

THE EXECUTIVE

29 APRIL 2003

REPORT OF THE DIRECTOR OF HOUSING & HEALTH

| APPEAL SYSTEM - HOUSING ALLOCATION OFFERS AND HOMELESSNESS OFFERS | FOR DECISION | |
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| <p><i>This report deals with the issue of appeals against offers under Part VI (Housing Register & Housing Transfers) and Part VII of the Housing Act 1996 (Homeless applicants), as amended by the Homelessness Act 2002.</i></p> <p><u>Summary</u></p> <p>This paper proposes an offer appeal system for permanent offers of accommodation. The 2002 Homelessness Act granted a further right of review for homeless applicants to those allowed under the 1996 Housing Act. This now includes appeals against the suitability of offers of accommodation.</p> <p><u>Recommendations</u></p> <p>The Executive is recommended to agree:</p> <ol style="list-style-type: none">1. That Rehousing Team Leaders for each Community Housing Partnership decide appeals made against offers of accommodation for transfer and waiting list applicants.2. That the authority to deal with appeals against permanent offers of accommodation to homeless applicants be delegated to the existing section 202 Review Panel.3. That the Principle Advice Manager chairs the section 202 Review Panel to decide upon the suitability of permanent offers made to homeless applicants. <p><u>Reason</u></p> <p>The appeal system will allow officers to make decisions with the appropriate delegated authority. Other items in the Report relate to decisions reserved for the Executive, which affect all Council wards.</p> | | |
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1. Background

- 1.1 A report was presented to the Executive on 28th January 2003 about the changes required to conclude the implementation of the Allocations Policy Review. (See Appendix A)

- 1.2 The Executive agreed all but one of the recommendations. A reservation existed about the proposal made to deal with appeals against offers of permanent accommodation.
- 1.3 It was requested that further options for a system of appeal be prepared and presented back to the Executive. The Executive asked that the appeal system should involve either Members or Officers.
- 1.4 Consideration was given to the likely future proposed development of the allocation service as it is decentralised to the Community Housing Partnerships, (CHP). It was decided consequently that officers should administer the appeal system proposed in order to ensure the greatest responsiveness and flexibility.
- 1.5 In part this conclusion was also reached on the basis of recommendations in the Local Government Act 2000 which is that decision making of operational matters should be delegated to officers as a way of ensuring more efficient decision making within policy guidelines. Adopting the proposed approach of delegated decision making brings this appeal process into line with other appeal processes, which are already delegated, to officers.
- 1.6 The key elements of the offer appeal system are that the officer hearing the appeals should not take part in making the original offer and should have sufficient seniority.
- 1.7 The appeal systems proposed are considered to offer a sound way forward. They fit in with the changes in the structure of allocation service delivery proposed for the new Community Housing Partnerships.
- 1.8 In preparing the proposal a further anomaly was identified. This was the lack of delegated authority of officers to deal with a new category of appeal granted for Homeless applicants by the Homelessness Act 2002. This paper seeks to resolve this anomaly.

2. Housing Register and Housing Transfers - Appeals against Offers of Accommodation (1996 Housing Act Part VI)

- 2.1 At the present time most Housing Register and Housing Transfer applicants receive two offers of accommodation.
- 2.2 Letting officers, make offers, with reference to the Allocations Policy Procedures and Practice.
- 2.3 The few appeals that arise are addressed informally by senior allocation staff.
- 2.4 In a forthcoming restructuring of the allocation service into new Community Housing Partnership areas a new senior position of Rehousing Team Leader is being created for each CHP allocation area.
- 2.5 The Team Leader Rehousing will have overall responsibility for allocation activity within the new CHP areas.

