

## CABINET

18 December 2019

<b>Title:</b> Review of Housing Allocations Policy	
<b>Report of the Cabinet Member for Regeneration and Social Housing</b>	
<b>Open Report</b>	<b>For Decision</b>
<b>Wards Affected:</b> All	<b>Key Decision:</b> Yes
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<b>Accountable Strategic Leadership Director:</b> Graeme Cooke, Director of Inclusive Growth	
<b>Summary</b> <p>Barking and Dagenham’s Housing Allocations Policy sets out how the Council allocates Council homes, and nominations to Housing Associations. It also sets out how we allocate homes managed by Reside.</p> <p>The policy was last reviewed in late 2018 The review identified proposed amendments to the policy, which were approved for consultation by Cabinet on 22 January 2019 (Minute 76). This review had the following objectives:</p> <ul style="list-style-type: none"><li>• To meet our statutory obligations to help those in housing need;</li><li>• To make the best use of the scarce resources available;</li><li>• To ensure that the Council uses its housing stock to assist in meeting the support needs of the community, including those supported by Children’s Services and Adult Social Care;</li><li>• To ensure that the housing stock is used effectively to reduce costs; and</li><li>• To encourage local people to engage in finding their own solutions to problems and to become independent and resilient.</li></ul> <p>The consultation took place for 12 weeks between 4 February 2019 and 29 April 2019. It received 251 responses. All changes received majority positive responses in the consultation. Detailed results are set out in section four of this report.</p> <p>The proposed changes received clear support in the consultation (as detailed below). Therefore, these have been drafted into the main policy.</p> <p>Following the consultation, it is also proposed to amend the policy to include the ability to create Local Lettings Policies in the future. Local Lettings Policies can be an effective way of managing the lettings of new homes to ensure that they best meet the Council’s housing aims and have the greatest benefit for local residents.</p>	

The proposed amendments were considered by Overview and Scrutiny Committee at its meeting on 6 November 2019, and its comments are included in this report.

If approved by Cabinet, officers will work to an implementation plan aligned to the development of the new housing management IT system which will operate the Allocations Policy – Capita OPEN – which is due to go live in Spring 2020.

### **Recommendation(s)**

Cabinet is recommended to:

- (i) Note the results of the Housing Allocations Policy consultation as set out in section 4 of the report;
- (ii) Approve the amended Housing Allocations Policy as attached at Appendix 1 to the report;
- (iii) Delegate authority to the Director of Inclusive Growth, in consultation with the Cabinet Member for Regeneration and Social Housing and the Director of Community Solutions, to determine the implementation date of the policy;
- (iv) As per policy change 6 (4.11), delegate authority to the Director of Community Solutions and the Director of My Place (or nominated Heads of Service), to approve rehousing cases on the basis of exceptional circumstances or cases demanding exceptional sympathy; and
- (v) Delegate authority to the Director of Inclusive Growth to work with Reside to approve any variations to Reside policy or operations required to adhere to the allocations policy.

### **Reason(s)**

The proposed amendments to the Allocations Policy seek to ensure that social housing that becomes available to let in the borough is allocated in a way that aligns with the Council's wider housing and social aims, and as such is aligned to its strategy for inclusive growth.

## **1. Introduction and Background**

- 1.1 A key pillar of our Inclusive Growth strategy is our ambitious programme for homes and housing. This is about cost of housing, security of tenure, quality of homes, and the ability of our housing provision to meet changing needs. How we allocate to Council and Reside stock, and make nominations to housing associations, is an important part of this.
- 1.2 The Allocations Policy sets out how the Council decides who will be offered social and affordable housing and on what basis. It is therefore one of the Council's most important housing policies. The last full review of the Allocations Policy was carried out in 2014 and a new Allocations Policy adopted by Cabinet on 8th April 2014. Further amendments were approved by Cabinet in 2015.

