

## CABINET

8 April 2014

<b>Title:</b> Council Housing Allocations Policy Review	
<b>Report of the Cabinet Member of 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 Divisional Director:</b> Ken Jones, Divisional Director of Housing Strategy.	
<b>Accountable Director:</b> Darren Henaghan, Corporate Director of Housing and Environment.	
<b>Summary:</b>  This report outlines proposed changes to the Housing Allocations Policy to reflect key policy principles that would: <ul style="list-style-type: none"><li>• Encourage people to make a home for themselves and stay in the borough;</li><li>• Encourage people to participate in the local community;</li><li>• Address the limited housing options available to residents; and</li><li>• Improve the choice and quality of homes.</li></ul> The specific changes proposed to the policy include: <ul style="list-style-type: none"><li>• Introducing a residential qualification;</li><li>• Exclusions to joining the waiting list;</li><li>• Priority for working households;</li><li>• Flexible tenancies;</li><li>• Discharging the Council's homeless duty into the private sector.</li></ul> Any new policy must now take full account of the statutory guidance published in December 2013 by the Department for Communities and Local Government (DCLG) in respect of Allocation of Social Housing post the Localism Act.	
<b>Recommendations</b>  The Cabinet is recommended to agree the Council's Housing Allocations Policy which will include the following changes: <ul style="list-style-type: none"><li>(i) A residential requirement for all new applications to be placed on the Housing Register from 1 September 2014. Members are asked to agree the length of the residency qualification. Options are set out in this report for two, five and ten years;</li><li>(ii) Excluding applications to the housing register of those who meet the residential</li></ul>	

criteria but have no housing need and no realistic prospects of re-housing;

- (iii) A reasonable preference category (priority) will be awarded to those applicants who are in paid employment and in housing need;
- (iv) The ability to grant flexible tenancies of a minimum of two years should be allocated in certain circumstances; and
- (v) To discharge the duty to homeless households by securing private rented accommodation, rather than retaining a full housing duty until a long term social rented home becomes available.

**Reason(s)**

To assist the Council to achieve its vision to 'Encourage growth and unlock the potential of Barking and Dagenham and its residents' and the priority to 'Create thriving communities by maintaining and investing in new high quality homes'.

## **1. Introduction and Background**

1.1 Housing Allocations Policies are being reviewed nationally taking advantage of the Localism Act which offers authorities more opportunity and greater freedom to frame a policy that is responsive to local prevailing housing circumstances. The changes implemented so far in various authorities range from minor amendments to radical policy change.

1.2 Consultation has been conducted over the last three years with a view to developing a new policy for Barking and Dagenham. Interim policy changes have already been implemented following Cabinet approval (18 December 2013) to address the following issues;

- The assessment of bedroom size to be in accordance with housing benefit regulations to be applied to all cases held for assessment since the benefit regulations came into effect in April 2013.
- To allow discretion to the policy that a housing allocation cannot be effected if the applicant is in rent arrears.
- The prioritisation of housing applications from Armed Forces personnel who meet the required criteria.
- The allocation of Council homes let above social rent levels.

1.3 The policy drivers for changing the Housing Allocations Policy include:

- Encouraging people to make a home for themselves and stay in the borough participating in the community;
- Addressing the limited housing options available to residents. There is a significant imbalance between need and supply of housing. In 2001 there were

2,157 applicants on the Housing Register, today there are 13,500. In 2001 the Council had over 1,600 void Council homes to re-let, this year the number will be close to 600.

- The estate renewal programme will be a significant constraint on the Council's ability to meet other housing needs from the Housing Register or transfer applicants over the next 10 years due to the necessity to award priority to households being decanted from the flatted blocks. In 2013/14, of the 600 void Council properties available to let, only 170 went to applicants other than decants.
- The Council has embarked on a major programme of capital investment to improve the quality of the existing housing stock and to build new affordable Council homes which will complement the estate renewal programme.

