

# REPORT FOR DECISION

<b>Agenda Item</b>	
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<b>DECISION OF:</b>	<b>The Cabinet</b>
<b>DATE:</b>	<b>6 March 2013</b>
<b>SUBJECT:</b>	<b>Approval of the Housing Allocation Policy</b>
<b>REPORT FROM:</b>	<b>Councillor 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 (KEY DECISION)</b>
<b>FREEDOM OF INFORMATION/STATUS:</b>	This report is within the public domain
<b>SUMMARY:</b>	<p>All local authorities are required to have an Allocation Policy. Bury’s current policy was approved in 2006 and now needs updating to reflect changes in housing practice, legislation and case law. The Policy also has to take account of the Strategic Tenancy Policy (approved by Cabinet in December 2012) and the Council’s Homelessness Strategy (2010-2013).</p> <p>An initial draft Policy, drawn up in collaboration with housing providers and other stakeholders, was discussed at Cabinet on 10 October 2012 and consulted on widely during October and November 2012. Around 200 responses were received which have been considered in full and the feedback used to produce the revised draft Policy (attached). Summary analysis of the consultation responses are also attached for information.</p> <p>The revised Allocation Policy adheres to the Council’s values of supporting people in severe need and empowering communities by:</p> <ul style="list-style-type: none"> <li>• Giving preference to people in housing need</li> <li>• Prioritising households that are homeless, in life threatening situations or have urgent medical/social needs (Band 1)</li> <li>• Maintaining Choice Based Lettings for the majority of properties (whilst allowing direct lets where appropriate to support elderly and disabled residents)</li> <li>• Utilising local lettings policies to build and strengthen communities</li> <li>• Encouraging a more proactive approach to housing options and homelessness prevention to help more people find (or remain) in settled accommodation</li> </ul>

	<p>Additionally the policy envisages a more streamlined method of processing applications which is in keeping with the Council's efforts to improve efficiency whilst maintaining appropriate safeguards for vulnerable applicants who need more support and assistance through the process.</p>
<b>OPTIONS &amp; RECOMMENDED OPTION</b>	<ol style="list-style-type: none"> <li>1. Do nothing. The Allocation Policy would not be compliant with legislation and would leave the Council open to challenge.</li> <li>2. Approve the Allocation Policy. This would allow the Council to be compliant with current legislation and would allow the targeting of valuable housing resources to people in housing need.</li> <li>3. Approve the Allocation Policy with amendments. Any proposed changes would need to be set out in detail to enable full assessment of the amendments under Equality legislation or in relation to the Council's statutory obligations</li> </ol>
<b>IMPLICATIONS:</b>	
<b>Corporate Aims/Policy Framework:</b>	<p>Do the proposals accord with the Policy Framework?      Yes</p>
<b>Statement by the S151 Officer: Financial Implications and Risk Considerations:</b>	<p>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. It is also operationally inefficient at a time when resources are at a premium.</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>	
<b>Equality/Diversity implications:</b>	<p>The draft policy is positive in terms of recognising the needs of groups with protected characteristics particularly the elderly, disabled applicants and people with caring responsibilities. The policy also seeks to avoid discrimination by supporting vulnerable people through the process, recognising equality in succession rights and promoting community cohesion through the effective use of local lettings policies.</p> <p>The impact of the policy will be monitored.</p>
<b>Considered by Monitoring Officer:</b>	<b>The legal implications are set out in the report.</b>

	<b>It is important that the decision is taken in the context of the consultation undertaken.</b>
	<b>JH</b>
<b>Wards Affected:</b>	<b>All Wards</b>
<b>Scrutiny Interest:</b>	<b>Overview and scrutiny</b>

## **TRACKING/PROCESS**

## **DIRECTOR: Executive Director of Adult Care Services**

Chief Executive/ Strategic Leadership Team	Executive Member/Chair	Ward Members	Partners
18 February 2013		February 2013	
Scrutiny Committee	Committee	Council	

### **1.0 BACKGROUND**

- 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 allocation 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
  - How the Council will prioritise tenant transfers.
- 1.2 Bury's existing Housing Allocation Policy has been in place since 2006 and now needs to be updated. Changes in housing practice, case law and legislation (especially the Localism Act 2011) mean that the policy has to be updated to meet present day demands on an increasingly limited supply of social housing and to minimise the risk of judicial review.
- 1.3 A draft Housing Allocation Policy was developed through consultation with housing providers and other stakeholders. This was presented to the Cabinet meeting of the 10<sup>th</sup> October 2012, where approval was given to extensive consultation on the draft Allocation Policy being undertaken. This consultation began on 23<sup>rd</sup> October 2012 and closed on 30<sup>th</sup> November 2012 (6 weeks). During this time all stakeholders were notified of the consultation, workshops were held with different stakeholder groups and online, electronic and paper questionnaires were available for comments to be made on the draft Policy.