- 1.3 It is essential that the Allocations Policy is reviewed from time to time to ensure that it is updated in line with legislation, regulation guidance, case law and current Council goals and priorities.
- 1.4 In 2018, the current housing allocations policy was reviewed. It had last been reviewed in 2014, leading to the 2015 policy. This review had the following objectives for the policy:
- To meet our statutory obligations to help those in housing need;
  - To make the best use of the scarce resources available;
  - To ensure that the Council uses its housing stock to assist in meeting the support needs of the community, including those supported by Children's Services and Adult Social Care;
  - To ensure that the housing stock is used effectively to reduce costs.
  - To encourage local people to engage in finding their own solutions to problems and to become independent and resilient.
- 1.5 A report detailing proposed changes was taken to Cabinet in January 2019. Cabinet approved the changes for consultation. This report can be found [here and is provided in the background papers listed at the end of this report](#).
- 1.6 The amended policy was considered by the Overview and Scrutiny Committee in November ahead of Cabinet submission and was also considered by the Reside Board at its meeting in November.

## **2. Proposal and Issues**

- 2.1 Based on the objectives outlined in 1.4, the policy review developed the following proposals for policy changes:
- To change some aspects of who may register with the applicant as a member of their household;
  - To change the arrangements for dealing with cases which are referred to the Housing Options team for assistance from internal and external partners. The proposal is to establish collaborative working between the relevant services so that vulnerable households can be dealt with in a transparent and well-planned way;
  - To create a smooth pathway that assists older people to access the right housing for their housing and support needs;
  - To give under occupiers a higher degree of priority in order to release much needed family housing;
  - To ensure that exceptional cases are dealt with in a transparent and equitable way, aligning with the Management Transfer and Succession Policy approved by Cabinet in 2016;
  - To improve the access to Reside homes for local working residents on moderate incomes.
- 2.2 The specific changes in the amended policy are as follows:

- Specific wording stated on who can be included in an application: the immediate family (to include applicant, spouse/civil partner, children and parents): **point 11.0**; In case of separate or divorce, dependent children to be included only for the parent where there is a Residence Order in place or where Child Benefit is in payment; adult siblings or in laws only to be included where there is a need to provide care or receive care from them: **points 11.4 – 11.7**.
- The establishment of Joint Assessment Panels and an annual allocation and letting plan to govern to allocation of housing to vulnerable groups supported by the Council's Care and Support services: **points 9.0; 36.5 – 36.10**.
- The policy to state how sheltered and adapted lettings are assessed and allocated (this is not a change of policy, but the wording regarding current practice was not previously included): **points 37.0 – 38.4**.
- People under-occupying their home have the joint highest priority when bidding for a new home, alongside decant cases (those whose homes are being demolished as part of the estate renewal programme): **points 18.4 – 18.5; 32.1 – 32.3**.
- Delegation of powers to two senior directors to deal with exceptional cases, in line with the Council's Management Transfers policy: **points 24.0 – 24.3**.
- Changes to the Reside minimum income test: household incomes can now include in-work benefits, PIP, and housing benefit (provided it is a working household). The affordability threshold (proportion of gross income paid on rent) is now set at 40%, raised from 35%: **points: 44.0 – 44.7**.

### 3. Options Appraisal

- 3.1 The Cabinet report of January 2019 outlined the initial options: do nothing or consultant applicants on proposed changes. The report recommended proposing the changes and consulting. This option was endorsed by Cabinet. At this point, the options are (a) disregard consultation and do not amend policy and (b) approve the changes as part of the amended allocation policy.
- 3.2 Do not amend policy: there is no absolute requirement to amend the allocations policy at this time and amending the policy does create work for operational staff which has to be fitted into the general work programme. However, given that these changes have been approved through consultation and publicised, there is an expectation that these changes will take place and not delivering would risk the Council's reputation.

In addition, the housing IT system used by Community Solutions is being updated and a new online form is being introduced, the development of this form has been aligned to the policy changes. This option has therefore been recommended.

- 3.3 Approve amended policy: The proposed changes were approved by Cabinet in January 2019, designed to ensure that the Policy more accurately reflects the way in which the Council wants to ensure that Council and Reside homes are allocated. The changes are also to make the decisions that staff make more explicit and transparent.

Allocations Policies are very important as they make decisions that change people's lives and housing opportunities. It is therefore important to refresh them from time to time to ensure that they reflect the latest legislation, regulation, case law and the local market.