- 2.6 It is proposed that the Rehousing Team Leader post should hear appeals against offers made. The one exception would be if the Rehousing Team Leader has taken part in the allocation. In this situation a Rehousing Team Leader colleague in an adjacent CHP would deal with the appeal.
- 2.7 In practice the appeal heard would be against suspension of the application. The appeal process would therefore first apply in respect of a second offer. As part of the appeal process the first offer would also be reviewed. This would limit the volume of appeals heard.
- 2.8 There are two main outcomes of the appeal process.
- If the appeal application were successful the applicant would have further offer entitlement.
 - If the appeal were unsuccessful the application would be suspended for a period of a year.
- 2.9 If an applicant were not satisfied with the outcome of this appeal then the Executive could consider one of the following options
- A next final stage of appeal would be to the Community Housing Manager for the relevant Community Housing Partnership area.
 - Alternatively an appeal against an offer could be made through the mechanism of a stage 3 Corporate Complaint system.

3. Homeless Persons - Appeals against Offers of Accommodation (1996 Housing Act Part VII)

- 3.1 Homeless applicants are entitled to one offer of permanent accommodation. Lettings staff based outside the Homeless Persons section make the offers to homeless applicants.
- 3.2. The Housing Act 1996 originally introduced a general right to request a review under section 202 of the Act. This right allows a homeless applicant to request a review of a Council's decision in any aspect of the assessment or resolution of their homeless application.
- 3.3 An existing review mechanism exists to consider these reviews under this original 1996 Act called a section 202 Review Panel. This is made up of the Principle Advice Manager and the General Manager (Service Development).
- 3.4 The Homelessness Act 2002 revised the 1996 Housing Act. One key change made was to alter the review process for homeless applicants in respect of offers of accommodation made. Applicants are now allowed to accept an offer of accommodation and then challenge its suitability.
- 3.5 A large and growing volume of permanent offers are made to Homeless families. There is therefore potential for future growth in the volume of appeals against the suitability of offers.

- 3.6 Once a review around the suitability of accommodation is requested a decision must be made on whether or not the offer was a 'reasonable' one given the circumstances of the homeless applicant.
- 3.7 In line with the review process generally the Homelessness Act 2002 specifies that the officer hearing the appeal is of sufficient seniority and not involved in making the original decision, (i.e. offer made).
- 3.8 It is recommended that the existing section 202 Review Panel hear these appeals. This is because as part of the appeal process a good awareness of homelessness practice and procedure is needed. This review is best conducted therefore within the Homeless Person and Advice section.
- 3.9 The section 202 Review Panel to hear appeals on the suitability of offers should therefore comprise the Principle Advice Manager together with one other manager from the Homeless Person and Advice sections.
- 3.10 The Executive will need to delegate the authority to this section 202 Review Panel to hear this category of appeal. As a standing panel they will have the capacity to ensure that appeals are addressed speedily within the statutory guidelines.
- 3.11 The section 202 Review Panel in hearing appeals would have the objectivity said to be a requirement under the detailed provisions of the Homelessness Act 2002.
- 3.12 There are two possible outcomes of this appeal process.
- If the appeal is not upheld and the offer is considered reasonable the local authority will have discharged its duty towards the homeless applicant. The only other appeal then is on a point of law to the County Court.
 - If the appeal is upheld the homeless applicant will be entitled to a further offer of permanent accommodation.

Background Papers used in the preparation of this report.

- Housing Allocations Policies and Practices Document
- Homelessness Act 2002
- Homelessness and Allocations – Legal Action Group (A. Arden and C. Hunter)

THE EXECUTIVE

28 JANUARY 2003

REPORT OF THE DIRECTOR OF HOUSING & HEALTH

ALLOCATIONS POLICY REVIEW: OUTSTANDING MATTERS FOR DECISION CONSULTATION AND IMPLEMENTATION

FOR DECISION

This report addresses a number of outstanding matters affecting the Council in the revision and review of its rehousing service provision.

Summary

This report draws together a series of outstanding items for decision and consideration. These need resolution before final revision and implementation of the new Housing Allocations Policy can proceed. Included within this paper is feedback on the outcomes of recent consultation, the proposals to advise members on the operation of the new policy and a provisional timetable for the launch of the new Allocations Policy.

