.5 As referred to above, the review of the 13,500 cases on the register from before the changes took effect would represent a significant piece of work. It is proposed, therefore, to review the housing register applications on a month-by-month basis on the anniversary of the date each application was received, thereby achieving the review within 12 months.

2.5 **Excluding owner occupiers**

- 2.5.1 Social housing should be for those in most housing need and those who do not have the financial means to acquire their own property. At present owner occupiers can apply to join the housing register and if they are lacking one bedroom they will receive a reasonable preference (priority). If they applied under the new policy on or after 3 November 2014 and were working they would receive two levels of priority which may result in them being able to bid successfully for a property.
- 2.5.2 In line with the Council's priorities, it is suggested that owner occupiers should be excluded from joining the register unless there are exceptional circumstances. Such exceptional circumstances would only be where an owner occupier has disabilities requiring extensive adaptations and their property is not suitable for such adaptations and there are not the financial means available for them to buy another suitable or adaptable property. The approval of the Director of Housing would be required in these cases.

2.6 **Suspending Applications**

- 2.6.1 Some applicants bid and refuse many reasonable offers of a property in the knowledge that they have a high level of priority and, as a result, will have a continual flow of offers. There is no deterrent at present to this practice. Each time an applicant bids successfully a short-listing process must be carried out and a viewing arranged, which uses valuable officer time and may affect void turnaround time.
- 2.6.2 It is therefore proposed that an applicant who refuses three reasonable offers of a property be suspended from applying for a property for a period of six months.

There would be an appeal process if an applicant felt that they had been unfairly suspended from applying, which would be determined at Divisional Director level.

3. Options Appraisal

- 3.1. **Option 1 - Retain two housing allocations policies.** This results in applicants being assessed in very different ways dependent upon when they applied, which is difficult for staff to administer and lacks transparency for customers.
- 3.2. **Option 2 - Operate one Allocations Policy including the two amendments recommended.** This will reduce the demand for social housing and demonstrate equality across the entire housing register whilst making best use of staff resources. It will ensure that those registered have a genuine connection through residence with the Borough and a recognised housing need. This approach would also mean that Housing officers would have more time available to work more proactively with those applicants in housing need, exploring other housing options such as shared ownership and affordable housing products, whilst offering more support to those affected by welfare reform. It would also allow Housing officers to signpost those households who are not working to employment opportunities whilst advising them of the increased level of priority that their application may receive, should they gain and remain in employment. It would also allow the team to provide more outreach and surgeries at forums and front facing services as well as expanding their programme of attending schools and colleges and advise young people of the reality of the lack of social housing and encourage them to consider other options and opportunities enabling them to become more resilient and aspirational.
- 3.3 It is recommended that Cabinet approve Option 2.

4. Consultation

- 4.1 Consultation was carried out across the Borough with a diverse group of residents and service users over the legally required 12 week period. Experience of consulting on Housing Allocations issues has proven historically to be most effective when conducted face-to-face with customers by experienced staff as there are often long discussions regarding the broader context and legislative requirements.
- 4.2 Following comprehensive training, staff from the Housing Advice Service, Tenant Participation Team and key Partner Agencies carried out consultation at the following venues and Forums:
 - Tenants and Residents Associations
 - Visitors to the Citizens Advice Bureau
 - Visitors to Dagenham Library
 - Visitors to John Smith House
 - Community and Faith Groups
 - Staff and Stakeholders
- 4.3 A total of 410 individual one-to-one consultations took place, and a comprehensive communication plan is being developed to cascade the information to the wider community.

4.4 Feedback from the consultation has informed the Equalities Impact Assessment attached as Appendix 1, which clearly shows an overwhelming agreement to the following three questions which were posed:

- Should the Council retrospectively apply the Housing Allocations Policy adopted on 3 November 2014 to all applications? **81.8%** agreed
- Should owner occupiers be excluded from joining the Housing Register unless there are exceptional circumstances? **73.1%** agreed.
- Should applicants be suspended if they refuse three reasonable properties for which they have bid or been direct offered and if so for how long? **91.4%** agreed to a suspension the highest group of which was **33.3%** agreeing 6 months.

5. Financial Implications

Implications completed by: Carl Tomlinson Group Finance Manager

5.1 The report recommends applying a consistent allocations policy across all applications. There are no direct financial implications as a result of this, but it will enable more efficient management of the Housing Register. The Register will be reviewed on a staggered basis enabling the review and appeal process to be contained within existing resources.

6. Legal Implications

Implications completed by: Martin Hall, Housing Solicitor

6.1 A consistent approach to the allocation of accommodation is desirable, both in relation to the practical application of the same for employees of the Council, but also in respect of ensuring the fair and reasonable treatment of applicants. Furthermore, the potential to treat two applicants, with the same circumstances, differently between the two schemes is not only undesirable, but may also be considered unfair and subject to challenge.

6.2 The proposed retrospective amendment to the existing allocation scheme will affect the relative priority of a large number of applicants and/or significantly alter existing procedures it is therefore likely to be considered to be a major policy change. In the circumstances, s.168(3) Housing Act 1996 provides that a LA must ensure that within a reasonable time those likely to be affected by the change have had the effect brought to their attention, taking such steps as the LA considers reasonable. In accordance with the requirements, and with reference to section 4 of the report, it is apparent that an extensive consultation has taken place across the borough at various venues.

6.3 In addition to the above, before altering a scheme to reflect a major change, s.166A (13) requires a LA to send a copy of the draft scheme, or proposed alteration, to every Private Registered Provider with which they have nomination arrangements, and ensure that they have a reasonable opportunity to comment on the proposals. Registered providers were invited to participate in the consultation process and copies of the scheme will be circulated in accordance with the legislation.

6.4 When determining priority, it is lawful to take into account the financial resources available to a person to meet his housing costs. Consequently, a LA can lawfully

give less priority to owner occupiers (wherever the property is situated). The exclusion of owner occupiers takes this one step further, but the qualification of allowing a discretion in exceptional circumstances is likely to be sufficient to avoid legal challenges, subject to how that discretion is ultimately applied.

- 6.5 There are no obvious legal implications in relation to the proposal to suspend applicants who refuse three suitable properties, providing applicants are made aware of the likely consequences. This is a practical consideration to assist with the management of the scheme and the benefits of implementing this proposal are clearly justified with reference to the efficient use of officer time.

7. Other Implications

- 7.1 **Customer Impact** - The Equality Act 2010 places a general duty on all public authorities to eliminate discrimination, advance equality of opportunity and foster good relations in accordance with the Equality Act 2010. Consideration has been given to the impact these new proposals will have on the different protected characteristic described within the Act. The Equality Impact Assessment is included at **Appendix 1**.
- 7.2 **Safeguarding Children** - Housing and Children's services will continue to work together collaboratively in respect of safeguarding children. Retrospectively applying the current allocations policy will have no negative impact on safeguarding issues.

Background Papers Used in the Preparation of the Report: None

List of appendices:

- **Appendix 1 – Equalities Impact Assessment**