In addition, as the below section outlines, the proposals were subject to consultation with residents and stakeholders, and all proposals were approved. Therefore, Cabinet is recommended to approve the amended policy.

#### **4. Consultation**

- 4.1 Prior to adopting any major changes to the Allocation Policy a local authority must consult with Private Registered Providers (social landlords), residents and stakeholders.
- 4.2 The consultation took place for 12 weeks between 04/02/19 and 29/04/19. It received 251 responses.
- 4.4 The consultation was hosted online. Respondents were given a scale of strongly agree to strongly disagree and provided space to comment on each proposal. Officers also attended a meeting of the tenant federation.
- 4.5 The consultation was sent to households on the housing register, social landlords, and other key stakeholders. Of the 251 responses, five were from housing association or voluntary sector partners, while the remaining 246 were from local residents including those on the waiting list.
- 4.6 Every proposed policy amendment proposed in the consultation received a positive response. Consultation results are outlined below
- 4.7 **Changes 1 and 2: Access to the Housing Register: who can be included in an application**

***Included in policy point 11.0, pages 17 – 18.***

**Description:** The Allocations Policy currently states that anyone who normally resides with or can be expected to reside with the applicant can be included on the application. There are circumstances which are not covered by the current wording describing a household in the Allocations Policy, where it would be helpful to have a clearer definition of who can be included in an application. These two areas are:

- children where a family has split up; and
- adult siblings or relatives in law of the same generation, such as sisters in law, or brothers in law.

**Change:** Propose to define who can be included in the application as

- the immediate family (to include children and parents);
- dependent children to be included only for the parent where there is a Residence Order in place or where Child Benefit is in payment;
- adult siblings or in laws only to be included where there is a need to provide care or receive care from them.

## Results:

- At the moment it does not say in our allocations policy who can be included in your application. We propose that you will be able to include in your application an applicant and partner, their children and their parents. If you wish to include anyone else in the application, you can only do so if they give or receive care for the applicant. To what extent do you agree with this proposal?
  - **Strongly agree: 35%**
  - **Agree: 37%**
  - **Disagree: 6%**
  - **Strongly disagree: 2%**
  - **No opinion: 20%**
- The Policy is also not clear about which children can be included in your application. We propose that you will be able to include in your application any child for whom you receive Housing Benefit, or adult children who chose to live with you. Children cannot be included in two applications, if the parents are no longer living together. To what extent do you agree with this proposal?
  - **Strongly agree: 42%**
  - **Agree: 39%**
  - **Disagree: 6%**
  - **Strongly disagree: 1%**
  - **No opinion 10%**

### 4.8 Change 3: Referral groups

***Included in draft policy point 9.0, pages 16-17, point 36.5, page 37, and sections 37.0 – 38.0, pages 37-38.***

**Description:** There are a range of vulnerable groups supported within Adult Social Care and Children's Services, and in some cases, external agencies. Vulnerable groups include people with an enduring mental health condition, people with learning disabilities, Children Leaving Care, survivors of Domestic Violence and certain ex- offenders. Currently, one of the workers from these services or agencies approach Community Solutions staff, on an ad hoc basis when their client needs to move from their current housing, which might be an institution or supported housing.

**Proposed change:** proposing to develop an annual Allocations and Lettings Plan which will set an estimated number of homes to be allocated to each need group, based on forecasts of supply, demand, needs and costs. In addition, a cross-council Joint Assessment Panel (or Panels) will be established to agree which cases will be considered for rehousing and which housing option is the most appropriate. Decisions about allocations in these cases will be based on the following criteria:

- An individual or household's level of independence and ability to manage an independent tenancy
- The financial cost of different housing options to the Council

- The appropriateness of the current and proposed housing solution.

## **Results:**

Please indicate whether you agree or not with these proposals

At the moment we help a number of people who are vulnerable at the request of people who are partners of the Council, such as people with learning difficulties, or children leaving care. This is done in an unplanned way at the moment, as cases arise. We are proposing to set up joint panels with Adult Social Care, Children's Services and Older People's Services so that these cases can be discussed, and the relative priority agreed between all the people who understand the case, and the staff who allocate the housing.

