

# REPORT FOR DECISION

<b>Agenda Item</b>	
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<b>DECISION OF:</b>	<b>The Cabinet</b>
<b>DATE:</b>	<b>10 October 2012</b>
<b>SUBJECT:</b>	<b>Review of Housing Allocation Policy</b>
<b>REPORT FROM:</b>	<b>Cllr Gill Campbell, Cabinet Member for Neighbourhoods and Regeneration</b>
<b>CONTACT OFFICER:</b>	<b>Ahmed Ajmi - Projects Manager</b>
<b>TYPE OF DECISION:</b>	<b>CABINET (NON-KEY DECISION)</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	<b>This report is within the public domain</b>
<b>SUMMARY:</b>	<p>All local authorities are required to have an Allocations Policy. Bury’s policy was approved in 2006 and now needs updating to reflect changes in housing practice, legislation and case law.</p> <p>A new draft policy, informed by initial consultation with housing providers and other stakeholders, has been developed and Cabinet approval is sought to consult on the proposals during October/ November 2012.</p> <p>The policy has been designed to ensure that preference is given to people in housing need, whilst promoting choice and making best use of the council stock. This provides a clear correlation between the draft policy and Council’s priorities but also gives rise to issues that are outlined in the report and will be subject to further discussion during the consultation period.</p>
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	<ol style="list-style-type: none"> <li>1. Do nothing. The Allocations Policy would not be compliant with legislation and leave the Council open to challenge.</li> <li>2. Consult on an updated draft Allocations Policy. This is the preferred option as it works toward a fully compliant document that guides the effective and efficient allocation of properties in line with housing needs and Localism Act.</li> </ol> <p>Proceeding to consultation does not commit the Council to endorsing the Policy at this stage. Apart from certain elements (such as requirement for an allocations policy, eligibility, treatment of applications from members of the Armed Forces, etc) which are prescribed, the Council may amend aspects policy in the light of consultation.</p>

<b>IMPLICATIONS:</b>	<p>The major changes being put forward for consultation compared to the current policy are as follows:</p> <ul style="list-style-type: none"> <li>• Clarification of proof of identity to demonstrate compliance with the statutory eligibility criteria.</li> <li>• The statutory requirement to define 'qualifying persons' – categories of people from whom the Council will accept applications for housing.</li> <li>• Limiting 'qualifying persons' to applicants with a 'reasonable preference' when it comes to housing need (which includes members of the armed forces). In other words persons with no preference (and therefore no priority for housing) will not be accepted onto the waiting list for social housing but directed towards other housing options.</li> <li>• Reducing the number of waiting list 'bands' from six bands to five.</li> <li>• Retaining the emphasis on choice based lettings but enabling direct lettings in specific circumstances.</li> <li>• Ring fencing properties built or adapted for specific client groups (eg older people, disabled tenants) to applicants that specifically meet that criteria</li> <li>• Greater utilisation of local lettings policies and other initiatives to promote community cohesion.</li> <li>• Improved public information about the process and review procedures.</li> <li>•</li> </ul>
<b>Corporate Aims/Policy Framework:</b>	Do the proposals accord with the Policy Framework? Yes
<b>Statement by the S151 Officer:</b> <b>Financial Implications and Risk Considerations:</b>	<p>The report outlines that the main risk comes from not updating the allocations policy.</p> <p>A widespread consultation exercise will be undertaken to further mitigate the risk that individuals may be adversely affected by the policy.</p> <p>From a financial perspective, a robust allocations policy is essential if properties are to be let in a timely manner – avoiding empty / void properties and the resulting loss of rental income.</p>
<b>Statement by Executive Director of Resources:</b>	<p>There are no other direct resource implications arising from the proposal to consult on the revised policy.</p> <p>It is important that the revised Policy is sensitive to current and potential changes in housing benefit legislation as part of the Council's response to the Government's welfare reform agenda.</p>
<b>Equality/Diversity implications:</b>	The Equality Analysis shows the draft policy to have a positive impact for a number of groups with protected characteristics (age, gender, disability, caring). Further consultation and data analysis will be undertaken to confirm these findings.

<b>Considered by Monitoring Officer:</b>	Yes. The legal implications are set out in this report and in the policy, which has also been considered by an external legal advisor. JH
<b>Wards Affected:</b>	All Wards
<b>Scrutiny Interest:</b>	Overview and Scrutiny.