Recommendations

The Executive is recommended to consider:

1. The outcomes of consultation on the new points prioritisation scheme.
2. The proposed date for the introduction of the new allocation policy.
3. The proposals suggested for briefing members on the operation of the new allocation policy

The Executive is recommended to agree:

1. That nominations to Registered Social Landlords count as formal offers.
2. The establishment of an appeal mechanism to determine if offers made to applicants are 'reasonable'. (i.e. in accordance with Council policy).
3. Enhanced provision within the Housing Allocations Policy for children leaving the Council's care where a need for social housing has been assessed.
4. An annual review of the number of lettings made under the 'children leaving care' provisions alongside the general volume of annual lettings.
5. The proposal to explore choice-based lettings options for the council.

Reason

The prioritisation scheme will produce a more transparent allocation process. Other items in the Report relate to decisions reserved for the Executive, which affect all Council wards.

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1. Background

- 1.1 A review of the Housing Allocations Policy began originally in October 1999. The review period is about to be drawn to a closure prior to full implementation of the new policy.
- 1.2 During the course of this review a number of changes have been made to the allocations policy and procedure with the agreement of the Executive. A series of further changes are proposed as part of this paper to facilitate the operation of the new policy.
- 1.3 A key final change proposed has been around the scheme for awarding points to applicants and the merging of the current separate lists for homelessness cases, housing register applicants and transfer applicants.
- 1.4 The new revised points prioritisation scheme (Scheme agreed by Executive 19/3/02 attached as APPENDIX A) introduces one common list with bands into which all the above categories of applicant are placed.
- 1.5 As part of the review process consultation with an extensive range of key stakeholders has taken place. This feedback from the most recent consultation is presented. The proposals for taking forward the review are set out in this paper.
- 1.6 A series of other additional proposals supplementary to the main one are included within this paper. Including some outline of the council's present position in respect of the recent Government initiative of choice based letting schemes.

2. Outcomes of Consultation

- 2.1 There has been public consultation on the changes proposed to the points prioritisation scheme under the revised Allocation Policy. In the new scheme the transfer waiting list and transfer lists are effectively combined with the creation of a 4 band system into which all applicants including homelessness cases are listed.
- 2.2 Included as part of a comprehensive consultation on this scheme publicity articles were issued in Spotlight (August 2002), The Citizen (June 2002) and the Members bulletin (June 2002). Consultation was also undertaken with tenants' representatives.
- 2.3 In addition to the articles published leaflets and posters were created for distribution setting out the proposed changes to the prioritisation and points scheme. These were displayed in the Area Housing Offices and other public buildings such as Libraries across the borough.
- 2.4 The public was advised to present comments on the points prioritisation scheme by a deadline of 30th September 2002.
- 2.5 There were just five responses received in different formats to the consultation exercise. These raised a range of issues varying from the impact of the banding system through to the process of implementation of the new policy. The issues raised were acknowledged and addressed by officers.

3. Members Briefing on the new allocation policy

- 3.1 As a first part of the briefing for members an article will be placed in the members' bulletin setting out the details of the proposed new prioritisation scheme.
- 3.2 In addition to this formal briefing sessions will be offered to members to work through the proposed operation of the new scheme. This is to assist Members in responding to enquiries made at their surgeries.
- 3.3 As part of this briefing a pack will be prepared that includes relevant key paperwork (e.g. applicant guides) that are being produced to support the introduction of the new scheme. This information will also be provided to the Borough's Members of Parliament.
- 3.4 An objective will be to hold these briefing sessions prior to final implementation of the new policy