- **Strongly agree: 37%**
- **Agree: 43%**
- **Disagree: 2%**
- **Strongly disagree: 1%**
- **No opinion 14%**

### 4.9 **Change 4: People who are under occupying their home**

***Included in draft policy point 18.0, page 22-23 and point 33.0, page 34***

**Description:** Currently households who are under occupying their homes do not appear in the Allocations Policy list of priority bands. The Allocations Policy does state that households who are under occupying their home may be made a direct offer of housing, as it is in the Council's interest to free up larger homes for other households on the Housing Register. In addition, a household who is under occupying their home, and who is being considered for an offer of a smaller home, may, at the discretion of a Council officer, have any rent arrears disregarded, unlike other applicants who are tenants.

**Proposed change:** We propose to increase the priority given to households who are under occupying their homes, by including them in the highest band of priorities (so that they can bid for a home if they choose to do so) and to ensure that they will be successful, alongside tenants who are moving because their homes is being demolished.

We will also use the opportunity of the Allocations Policy to draw attention to other ways in which under occupiers can move (such as the GLA's Seaside and Country Homes scheme).

## **Results:**

- **Strongly agree: 56%**
- **Agree: 31%**
- **Disagree: 4%**
- **Strongly disagree: 1%**
- **No opinion 5%**

#### 4.10 **Change 5: People who want to apply for housing owned by our Local Housing Company, Reside**

***Included in draft policy point 44.0, page 43-44***

**Description:** The Allocations Policy for Reside homes is included as part of the Council's overall Allocations Policy, and it is proposed that this arrangement will continue. Reside hold properties let at 50% of market rents, 65% of Market rents and 80% of market rents. The properties let at 50% of market rents are let in accordance with the main Allocations Policy and there is no minimum income threshold. However, the properties let at 65% or 80% of market rents have a separate policy

**Proposed change:** We are proposing to change the minimum income test in the following ways for Reside properties at the Intermediate rent levels (currently let at between 65% and 80%):

- To include in-work benefit entitlement (e.g. Local Housing Allowance and Working Tax Credit, to be subsumed in time into Universal Credit) as part of the household income
- To include Personal Independence Payments (PIP) as part of the household income (for working households)
- To set the minimum 'affordability threshold' at 40% of household income
- To include earned income as household income where the applicant or partners is working at least 16 hours at least the minimum wage
- To allow applicants who have been paying more in rent than the rent on the Reside home they wish to access for more than 12 months without falling into arrears
- Require Reside to maintain an active register of local working households that would like to access a Reside home

#### **Results:**

- **Strongly agree: 56%**
- **Agree: 27%**
- **Disagree: 4%**
- **Strongly disagree: 2%**
- **No opinion 9%**

#### 4.11 **Change 6: Exceptional cases**

***Included in draft policy point 23.0, page 25-26***

**Description:** There are always cases which don't fit into all the rules but which may need rehousing. These might be cases where some is in fear of violence, or the police want us to move someone quickly. It is important that these cases are dealt with quickly, but that the cases must be limited to really exceptional cases so that they don't clog up the system.

**Proposed change:** We are proposing to delegate powers to two senior officers to be able to make decisions in line with the policy in order to ensure that these kinds of cases are housed when they need to be.

## Results:

- **Strongly agree: 40%**
- **Agree: 43%**
- **Disagree: 4%**
- **Strongly disagree: 1%**
- **No opinion: 11%**

## 5. Amended Policy

5.1 Taking the final Allocations Policy back to Cabinet has been aligned to the development of the Council's approach in key areas of wider housing policy. These include:

- The enhanced estate renewal offer approved by Cabinet in June (which committed to a Right to Return on equivalent tenancies and rents)
- Reside's tenancy and rent approach considered by Cabinet in October
- Support the work the Council is doing on ensuring the local housing offer support our more vulnerable residents – which will be reflected in a set of commitments going to Cabinet in December 2019.