1.4 This report highlights fundamental changes that the new policy will introduce from 1 September 2014 for new applicants to the Housing Register. This will follow the completion of a data cleanse of the Housing Register, drafting of a working policy and procedure, staff training and any necessary changes to the IT systems.

## **2. Proposed changes to the Housing Allocations Policy**

2.1 The following changes to the Council's Housing Allocations Policy are proposed to address the policy considerations set out in this report:

- A residential requirement for all new applications – the options set out in this report are for two, five and ten years.
- Excluding applications to the housing register of those who meet the residential criteria but have no housing need and no realistic prospects of re-housing.
- A reasonable preference category (priority) will be awarded to those applicants who are in paid employment and in housing need.
- The ability to grant flexible tenancies of a minimum of two years should be allocated in certain circumstances.
- To discharge the duty to homeless households by securing private rented accommodation, rather than retaining a full housing duty until a long term social rented home becomes available.

## **2.2 Residential Qualification**

2.2.1 Until recently local authorities were not able to impose blanket residential criteria. However the Localism Act allows local authorities to determine who may join their register. Statutory guidance on social housing allocations recommends all local authorities adopt a minimum two year residency test as part of their qualification criteria.

2.3 In accordance with the underpinning philosophy of the Localism Act, Members have expressed an interest in establishing a residency qualification to join the Housing Register. Across London, where residency qualifications have been implemented,

they range from one to 10 years with the majority of boroughs having a one, two or three year qualification, six boroughs have five years and one (Hillingdon) have a ten year qualification. Of the East London Housing Partnership authorities (City of London, Hackney, Havering, Newham, Redbridge, Tower Hamlets and Waltham Forest), the longest period is three years.

- 2.4 The length of the residency period must be based on sound policy objectives. This report presents the overarching policy considerations and the potential residency periods, with the implications of each option to inform Members' decision making.

### **Policy considerations**

- 2.5 The Council's Housing Strategy 2012-17 makes a clear and strong connection between housing and its contribution to promoting the social and economic regeneration of Barking and Dagenham. The review of the Council's Housing Allocations Policy is an opportunity to help deliver the objective to build thriving communities.
- 2.6 The borough has the lowest house prices and lowest private sector rents in London. This makes Barking and Dagenham a very attractive destination for those seeking good value homes. This has resulted in a 10.5 per cent increase in house prices between December 2012 and December 2013. Market assessments in 2013/14 show that the majority of private sales are to those who previously lived outside of the Borough.
- 2.7 Barking and Dagenham residents have the second lowest household income in London. This means that increasingly they find themselves unable to compete with higher income households from other areas of London and the South East. The Office for National Statistics estimates that each year approximately 12,000 people will move into the borough from other parts of England and Wales, with the majority previously having lived in other London boroughs (ONS mid-year estimates – components of change). These factors significantly reduce the housing options for existing residents.
- 2.8 In order to support Council tenants through tough times, the Assembly, on 19 February 2014, set a below inflation increase in Council rents which meant that Barking and Dagenham has the lowest Council rents in London. This makes the borough very attractive for prospective Council tenants.
- 2.9 The Council is investing unprecedented amounts in improving the Council Housing stock. Since 2012 our programme of estate renewal has seen housing at Goresbrook Village, The Leys and the first phase of the Gascoigne Estate being decanted and demolished to improve the quality, number and choice of homes. To replace these homes we are now part way through a ten year programme of building high quality new homes with over 1,200 of these to be completed by March 2016.
- 2.10 These new high quality homes are intended to increase the choice for those residents that may have been displaced by the decanting process who might wish to return or to provide greater choice for other borough residents that have been waiting in unsatisfactory council or private accommodation for their chance to access decent homes.

- 2.11 A residential qualification based on the time living in the borough will encourage those seeking a council home to make a positive commitment to the borough and a contribution to the life of the local community. It will reduce demand on Council housing providing support to local residents and enable greater access for existing residents to the new quality homes being built in the borough.