**TRACKING/PROCESS**

**DIRECTOR: EXECUTIVE DIRECTOR OF ADULT CARE SERVICES**

Chief Strategic Team	Executive/Leadership	Executive Member/Chair	Ward Members	Partners
Scrutiny Committee		Committee	Council	

**1.0 INTRODUCTION**

- 1.1 The Housing Act 1996 Part 6, as amended by the Homelessness Act 2002 and subsequent legislation requires all local authorities to have an allocations policy that sets out:
- Who is eligible to apply for housing
  - How the Council prioritises applicants ensuring that ‘reasonable preference’, is given to certain people who fall within the statutory preference categories set out in S167(2) of the 1996 Act
  - The basis on which the Council will allocate accommodation
  - The Council’s policy on giving applicants choice of accommodation
  - How the Council will prioritise tenant transfers
- 1.2 The existing housing allocation policy in Bury has been in place since 2006 and is now showing signs of age. Changes in housing practice, case law and legislation (especially the Localism Act 2011) mean that the policy has to be updated to meet the present day demands on social housing and minimise the risk of judicial review.
- 1.3 Work, including some initial consultation with providers and other interested parties, has been undertaken to develop a new draft policy (attached). Subject to comments from Cabinet, this report seeks approval to go out to formal consultation on the proposals with a view to a revised policy being submitted to Cabinet for consideration in the New Year.

**2.0 AIMS OF THE POLICY**

- 2.1 To address the demands and constraints placed on allocating social housing, the new policy works will work with the new overarching Strategic Tenancy Policy (currently under development) and the Council’s Homelessness Strategy to achieve a number of objectives:

- 2.2 **Meeting legislative requirements.** There are several prescribed actions in law concerning 'eligible persons', 'qualifying persons' and categories of need where the Council must give 'reasonable preference'. These elements are included within the policy to ensure that there is equity and fairness between competing demands.
- 2.3 **Supporting Council priorities.** By addressing housing needs, particularly the needs of older and more vulnerable applicants, the policy is fully aligned to the Council's priority outcomes. Updating the policy also contributes to the wider vision of a sustainable Bury fit for the future.
- 2.4 **Promoting choice.** A key element of Adult Care Services is to encourage individuals to have more choice and control over their lives to help them remain independent for longer. The proposed policy therefore retains choice based lettings for the majority of properties as a means of self determination and tenant mobility. However it also recognises the need to balance absolute choice with individual circumstances (witness protection, domestic violence, medical conditions, etc) where competitive bidding may not be in the best interests of the person or the community. Accordingly, the policy allows for a small proportion of properties to be directly let where there is urgency and a compelling case.
- 2.5 **Making best use of stock.** Some of the stock has been built or adapted for tenants with particular needs (usually age or disability). In the interest of efficiency it is proposed that bids/letting of these properties is restricted to the applicants that fall within the designated purpose.
- 2.6 **Supporting existing tenants.** Whilst having many advantages, choice based lettings can result in new tenants with conflicting lifestyles to the established residents on an estate giving rise to discontent and increased reports of anti social behaviour. In most instances this can be easily resolved but where there are exceptional circumstances (eg when Chapelfield was proposed as the base for the Community Resettlement Service), the new policy will enable Local Lettings Policies to be developed to provide an extra element of control over who can be allocated properties in a designated area.
- 2.7 **Openness and transparency.** To help people understand the allocations process better, the policy is written in the form of a step by step guide. It also promotes access to information held on applicants and offers the right to review/appeal at each decision making stage

### **3.0 ISSUES FOR CONSIDERATION**

- 3.1 Allocating social housing is sensitive and often controversial especially when demand is high and stock limited. Some of the more contentious items have been discussed and teased out during the initial consultation phase although consensus has not always proved possible. The draft policy has been formed based on the overall feedback so far but the major areas where further debate can be expected include:
- 3.2 **Banding system.** The current proposal is to reduce the number of bands from six to five. This retains sufficient distinction between housing needs to demonstrate that the Council is giving 'reasonable preference' to the groups specified in law whilst avoiding a complicated formulaic approach. The question is whether there should be a Band 5 (primarily people with some

housing need but with no preference and people suspended from the waiting list) or should these households simply be removed from the waiting list?

- 3.3 **Qualifying Persons.** If a person is eligible for social housing, the Council currently accepts them onto the waiting list. Whilst some housing demand / need exists around half the applicants on the waiting list have no priority and are placed in the bottom band with little chance of being accommodated. Under the Localism Act, eligible people are further categorised into 'qualifying' and 'non-qualifying' persons. Some 'qualifying' groups (those with 'reasonable preference') are specified in law but the Council has discretion to extend the list to any eligible person. The question is whether the Council wishes to continue current practice and accept applications from people with little or no change of being accommodated. Not accepting applications from 'non-qualifying' persons would create a more realistic waiting list, better manage customer expectations and (by reducing the waiting list by around 50%) generate real savings for the Council by cutting back on administrative costs.
- 3.4 **Proportion of properties allocated by direct lets.** Accepting the proposal to allow exceptional cases to be let directly and adapted properties to be exempt from bidding will have some impact on choice based letting. However this is expected to apply only in a small minority of cases and therefore the policy has purposely avoided specifying any quotas or targets to ensure the principle of choice remains paramount. Where areas have particular issues that require stronger estate management, local lettings policies will be considered. This will retain the element of choice but within specified parameters.
- 3.5 **Family intervention tenancies.** Anti social behaviour has blighted a number of neighbourhoods in recent years with the problem being recycled in a well worn path of eviction, homelessness and back into social housing. Alternatives to simply moving people around need to be found to break this cycle. For this reason, the new policy allows for schemes such as Family Intervention Tenancies to provide greater management and support to troubled families where this is appropriate.
- 3.6 The Allocations Policy sits alongside and complements the Council's proposed Strategic Tenancy Policy which is also going out to consultation. As a result any commitments agreed in relation to lifetime tenancies, homes for older people, under occupancy, etc. will influence the application of the Allocations Policy.