5.2 The revised Allocations Policy now reflects and supports the commitments and approach set out in these areas. The policy therefore also now includes:

- Proposed provision for future local lettings policies on certain schemes (see below);
- Amends to allocations processes for vulnerable residents as a result of the Housing for Vulnerable People Programme;
- Legislative framework for eligibility has been updated to include latest Government regulations and advice concern the UK's exit from the European Union. This section is subject to legal review prior to Cabinet submission,
- Non-material amends have been made to the policy wording to reflect changes in Community Solutions operations (customer contract addresses).

### Local Lettings Policies

#### ***Included in draft policy point 40.0, pages 39-40***

5.3 The amended policy also contains the provision to create Local Lettings Policies. These are common in London Local Authorities, and mostly used for letting new homes. Under a Local Lettings Policy, the Council may decide to allocate properties on a slightly different basis from normal, in the interests of building strong and sustainable communities or to deal with particular local issues. An example may be some larger estate renewal schemes, where a Local Lettings Policy would enable residents living in future phases to remain on the estate and only need to move once, by enabling them to move into the new homes which have already been built.

5.4 Proposals for specific Local Lettings Policies will be brought forward for approval through council governance and will need to be supported by an equality impact assessment.

## Implementation

- 5.5 If Cabinet agrees the amended policy, officers will work to an implementation plan to guide activities including communication and ensuring operational readiness aligned to the development of the new housing management IT system which will operate the Allocations Policy – Capita OPEN – which is due to go live in Spring 2020.

## **6. Comments of the Overview and Scrutiny Committee**

- 6.1 Overview and Scrutiny Committee considered the proposed amendments to the Allocations Policy at its meeting on 6 November 2019.
- 6.2 The committee noted the 251 responses to the consultation and requested further information on who responded. This information was sent to the committee and is included in this report in paragraph 4.5. The Committee also asked for clarification on how vulnerability was judged in the section in the policy on auto-bidding. Further clarification was provided subsequent to the meeting, and the committee were reassured that auto-bidding would only be implemented in these cases with the agreement of the individual.
- 6.3 The Committee also asked about the succession element of the policy. The Council has specific policies relating to succession and related tenancy management issues, which were updated in 2016 and approved by Cabinet at its meeting in March 2016. The amendments to the Allocations Policy reflect those changes approved by Cabinet in 2016.

## **7. Financial Implications**

Implications completed by: Katherine Heffernan

- 7.1 The Housing Allocations policy is administered by staff within Community Solutions. The revised policy is not expected to require significantly more work or require any additional resources once fully implemented and the small costs of making the change will be met from within existing budgets.
- 7.2 Therefore there are no direct financial implications arising – however in the wider sense it is important that the policy supports the best use of the Council's existing resources to meet its strategic objectives. The amendments proposed appear to support this.

## **8. Legal Implications**

Implications completed by: Martin Hall, Housing Solicitor/Team Leader

- 8.1 The allocation of housing by local housing authorities is regulated by Part 6 of the Housing Act 1996 (HA 1996). A local housing authority (LHA) must comply with the provisions of Part 6 when allocating housing accommodation (section 159(1), HA 1996). However, subject to this compliance, authorities may otherwise allocate housing in any manner they consider appropriate (section 159(7), HA 1996).

- 8.2 Section 166A (1) of the HA 1996 provides that every LHA must have an allocation scheme for determining priorities between qualifying persons. In formulating or amending its allocation scheme, a LHA must have regard to its current homelessness strategy under section 1 of the Homelessness Act 2002. An allocation scheme may be framed to give additional preference to particular descriptions of people (section 166A (5), HA 1996). However, a LHA must not allocate housing accommodation except in accordance with its allocation scheme (section 166A (1), HA 1996).
- 8.3 As a result of changes made by the LA 2011, with effect from 18 June 2012, LHAs have been able to decide who “qualifies” for an allocation. Accommodation can therefore only be allocated to someone who qualifies under those local criteria (section 160ZA (6), HA 1996). Who qualifies is largely a matter for the LHA (section 160ZA (7), HA 1996). The Secretary of State does however have the power to prescribe classes of persons who are, or are not, to be treated as qualifying persons (section 160ZA (8), HA 1996).
- 8.4 Where changes are to be made to an allocation scheme it is a requirement to consult with those affected by the changes (s105 HA 1985), including Registered Providers.