These comments have been considered and informed a revised Allocation Policy which is now submitted for approval.

## **2.0 AIMS OF THE POLICY**

- 2.1 To address the demands and constraints placed on allocating social housing, the new policy will work within the Council's Strategic Tenancy Policy (approved at the Cabinet meeting of 19 December 2012) 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. Significant discussion and redrafting has taken place in consultation with legal staff to ensure the policy is compliant with Housing and Equality legislation.
- 2.3 **Supporting Council priorities.** By addressing housing needs, particularly the needs of older and more vulnerable applicants, this 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 applicants that fall within the designated purpose.
- 2.6 **Supporting existing tenants.** Whilst having many advantages, choice based lettings can result in tenancies being granted to individuals that have conflicting lifestyles to the established residents on an estate. This can give rise to discontent and increased reports of anti social behaviour. The new provisions allow, through Local Lettings Policies, additional controls to be applied in designated areas where this is an issue.
- 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. Leaflets and guidance notes will be developed to help stakeholders understand the process better and the application process redesigned to help more people take control of their housing options.

### **3.0 ISSUES FOR CONSIDERATION**

3.1 In addition to the legislative changes required, consideration was also given to a number of other areas that had emerged during the development of the draft policy including:

- The distribution of need within the Banding System;
- Defining 'qualifying persons' within the policy;
- Balance between Choice Based Lettings and the use of Direct Lets;
- Access to, and availability of, specialist properties (such as adapted houses, sheltered housing, Family Intervention Tenancies);
- Approach to dealing with cases of under occupancy.

3.2 During this period a number of new and sometimes controversial suggestions were raised and the merits of each case evaluated. The policy has however remained focused on meeting our legal obligations, delivering Council priorities and ensuring that the limited supply of affordable rented housing is allocated to those people in the greatest housing need.

### **4.0 RESULT OF THE CONSULTATION**

4.1 Consultation took place between October and November 2012.

4.2 As part of this consultation, comments were invited from a range of stakeholders including:

- All Council Tenants and Housing Applicants;
- Elected Members;
- Housing providers including Six Town Housing;
- Officers from across Bury Council, including Legal Services, Planning, Urban Renewal, Adult Social Care, and Children's Services;
- 63 other organisations including agencies such as the Police, Fire Services, Job Centre, voluntary organisations and interest groups (such as the Third Sector Development Agency, Bury Law Centre; Citizens Advice Bureau; Bury Housing Concern; Re>build; Housing Link; Creative Support; Adullam; Calico; Praxis; BADDAC) and neighbouring local authorities.

4.2 Individual feedback was received from almost 200 participants through workshops, questionnaires or the on-line survey – many of whom were tenants or people on the housing waiting list. All the views received have been given serious consideration and their views have informed the final draft of the Allocation Policy. Comments were also received about the handling of housing applications which has resulted in some amendments to the process to improve the information provided, streamline the application process and ensure support will be available to individuals who need additional assistance to access to the service.

4.3 Counsel's opinion has also been obtained on the final version of the Allocation Policy to ensure legal compliance.

4.4 A more detailed analysis of the feedback is provided in the separate summary report. It should be noted that the comments are those of the individual respondents and do not necessarily represent the views of Bury Council.

However, they are shown to give an open transparent picture of the range of comments received.