### **Options Appraisal**

- 2.12 **Two years:** A two year residency qualification would be in line with the recommended level as set out in the Localism Act. However, this is a short period of time and may not fully meet the policy objectives set out above.

Research carried out to support the Housing Strategy identified that the average length of letting in the private rented sector is less than two years, with the majority of people expressing a desire to move out of the borough when they have the resources to do so. This type of transience in the population has many negative impacts including children moving from school to school, continuity of health care being disrupted, and short term residents find it more difficult to integrate into local communities.

Analysis of research carried out for the Housing Needs Survey 2011 shows that potentially 9.3% of households had lived in the borough for less than two years and could be affected by a two year residency qualification if they wished to apply to the Council's housing register. This is 6,492 households.

Implementing a two year residency qualification would therefore have an impact on a relatively small number of households but would fail to address the policy considerations fully.

- 2.13 **Five years:** Some boroughs, for example Hounslow, Hammersmith and Fulham, and Thurrock Council, have adopted a five year residency qualification. Implementing a five year residency qualification should achieve a substantial reduction in demand and is a significant commitment to the borough addressing some of the key policy considerations set out above such as building a thriving community.
- 2.14 The fast paced demographic change in the borough over recent years, however, means that there are implications for specific groups of the community by implementing a five year, or longer, period of residency.
- 2.15 In 2001 (Census) White British residents accounted for 80.9% of the total population, decreasing to 49.5% 10 years later in 2011 (Census). It is estimated that in 2009 (five years ago) the White British population accounted for 56% of the local population and in 2004 (10 years ago) for 71.5%. If this trend has continued we would expect the White British population in 2014 to represent about 40% of the total borough population. The Council Choice Homes team manages the current Housing Register, and report that 39.5 % of those currently on the register are White British, which closely reflects this proportion.
- 2.16 Using the Housing Needs Survey 2011 we can estimate the impact of implementing a five year residency qualification. From this survey we know that 20.4% of

households could be potentially affected by a five year residency requirement (14,192 households). The profile of households living in the borough for less than five years shows that:

- 45.2% live in owner occupied accommodation and 40.9% in private rented. Very few live in local authority households.
- A low proportion is White British (23.2%)
- Most households are married/cohabiting with children (62.1%)
- 78.1% are in employment: 55.2% full-time; 17.5% part-time; and 5.4% self employed. 12.9% are unemployed and available for work.
- A very low proportion are aged 45 years plus (10.5%) with 2.7% aged 60 years plus. 18.3 % are aged 0 to 5 years. The largest single group is 24 – 34 years (26.7%).

2.17 Therefore this length of residential qualification is likely to disproportionately impact on those aged 24-35, in employment and from BME communities. However, a five year residency qualification is more likely to address the policy consideration set out above than a short time period.

2.18 **Ten years:** Only Hillingdon in London has implemented a 10 year residency qualification. Similar to the five year option this would have a greater chance of delivering the policy considerations, however, there is a greater impact on specific groups within the borough. Members should be mindful of the legal advice provided in section 7 and the potential customer impact in section 8 including the Equality Impact Assessment at **Appendix 1**.

2.19 Again, using the results of the Housing Needs Survey 2011 as a proxy we know that for residents living in the borough for 10 years or more:

- A high proportion live in owner occupied properties (65.6%), with only 3.8% living in private rented accommodation
- A very high proportion is White British (79.6%)
- A relatively low proportion are married/cohabiting with children (37.7%)
- A very low proportion is in employment (54.7%) mainly because the large number of retired residents (29.4%). 9.1% are unemployed and available for work
- A high proportion are aged 45 years plus (53.6%). 26.2% are aged 60 plus. Only 3.3% are aged 0 to 5 years. The largest single group is the 45 to 59 year group (27.4%).

