

CABINET

4 August 2014

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| Title: Council 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 Divisional Director: Ken Jones, Divisional Director of Housing Strategy | |
| Accountable Director: Steven Tucker, Interim Director of Housing | |
| Summary: This report outlines proposed changes to the Housing Allocations Policy previously agreed by Cabinet. The proposed changes are: <ul style="list-style-type: none">• The residential qualification needed to join the Council's Housing Register be set at three years instead of 10 years as agreed by Cabinet on 8 April 2014.• 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 is insufficient demand from working households within the borough.• To undertake an annual review of the policy in view of the changing housing market. The proposed changes to the Housing Allocations Policy reflect key policy principles that: <ul style="list-style-type: none">• Encourage people to make a home for themselves and stay in the borough.• Encourage people to participate in the community.• Address the limited housing options available.• Promote greater community cohesion.• Promote better health outcomes for residents in the borough. | |
| Recommendations The Cabinet is recommended to: <ul style="list-style-type: none">(i) Agree the following changes to the Council's Housing Allocations Policy, to take effect from 3 November 2014:<ul style="list-style-type: none">(a) A revised residential requirement of three years applied to all new applications to be placed on the Housing Register.(b) Council homes with rents above social rent levels should be exclusively for | |

working households and not restricted to borough residents if there is insufficient demand within the borough.

(c) That the policy be reviewed annually.

(ii) Agree the revocation of the Cabinet decision made at the meeting on 8 April 2014 under Minute 106 (i) (a) to implement, with effect from 1 September 2014, a 10-year residential qualification.

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 A review of aspects of the Housing Allocations Policy as agreed by Cabinet on 8 April 2014 and 19 December 2013 have been requested by the Cabinet Member for Housing. The specific issues relate to the length of the residential qualification before an applicant can join the Housing Register and eligibility for Council properties to be let at rent levels above social rent.

1.2 Since the Cabinet decision of 8 April 2014, a number of other London Boroughs have set their positions in relation to the period of residential qualification. It is now clear that none of the London Boroughs in the East London Housing Partnership, of which Barking and Dagenham is a member, has a period greater than three years (with the majority opting for a two year residential qualification). It is also clear that only one London Borough, Hillingdon, has set ten years.

1.3 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 (19 December 2013) and further changes were agreed by Cabinet (8 April 2014) to shape the development of a new policy. In relation to the introduction of a residential qualification, the consultation showed that 72% of respondents supported this measure, with 58% in favour of periods up to three years and another 27% supporting between three and five years.

2. Proposed changes to the Housing Allocations Policy

2.1 Residential Qualification;

- 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 allocation recommends all local authorities adopt a minimum two year residency test as part of their qualification criteria.

- The need for a residential qualification is accepted. However to prevent disproportionate impacts within the local community the residential qualification is to be set at three years, to strike a balance between demand and need, and fairly reflect the community. This length of residential qualification compares with the two year period introduced by Havering, Redbridge, Newham and Waltham Forest.
- A period of three years residency before a person is eligible to enter the Housing Register should be adequate to demonstrate commitment to establishing roots in the borough and be of sufficient length to prevent the attraction for people to move into Barking and Dagenham in the belief of quickly accessing social housing.
- A residential qualification period in excess of three years would be very likely to disproportionately adversely impact certain groups within the community. As evidenced by the Equalities Impact Assessment (see Appendix 1) a period of five years would adversely affect (i.e. the number of households who would not be eligible to register for housing) 29% of the BME community. This is compared to 17% of the White British/Irish population. A period of ten years would adversely affect 47% of the BME community and 27% of the White British/Irish population. It is estimated a three year qualification will affect 13% of all households; it would adversely affect 21% of the BME community in comparison to 8.3% of the White British/Irish populations.
- The reduction in the length of the residential qualification from ten to three years will have a long term positive impact for families living in overcrowded and inappropriate private rented accommodation which will directly impact on health inequalities.
- The key to improving the housing prospects of the households in the borough is to increase the supply of high quality and genuinely affordable homes. The Council has been particularly active in its new build programme. In the last two years 805 homes have been completed by the Council, either via the HRA or Barking and Dagenham Reside (a wholly owned Council subsidiary). In addition to this there will be a further 872 new affordable Council homes completed by March 2016.
- Reducing the length of the residential qualification will also reduce the risk of legal challenge as set out in the legal implications in this report.