4. Introduction and Implementation of the new allocation policy

- 4.1 The new points prioritisation scheme simplifies the assessment process with all applicants completing one common application form and being entered into one of several bands on one combined list.
- 4.2 There are a series of remaining actions that are required before implementation of the new allocation policy can take place. These include the following key actions.
 - Agreement on the details of an incentive scheme to increase the supply of specified properties (e.g. Large or Disabled units) within the housing stock.
 - The collation of additional information from existing applicants to administer the new points scheme.
 - Changes to the computer system in order to run the new prioritisation scheme.
- 4.3 A letter setting out the general details of the new banding scheme will be provided to applicants on the Housing register and the transfer list. This will give an outline of the new banding scheme. It is hoped to be able to send this letter by May 2003.
- 4.4 A second letter to applicants will give a specific indication of the impact on their applications, their revised points total, and how it will affect their prospects for rehousing.
- 4.5 It is anticipated that the new prioritisation scheme will come into operation in approximately June 2003.

5. Registered Social Landlords Nominations

- 5.1 At the moment when applicants on the waiting or transfer list are nominated to a Registered Social Landlord and receive an offer of accommodation it does not count against their tally of offers.

- 5.2 Applicants may refuse the nomination made and still be eligible to their quota of offers.
- 5.3 It is proposed that in future nominations to RSL count as offers against their tally. This will enable the council to make the best use of the diminishing supply of the available to let properties.
- 5.4 If the Executive agrees this change our RSL partners would be consulted on the proposed change.

6. Allocations Offer Appeal Mechanism

- 6.1 The Homelessness Act 2002 made it necessary to establish an appeal mechanism for offers of property made as part of the allocations process
- 6.2 Applicants who were dissatisfied that an offer made was a 'reasonable' one, with regard to their assessed need, would be able to make a formal appeal. This would be made to a person other than the original allocation officer.
- 6.3 A number of possible grounds for appeal could exist including around the issue of medical assessment, the condition of the property, bedroom size and issues of personal safety, in respect of management transfer cases.
- 6.4 Appeals would need to be dealt with speedily to ensure that offers of accommodation made were not kept open for long periods affecting the turnaround times of empty properties.
- 6.5 It is proposed that a formal mechanism for dealing with appeals against offers of accommodation be established. Several options are set out for Members to consider.
- As indicated in an earlier paper of 29th October 2002 to the Executive the Community Housing Partnership (CHP) Board Members might have a role in dealing with appeals.
 - Alternatively as the separate staff structures of the different CHP areas develop a senior officer in an adjacent CHP area could deal with appeals.
 - A final option is that Members deal with appeals with the support of officers.
- 6.6 The recommended option is that a senior officer in an adjacent CHP area hears appeals. In addition to this senior officer having the detailed experience of the housing stock, policies and procedures further key benefits are that they would guarantee a degree of independence, address confidentiality matters and be able to respond more swiftly than a CHP Board or Members panel.
- 6.7 This provision of appeals being undertaken by a senior officer would allow for a flexible response to any future potential growth of appeals.

7. Additional provision for children leaving the Council's care

- 7.1 An arrangement exists between the Housing and Health and the Social Services departments to jointly assess the housing needs of young people leaving care.
- 7.2 At the present time it has been agreed that a maximum of 15 units be allocated to care leavers following this assessment process.
- 7.3 In the two full years to date 2000/01 and 2001/02 the quota set has not been exceeded.
- 7.4 The scheme has proved successful insofar as of the 41 tenancies created 38 have been sustained
- 7.5 The Children and Families Division of Social Services have indicated that the present quota set will not be adequate to meet projected demand both in the current year 2002/03 and the following year 2003/04.
- 7.6 The main cause of the increase of demand has been the responsibility the council has had to assume for unaccompanied children who have entered the country who have been granted leave to remain in the UK.
- 7.7 Once these unaccompanied children reach the age of 17/18 they have to be treated in the same way as native care leavers.
- 7.8 An estimate provided by the Asylum Seekers team indicates that approximately 15 of these additional care leavers will become eligible for housing this year.
- 7.9 In view of the Council's corporate parent responsibility towards children leaving its care and to ensure consistency of response the same provision of accommodation via the Allocations Policy should be made to this category of care leaver.
- 7.10 In order to facilitate this the existing quota for care leavers would need to be raised from the present level of 15 units to 30.
- 7.11 As in the existing system the assessment process would need to be satisfied with the young person demonstrating that they were able to live independently with an appropriate package of support being provided.
- 7.12 To ensure that these applications receive adequate priority applications will be placed in Band B of the new Housing allocations prioritisation scheme, as agreed by the Executive on 19th March 2002.