2.20 An estimated 33.8% of households could be potentially affected by a ten year residency requirement (23,570 households) and unable to join the Housing Register. This length of residency qualification is likely to negatively impact disproportionately on younger, employed residents with families and from BME communities.

## 2.3 Exceptions to the Residency Requirement

2.3.1 The Statutory Guidance expressly highlights the need for local authorities to take proper account of special circumstances. It is important to note that this would include the need to protect people who are moving into the district to escape

violence and would also include homeless families and care leavers whom the local authority may have placed outside of their district.

2.3.2 There are also sound policy reasons not to apply a residency test to existing Council tenants seeking to move between authorities or wishing to downsize.

## **2.4 Exclusion to Joining the Housing Register**

2.4.1 Currently persons subject to immigration control are ineligible to join the Council's Housing Register. Changes to Part VI Housing Act 1996 brought about by the Localism Act determines that housing authorities will be better able to manage their housing waiting list by giving them the power to determine which applicants do or do not qualify for an allocation of social housing. Authorities will be able to operate a more focused list which better reflects local circumstances and can be understood more readily by local people. It will also be easier for authorities to manage unrealistic expectations by excluding people who have little or no prospect of being allocated accommodation.

2.4.2 Given the current mismatch of supply and demand for social housing with approximately 13,500 current applicants on the waiting list and an expected turnover of 600 void properties per year, applicants who have no recognised housing need reflected by the reasonable preference categories will be excluded from joining the register.

## **2.5 Priority for Working Households**

2.5.1 The Council has made a strong commitment to improving access to genuinely affordable rented homes for local people in employment. Cabinet decisions in relation to the letting of the Barking and Dagenham Reside homes and the new Council build homes with rent levels above the standard social rent level demonstrate this. Local authorities are urged to consider how they can use their allocations policy to support those households who are working.

2.5.2 Whilst all applicants will be assessed using the reasonable preference categories a further new preference category will be awarded to those who are employed. This therefore complements the earlier Cabinet decisions in relation to the Council supply of higher rented social housing.

2.5.3 It can be seen that this policy development is in keeping with promoting the social and economic regeneration of the borough and fostering aspiration.

## **2.6 Flexible Tenancies**

2.6.1 Social landlords are now able to grant tenancies for a fixed length of time. Flexible tenancies must be for a minimum of two years in exceptional circumstances, with five years or more being the norm. There is no upper limit on the length of tenancy. More flexible tenancies will allow social landlords to manage their social homes more effectively and fairly, and deliver better results for local communities. Whilst the Council does not wish to move away from lifetime tenancies there are some instances where this would be an appropriate option, for example;

- Applicants who meet the residential and eligibility criteria and are entitled to an allocation of social housing but have limited leave to remain.
- Applicants who are seeking family sized accommodation to foster children. In the event that the tenant ceased to foster children the flexible tenancy would not be renewed and the Council will offer a transfer to alternative appropriate accommodation.

## **2.7 Reform of Homelessness Legislation**

- 2.7.1 People who experience a homelessness crisis need somewhere suitable to live. Councils have a duty to house people who are eligible, in priority need and unintentionally homeless; and this duty will remain in place. Central Government will also continue to fund support and advice to prevent homelessness and rough sleeping.
- 2.7.2 However, under the previous rules, people who became homeless were able to refuse offers of accommodation in the private rented sector, and insist that they should be housed in expensive temporary accommodation until a long- term social home becomes available.
- 2.7.3 The Localism Act allows local authorities to meet their homelessness duty by providing good quality private rented homes.
- 2.7.4 This option could provide an appropriate solution for people experiencing a homelessness crisis, and stop homelessness being seen as a quick route to re-housing. The Council will continue to have an ongoing duty to assist the household on one further occasion if they become homeless within two years of the duty being discharged.
- 2.7.5 This approach will also achieve significant savings to the Council's general fund expenditure for the ongoing cost of temporary accommodation for newly accepted homeless households where the Council is successful in securing suitable rented accommodation. It would also reduce the number of households on the housing register with a reasonable preference (priority) based upon the fact that a homeless duty is owed. Given current trends this could reduce new demand by approximately 500 cases per year, giving a potential annual saving of £200,000.