## 9. Other Implications

- 9.1 **Risk Management** – The key risks associated with this policy are set out below:

Risk	Mitigation
There is insufficient time to implement the changes for all applicants	Plan for the re-assessment of applicants over a reasonable period; consider bringing in additional resources if required
Risk of legal challenge to the new policy	Obtain robust legal advice on the new draft policy before implementation
Changes have unforeseen consequences for some applicants, leading to complaints	Carry out a review of the new policy 6 months after implementation.
Giving under-occupiers highest priority has little impact as people do not wish to move	Inform all under-occupiers of the opportunity to bid now available to them; consider offering further incentives

- 9.2 **Staffing Issues** – The new allocations policy will be operated using existing resource.
- 9.3 **Corporate Policy and Equality Impact** - A full Equalities Impact Assessment has been undertaken to the proposed changes to the Allocations Policy and is included at Appendix 4. This shows:
- 9.3.1 The proposed changes to the Allocations Policy are generally designed to improve the operation of the process of deciding and allocating homes. Currently a number of decisions are made by officers interpreting the current policy, but often using judgement which is not explicit and publicised. The changes will make the allocation of new homes more transparent and enable applicants to have a better

understanding of the process and why they have been successful or not in their efforts to obtain council or affordable housing.

- 9.3.2 The positive impact on groups with protected characteristics have been set out – particularly those that enable households with more modest incomes to access the affordable housing managed by Reside. Vulnerable households such as those with disabilities, mental health issues, or learning disabilities will benefit from a better service generated by improve co-operation between services and discussions at a Panel to ensure that the full range of options for housing are considered for older people.
- 9.3.3 The only potential negative impact is that relating to extended families, where the proposed change to the policy is to define the household that can apply together as three immediate generations – parents, children and grandparents. Households will not be able to register their extended families, such as uncles, aunts, adult brothers and sisters or in-laws on the application. This step is being taken because of the lack of larger properties, and the fact that it is not helpful to these households to register them together for property which is not available. The proposal should ensure that such households have better information about what is available and make better choices about how to seek housing.
- 9.3.4 Regarding the post-consultation amendment on including a provision for future local lettings polices, a full Equality Impact Assessment will be completed on each proposed use of this provision.
- 9.4 **Safeguarding Adults and Children** - The needs of any children in a household are taken into account when assessing applications. The impact on the welfare of children is assessed when developing allocations policies, and any changes to such policies. The proposals to change the arrangements for assessing Children Leaving Care will be improved by the institution of a joint Panel between Community Solutions and Children's Services. The proposals to change the arrangements for assessing Vulnerable Adults will be improved by the institution of a joint Panel between Community Solutions and Adult Social Care
- 9.5 **Health Issues** - Good housing has an important impact on the health of individuals and families. Health issues are taking into account when assessing applications, and priority will be awarded where the current housing that a household lives in, has an adverse impact on their health. Other health issues are also considered such as the need for mobility housing, or adapted properties. There are dedicated staff who ensure that the needs of applicants are understood and ensure that appropriate housing is allocated to those who need it.
- 9.6 **Crime and Disorder Issues** - The Allocations Policy seeks to support the victims of crime and disorder through specific arrangements for victims of domestic violence and hate crime. In addition, the Council works with the Police and Probation service to ensure that ex-offenders are assisted in their rehabilitation by the provision of a small number of homes so that they can live within the community and retain family links.

## **Public Background Papers Used in the Preparation of the Report:**

- Current Allocations Policy:  
<https://www.lbbd.gov.uk/sites/default/files/attachments/Choice-Homes-Allocation-Policy2.pdf>
- January 2019 Cabinet Report:  
<https://modgov.lbbd.gov.uk/Internet/documents/s128201/Housing%20Allocations%20Policy%20Report.pdf>
- Allocation of accommodation: guidance for local housing authorities in England (MHCLG, 2013)
- EU citizens in the UK: access to social housing and homelessness assistance in a no deal scenario (GOV.UK, 2019)

## **List of appendices:**

- Appendix 1: Amended Housing Allocations Policy
- Appendix 2: Equalities Impact Assessment