8. Annual Review of Lettings

- 8.1 Under the new Housing Allocations Policy it is proposed that an annual report on lettings be made to Members via Members Matters. This will set out the overall volume of lettings made and how they are apportioned by category. (e.g. Transfer, Waiting List or other special category such as key worker or care leaver)
- 8.2 This report would allow members to see how the outcomes of allocation performance matched against the agreed targets for specific allocation groups.

8.3 This report would be made to the Executive in the first quarter of each allocation year in either May or June to allow opportunity for collation of the lettings outcomes for the pre-ceding year.

8.4 This would also provide useful information to Members on lettings patterns and stock availability.

9. Choice Based Lettings

9.1 As the allocation policy review is drawn to a close it is proposed to extend the terms of a separately conducted overlapping review on choice-based lettings. This is the Government's preferred way for local authorities to carry out lettings in future.

9.2 The purpose of choice-based lettings schemes is to promote greater applicant and customer choice. This accords with the Government's broader agenda of modernising public services.

9.3 The principles of choice based lettings schemes can be set out as follows,

- Initiative taken by customers
- Market information supplied to customers
- Property and neighbourhood information for customers
- Systems for vulnerable households
- Selection and eligibility criteria (i.e. need)
- Quality of communications between customers and organisations

9.4 The Government has signalled that 25% of local authorities should have choice-based lettings schemes by 2005 and 100% by 2010.

9.5 The outcomes of lessons learnt from a series of choice-based lettings pilots has recently been released in a guide for social landlords. The government proposes to release a good practice guide on choice based lettings in the latter part of 2003.

9.6 The design of choice-based lettings schemes is aimed to give greater transparency in the way the lettings process works. A series of potential benefits can derive as a consequence of such schemes. These include

- empowering residents by giving them greater involvement in the management of their rehousing application.
- freeing up staff time in the management of the letting system hence staff resources.
- reducing the volume of members enquiries as communication around lettings is improved.

- 9.7 The council has already taken an active interest in the choice based scheme run by Newham Council, the East London Lettings Company.
- 9.8 It is proposed within the next nine months to explore how choice based lettings might be introduced in Barking and Dagenham in a manner compatible with the new decentralised structures of the Community Housing Partnerships.
- 9.9 This will consider a range of options for taking forward the choice-based lettings scheme. Included will be an assessment of whether to join the choice- based scheme run by the East London Lettings Company.

10. Consultation

- 10.1 Consultation would be required with RSLs about the proposals to make nominations count against an applicant's formal offer quota.

11. Links to Corporate Agenda and Justification for the Proposals

- 11.1 The new points prioritisation system will make the allocations scheme more transparent in operation thus meeting with the Council's priority of developing rights and responsibilities.
- 11.2 The proposal to monitor lettings and report formally to the Executive will support the Council's equalities agenda in ensuring fairness and consistency in the operation of the allocations policy.
- 11.3 The enhanced provision of units for care leavers will reduce the incidence of homelessness for this vulnerable group of young people and promote social inclusion.

Background Papers used in the preparation of this report.

- Housing Allocations Policies and Practices Document
- Initiatives to raise void performance
- Report to Housing Allocations Working Party 29/2/2000
- Report to the Allocations Working Party 18th October 1999
- Report to the Executive 19/03/2002
- Housing Green Paper 'Quality and Choice – A Decent Home For All'
- DETR and DSS 2000.
- How to Choose Choice – Lessons from the first year of the ODPM's CBLs Pilot Schemes (A Guide for Social Landlords).