## **3. Transition and implementation**

- 3.1 Given that the proposed changes to the Housing Allocations Policy represent a significant departure from current practice it is proposed the changes will only apply to new applications received after the agreed date of implementation, which it is recommended to be the 1 September 2014. All current applications received before this date will retain full eligibility.
- 3.2 The new policy will be published alongside the detailed procedures which will give definition to issues such as people going away to college and returning to the borough.
- 3.3 As part of an ongoing data cleanse of the Housing Register there has been a recent exercise with Internal Audit using NFI data (National Fraud Intelligence) which



resulted in a reduction of 2,500 cases for the Housing Register – the list reduced from 15,000 to 12,500 (this has subsequently risen to 13,500). It is therefore essential that we continue to review and cleanse the existing housing applicant data in readiness for the implementation of the new Housing Allocations Policy.

- 3.4 It is proposed that a review of the operation of the revised Housing Allocations Policy be conducted one year after its implementation so that an assessment can be made to fully determine its impact.

#### **4. Options Appraisal**

- 4.1 The options are set out in the body of the report.

#### **5. Consultation**

- 5.1 Consultation has taken place over the last three years with Members, the local community, staff, external bodies, and a wide range of other stakeholders.
- 5.2 293 questionnaires were completed at various public consultation events during the summer 2012 which provided the following feedback:

##### **Should the council introduce a 'Residency Qualification', if so for how long?**

There was a significant level of support for a residential qualification to access the Housing Register. 72% (212) of respondents agreed this should be implemented, with the remaining 28% giving no opinion.

Of the 212, 32% would recommend two years or less, 25% two to three years, 27% three to five years, 8% five to ten years and 8% ten years or more.

##### **Should the Council award a Reasonable Preference (priority) for working?**

Yes	211 = 78.4%
No	43 = 15.6%

##### **Should the Council introduce flexible tenancies instead of life time tenancies?**

Yes	130 = 46.4%
No	130 = 46.4%
Not sure	20 = 7.2%

##### **Should the Council continue to provide temporary accommodation to homeless households until they get a social rented home, or provide a private rented property in discharge of duty?**

Stay as we are	102 = 36.4%
Assist with a private rented property	159 = 56.8%
Not sure	19 = 6.8%

## **6. Financial Implications**

Implications completed by: Carl Tomlinson, Finance Group Manager

- 6.1 The report outlines the key principles which inform the development of a new housing allocations policy and procedure. The recommendations are primarily associated with maintaining the housing waiting list and may result in minor financial benefit through managing a reduced list. Recommendation (v), the use of private rented accommodation to mitigate temporary accommodation, has the most significant financial impact.
- 6.2 Temporary accommodation costs the council £14m per year with the majority recovered through Housing Benefit. The council uses Bed and Breakfast accommodation as a way of managing excess demand. Recent years have seen an increasing reliance on Bed and Breakfast which is an expensive option. The net cost to the council is in the region of £1.6m pa; however, increasing demand puts further pressure on this position. The use of private rented accommodation as a means of reducing Bed and Breakfast usage would reduce cost pressure on the Council.
- 6.3 Should the Council be subject to any challenge in respect of the revised allocations policy this would represent a financial risk.