4.5 The main themes arising from the consultation are shown in the following table, together with the Council's response:

<b>You Said</b>	<b>Our Response</b>
Restrict the waiting list to only people in housing need	This supports our proposals in the draft Allocation Policy. However we will continue to provide advice and guidance on the range of housing options available to people with no housing need in order that they can be helped into accommodation.
Give priority for people needing an adaptation	This is agreed and already contained in the draft Allocation Policy.
Priority to Council tenants needing to downsize	This is agreed. We will work with people wanting to downsize to find housing more suited to their needs, particularly as a result of Welfare Reform and Universal Credit. Additional priority on the waiting list will be given at the discretion of the Head of Inclusion where this will reduce hardship and release a larger property for letting.
Economic Contribution / Community Contribution should not get extra priority	This is accepted.
Amend application process	The application process will be simplified in line with the Policy.
Direct lets to people with specific needs	This is agreed. In addition we will discuss with customers their housing requirements and identify property that is suitable to their needs before they receive an offer of accommodation.
CBL? – time limits and restrictions on number of bids / bid withdrawn should be imposed	This is agreed and we will simplify and amend the Policy on this matter.
Restrictions on who goes on the waiting list. Are younger people too immature to manage a house properly?	This is not accepted as we cannot discriminate on grounds of age. Eligibility for housing has to be based on housing need – if tenancy or other issues are anticipated, the Policy requires appropriate support to be put in place before an offer of housing is made.
Too generalised banding – use sub bands	This is not accepted – we need to simplify the banding structure rather than add further criteria which make the system more complex and open to challenge.
Tighten up the process for local lettings policies.	This is agreed and we will simplify and amend the Policy on this matter.

## **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 Traditionally the waiting list has been open to all and limiting applications to people in housing need will disqualify some individuals from the housing waiting list. However, with resources being limited, it is considered appropriate that the Council should confer greater priority to those in greatest need and most vulnerable. This does not however mean the Council will ignore those seeking accommodation that do not have a defined housing need; information, advice and guidance will be free and available to all and resources will be dedicated to helping all individuals identify and evaluate their housing options.

## **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. It is also operationally inefficient at a time when resources are at a premium.
- 6.2 To proceed with a new Allocations Policy also carries some risk. It is a sensitive area of Council policy with strongly held views on all sides. Through extensive consultation, and giving people opportunities to shape the new Allocation Policy attempts to reach a consensus and/or satisfactory compromise on some topics ? (have done what). On a day to day basis, appeal and review procedures operate at each key decision stage to minimise the risk of getting it wrong. The policy will also be reviewed at regular intervals so that it remains current and effective.
- 6.3 Restricting the housing register to people with housing needs will have an adverse impact on some individuals as highlighted in paragraph 5.3. However retaining an open waiting list presents counter risks from:
- People with little or no housing need being re-housed through the Choice Based Letting system ahead of people who have a priority need for assistance. Most respondents to the consultation felt that social housing should be targeted at those in housing need. Accordingly efforts have to be made to avoid anomalies created by what some would see as 'queue jumping' from entering the allocation process;
  - Raising false expectations – by accepting applications when the majority of applicants with little or no housing need will spend many years on the list with limited prospects of being re-housed, especially in the area of their choice. By offering information, advice and guidance to all, the focus shifts



from registering people on the waiting list to helping people into accommodation.

## **7.0 IMPLEMENTATION**

- 7.1 It is proposed to implement this policy, subject to approval, with effect from 1 May 2013 to allow time to change processes and systems. It will also enable the service to publicise the changes in advance.
- 7.2 The policy will apply immediately to new applicants after 1 May 2013. People who are already on the housing register will be re-assessed as and when their circumstances change or during their annual review.
- 7.3 The policy will be accompanied by changes in processes, systems and reception facilities to make it easier for people to get information about their housing options and encourage a self service approach. Support will however remain available to vulnerable applicants to ensure they are not disadvantaged by any changes in working practices.

## **8.0 CONCLUSIONS AND RECOMMENDATIONS**

- 8.1 The Allocation Policy has 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
- 8.2 The Allocation Policy is an important document for the Council in determining the best use of limited resource affected by an increasing demand.
- 8.3 It is recommended that Cabinet agrees to Option 2 – to approve the new Allocation Policy (2013) with an implementation date of 1 May 2013.

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

Review of Housing Allocation Policy – report to Cabinet 10<sup>th</sup> October 2012.  
Current Allocation Policy (2006)  
New Draft Allocation Policy (2013)  
Equality Analysis  
Strategic Tenancy Policy  
Homelessness Strategy (2010-13)  
Response to Consultation (October-December 2012)

### **Contact Details:-**

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