## 4.0 CONSULTATION

- 4.1 Some initial consultation has been carried out to gather the opinions of providers and other key stakeholders on the range of issues to inform the draft policy. This has included:
- Housing Joint Commissioning Partnership workshop – 7 March 2012
  - Housing Association Liaison Group – 14 March 2012
  - Elected Members Training evening – 3 July 2012
  - 4 Stakeholder groups:
    - Elizabethan Suite – 23 July 2012
    - Mosses Centre – 30 July 2012
    - Longfield Suite, Prestwich – 10 August 2012
    - Radcliffe Civic Suite – 13 August 2012

- A thorough examination of the policy by legal officers including Counsel opinion

In total, up to 100 participants have been involved in discussions to date.

- 4.2 Subject to Cabinet approval, the next step is to carry out much wider, formal consultation on the proposals. This will include seeking views on the attached draft policy from:
- All Elected Members
  - All housing providers operating in the Borough
  - All council house tenants
  - Applicants on the waiting list
  - Voluntary and independent sector groups
  - Residents of Bury
- 4.3 The period of consultation will be from the date of Cabinet until 30 November 2012 (6 weeks). All responses will be collated and analysed with a view to a report enclosing the finalised policy being submitted to Cabinet in the New Year.
- 4.4 The method of consultation will vary to maximise participation. Full details will be sent out to providers, Members and interested groups to allow them to comment. In collaboration with Six Town Housing, a specific tenant event will be held – and applicants on the waiting list contacted directly to alert them to the consultation. More generally, press releases and other media outlets including the Council website will be utilised to raise awareness and generate responses from the public and potential customers. Copies of the draft policy will be available on the website and in the main Council offices.
- 4.5 Other approaches such as workshops, presentations or meetings may also be undertaken particularly if particular client groups are struggling to participate or there are recurring themes that need to be addressed.

## **5.0 EQUALITY AND DIVERSITY**

- 5.1 The focus of this policy is to match demand with a limited supply of social housing through the application of an objective allocations policy. Within the limitations and prescribed requirements of the legislation, this policy sets out to give reasonable preference to those in most need and therefore will have a positive effect on the community.
- 5.2 The policy recognises the desire to provide people with a choice of quality housing but balances this with the ability for discretion (designating custom built/adapted properties, directly letting properties in certain circumstances, recognising care needs when assessing property size) to meet the needs of groups who would otherwise be disadvantaged or could suffer indirect discrimination.
- 5.3 The Equality Analysis continues to be work in progress. The latest version is attached for information.

## **6.0 RISK**

- 6.1 The major risk comes from not updating the policy. Operating a process that is not compliant exposes the Council to challenge, legal action and reputational damage.
- 6.2 To proceed with a new Allocations Policy also carries risks. It is a sensitive area of Council policy with strongly held views on all sides. Consensus and/or satisfactory compromise on some topics will require significant effort.
- 6.3 Dependent on the final outcome, the new policy could have an adverse impact on some applicants particularly if non-qualifying persons are to be excluded from the waiting list. The Council may therefore want to consider interim protection measures (eg applying changes to new applicants only). This may reduce opposition to the proposals – but would not increase the chances of people in the bottom band being re-housed nor reduce the administrative costs of maintaining their applications on the waiting list.

## **7.0 CONCLUSIONS AND RECOMMENDATIONS**

- 7.1 The Allocations Policy needs to be updated to bring it in line with housing practice, legislation and case law. If this is not achieved, the Council becomes increasingly open to challenge.
- 7.2 Some initial consultation has been undertaken to inform a new draft policy. This document is compliant with statutory requirements and the Strategic Tenancy Policy. It has also been designed to contribute to Council priorities and outcomes.
- 7.3 The Allocations Policy is an important document in determining who should receive social housing and under what circumstances. There is agreement on many points but areas of contention remain which need to be explored and resolved through a wider, formal consultation period.
- 7.4 It is recommended that:
  - (a) Cabinet agrees to formal consultation being undertaken on the draft Allocations Policy (attached to this report); and
  - (b) A report, summarising the consultation responses, is submitted together with the revised draft Allocations Policy to Cabinet in the New Year for decision to replace the current Allocations Policy.

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### **List of Background Papers:-**

Current Allocations Policy (2006)  
New draft Allocations Policy  
Equality Analysis

### **Contact Details:-**

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