## **7. Legal Implications**

Implications completed by: Fiona Taylor, Head of Legal Services

- 7.1 Every local housing authority is legally required to have a scheme (their “allocation scheme”) for determining priorities and as to the procedure to be followed, in allocating housing accommodation. This includes all aspects of the allocation process, including the persons or descriptions of persons by whom decisions are to be taken. As long as the scheme complies with S166 (3) of the Housing Act 1996 and other statutory responsibilities, then legal challenge is reduced. In December new guidance was published “Providing social housing for local people - Statutory guidance on social housing allocations for local authorities in England”.
- 7.2 The legislation further provides at Section 160ZA(6) that housing authorities may only allocate accommodation to people who are defined as ‘qualifying persons’ and section 160ZA(7) gives them the power to decide the classes of people who are, or are not, qualifying persons. The Government is of the view that, in deciding who qualifies or does not qualify for social housing, local authorities should ensure that they prioritise applicants who can demonstrate a close association with their local area. Some housing authorities have decided to include a residency requirement as part of their qualification criteria, requiring the applicant to have lived within the authority’s district for a specified period of time in order to qualify for an allocation of social housing. The Secretary of State supports and encourages local housing authorities including a residency requirement. The Secretary of State has indicated a minimum period of at least two years would be reasonable.
- 7.3 The Secretary of State goes on to observe that any residency arrangement must not be so inflexible as to frustrate other objectives such as the need to provide

accommodation to persons leaving Her Majesties Armed Forces or existing social tenants or where a move will secure better use of accommodation.

- 7.4 The decision in terms of setting the period of residence is a matter for the Council to make. Clearly the Secretary of State's opinion in terms of statutory guidance is influential but provided there is an evidence based trail for policy formulation and appropriate consultation including carrying out an Equalities Impact Assessment the Council's policy is better able to withstand legal challenge. The policy needs to be based on sound, reasonable and evidence based decision making.

## 8. Other Implications

- 8.1 **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 Equalities Impact Assessment is included at **Appendix 1**.
- 8.2 As set out in the options appraisal above, this analysis highlighted that imposing a residential qualification of ten years will have a significant negative impact on Black, Asian and Minority Ethnic groups who are also more likely to be experiencing overcrowded living conditions. The 2001 to 2011 Census evidence suggests it is likely that the majority of BME residents in the borough will have lived in the borough for less than ten years. The Housing Needs Survey 2011 which showed that 56% of residents had lived in their current address for less than ten years, 33.9% for less than five years, and 15.5% for less than two years. The analysis also shows that there is likely to be a disproportionate negative impact on residents of working age in employment.
- 8.3 This impact could be mitigated and reduce the risk of a legal challenge if a shorter residential qualification was considered the preferred option. By introducing a policy change in relation to awarding a reasonable preference to applicants in employment it can be seen that this policy development is in keeping with promoting the social and economic regeneration of the borough and fostering aspiration by giving recognition to local people who make a contribution to enriching the life of Barking and Dagenham, and will have a positive impact on all strands of equalities.
- 8.4 If a 10 year qualification were to be introduced there is a potential impact on community cohesion across the borough if different communities perceive that unfair advantage is being given to one community over another as a result of the longer residency qualification.
- 8.5 **Safeguarding Children** - The introduction of the revised housing allocation policy with a residential qualification set up to 10 years will have both a negative and positive impact on certain categories of households.
- 8.6 Households living in overcrowded conditions in the private rented sector who have not lived in the borough for 10 years will be disadvantaged by a 10 year residency bar.

- 8.7 Conversely for existing council tenants and private sector tenants who are overcrowded and already registered for re-housing there will increased opportunity by the limiting of new demand as a consequence of the residency qualification.
- 8.8 **Health Issues** - The introduction of the revised housing allocation policy with a residential qualification set at up to 10 years will have both a negative and positive impact on certain categories of households.
- 8.9 Households living in overcrowded conditions and / or with health problems in the private rented sector who have not lived in the borough for 10 years and who are not currently on the housing register will be disadvantaged by a 10 year residency bar.
- 8.10 Conversely for existing council tenants and private sector tenants who are overcrowded and / or have health problems and are already registered for re-housing there will increased opportunity by the limiting of new demand as a consequence of the residency qualification.

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

- Housing Needs Survey 2011

**List of appendices:**

- Appendix 1 - Equalities Impact Assessment