2.2 Council homes let above social rent levels;

- Council homes with rents above social rent levels should be exclusively for working households, and not restricted to borough residents if there is insufficient demand within the borough. The prioritisation for letting these Council houses and flats will be in the following order:
 - Council tenants in employment.
 - Housing Register applicants in employment who live in the borough.

- Other borough residents who are in employment.
- Applicants from outside of the borough who are in employment.

This change will further the objective of seeking to create mixed income communities in Council developments and promote social and economic regeneration. This is in line with the proposed new vision and priorities for the borough.

2.3 Implementation date

Following consultation with the Cabinet Member for Housing it has been agreed that a full Housing Allocations Policy and Procedure document will be produced and used to facilitate staff training, following which the new policy will be implemented on 3 November 2014.

3. Options Appraisal

3.1 Residential Qualifications

- Option 1. Retain the current open housing register. This approach would not be in line with the Localism Act and Barking and Dagenham will be the only London borough without a residential qualification, encouraging increased demand from across London.
- Recommended Option 2. Introduce a three year residential qualification, this length of qualification would bring the policy in line with the sub-region and London boroughs, it is compliant with the statutory code of guidance, has minimal impact on the community and is of sufficient length to deter people from moving to the borough with the specific aim of seeking to access social housing.
- Option 3. Implement the previous Cabinet decision to introduce a ten year residency qualification. The Equality Impact Assessment highlights the potential dramatic impact on various community groups that could be compromised and would leave the Council open to legal challenge.

3.2 Council properties with rents above social rents

- Option 1. If there is insufficient demand from working households in the borough then the properties could revert to social rents and be advertised to all waiting list applicants, thereby meeting more traditional social housing need, but this would fail to maximise the opportunity to attract working households to the borough.
- Recommended Option 2. In the event that there is insufficient demand from working households within the borough, market the properties to people in employment from outside the borough, thereby maximising mixed income households within the community.

4. Financial Implications

Implications completed by Carl Tomlinson, Finance Group Manager

- 4.1 The report outlines proposed changes to the Housing Allocations Policy in respect of allocating Council properties with rents above social rents if there is insufficient demand within the borough and reducing the residential qualification period. In respect of properties above social rent, the proposed prioritisation would secure increased income to the council whilst attracting new working households to the borough. Amending the residential qualification period from 10 to three years would reduce the overall likelihood of legal challenge and associated financial risk.

5. Legal Implications

Implications completed by: Fiona Taylor, Head of Legal Services

- 5.1 Every local housing authority is legally required to have a scheme (their “allocation scheme”) for determining priorities and the procedure to be followed in allocating housing accommodation. This includes the allocation process, including the persons or descriptions of persons by whom decisions are to be taken. As long as schemes comply with S166 (3) of the Housing Act 1996 and other statutory responsibilities, then legal challenge is reduced. In December a new guidance was published “Providing social housing for local people - Statutory guidance on social housing allocations for local authorities in England”.
- 5.2 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 (or member of the applicant’s household) 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.
- 5.3 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.
- 5.4 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 and 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 more likely to withstand legal challenge.

- 5.5 In recent times during the working up of policy formulation Legal advice has been obtained from Counsel which reiterates the point that a policy needs to be sound, reasonable and based on evidence based decision making.
- 5.6 The Allocation of accommodation: guidance for local housing authorities in England, enables housing authorities to allocate particular accommodation to people of a particular description, whether or not they fall within the reasonable preference categories, provided that overall the authority is able to demonstrate compliance with the requirements of s166A(3). This is the statutory basis for so-called 'local lettings policies' which may be used to achieve a wide variety of housing management and policy objectives.
- 5.7 Legal advice has confirmed that a 10 year qualification period has a significant risk of challenge as it is significantly contrary to the guidance.

6. Other Implications

- 6.1 **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**. The reduction in length of residency from 10 to three years would reduce the potential disproportionate impact on specific community groups.
- 6.2 **Safeguarding Children** – Revising the residential qualification from ten years to three years will have a positive impact on certain categories of households. This relates in particular to households living in overcrowded conditions in the local private rented sector who have lived in the borough for three years but who under the previous proposal of ten years would have been ineligible to join the Housing Register for a further seven years.
- 6.3 **Health Issues** – Revising the residential qualification from 10 years to three years will have a positive impact on certain categories of households. This relates in particular to households living in overcrowded conditions in the local private rented sector.

Public Background Papers Used in the Preparation of the Report:

- Housing Needs Survey 2011

List of appendices:

- Appendix 1 - Equalities Impact Assessment