

<b>Report to:</b>	Housing, Economy and Business Committee	<b>Date:</b>	19 March 2019
<b>Report title:</b>	Review of the Council's Housing Allocations Policy		
<b>Report from:</b>	David Moore - Interim Strategic Director of Environment, Housing and Regeneration		
<b>Ward/Areas affected:</b>	Borough Wide		
<b>Chair of Committee/Lead Member:</b>	Councillor Jayne McCoy		
<b>Author(s)/Contact Number(s):</b>	Trevor Hart, Housing Strategy and Commissioning Manager, 020 8770 5844		
<b>Corporate Plan Priorities:</b>	<ul style="list-style-type: none"> <li>• Being Active</li> <li>• Making Informed Choices</li> <li>• Living Well Independently</li> <li>• Keeping People Safe</li> </ul>		
<b>Open/Exempt:</b>	Open		
<b>Signed:</b>		<b>Date:</b>	5 March 2019

## 1. Summary

- 1.1 This report proposes a number of amendments to be made to the Council's housing allocations policy, principally in light of legislative changes including those brought about by the Homelessness Reduction Act 2017.

## 2. Recommendations

The Housing, Economy and Business Committee is recommended to:

- 2.1 Approve the proposed changes made to the Council's housing allocations policy, as set out in Appendix A and described in section 4.

## 3. Background

- 3.1 The Council's housing allocations policy was last substantively reviewed in 2015. Since that time, there have been a number of legislative changes, including updated Government guidance and regulations that need to be reflected in the policy, notably provisions contained in the Homelessness Reduction Act 2017.

- 3.2 The current allocations policy is set out at Appendix A, with a number of proposed amendments shown highlighted. In addition to those reflecting legislative changes, a small number of minor amendments have been made to reflect current procedures and practice or for clarification.

#### 4. Issues

- 4.1 In summary, the key changes made to various paragraphs within the housing allocations policy, and the rationale for them, are as follows:

##### Exclusion from the housing register due to 'untenant-like' behaviour

3.3.4 - reduces the length of time a household accepted as homeless is excluded from the register due to rent arrears after the account is cleared from 12 to a minimum of three months. It also extends this reduced requirement to households referred for one of the housing quotas (allocations reserved each year for certain client groups - e.g. care leavers).

The primary purpose of this amendment is to speed up the move on of households living in often unsuitable and costly temporary accommodation.

##### Residency and local connection - existing social tenants

3.5.1 - ensures compliance with the Right to Move Regulations by amending and extending the grounds for out-of-borough social housing tenants who need to move to the borough for work to be eligible to go onto the housing register where otherwise they would incur hardship as a result of excessive travelling time/costs.

The regulatory guidance also recommends that 1% of lettings are earmarked for out-of-borough transfers. However, of the 79 out-of-borough social housing tenants that have joined the housing register since April 2018 only one stated that they wanted to move for employment reasons, and so it is considered that there is no need to set aside 1% of lettings for these applicants.

##### Residency, local connection and social/welfare factors - victims of domestic abuse

3.5.6 and 3.5.7 - removes the two-year residency requirement for households living in refuge accommodation, thus allowing them to go on the housing register upon application. It also removes the residency requirement for households that are accepted as homeless as a result of fleeing domestic violence.

5.11.1 - adds domestic abuse to the list of social and welfare factors that determine the need for settled accommodation.

These changes are to comply with statutory guidance issued in November 2018, which requires that victims of domestic abuse who need to move should be given priority. It should also be noted that the Secure Tenancies (Victims of Domestic Abuse) Act 2018 requires a local housing authority to offer a 'lifetime' tenancy to applicants who have been

victims of domestic abuse and who already benefit from such a tenancy, which may preclude offering tenancies of housing association properties where the policy is to grant assured shorthold tenancies.

#### Ability to meet own housing need criteria

3.7.4 - clarifies the position of households with children living in the private rented sector who are deemed to be in need of settled accommodation. This reflects current practice that deals with concerns around the impact of insecure private sector accommodation on families, an issue that has recently received increased public prominence through various studies (e.g. by Shelter).

#### Homelessness and the Homelessness Reduction Act Relief and Prevention duties

4.3.1 - removes the reference to s192 Housing Act 1996 (covering households who are homeless but not in priority need)

4.5.1 and 4.5.3 - amend Band D criteria to refer to households owed the Prevention or Relief Duty in accordance with the Homelessness Reduction Act, along with households in insecure accommodation who would have a priority need if homeless or threatened with homelessness.

As a result of changes brought about by the Homelessness Reduction Act, there are now three stages or duties relating to the homelessness process - Prevention Duty, Relief Duty and Main Duty. The current allocation policy places households who are homeless or threatened with homelessness into either Band B or Band D.

Band B contains those households who have been accepted for the Main Duty and those who have been accepted as homeless, are not in priority need but have been placed in temporary accommodation. The latter cases appear in Band B rarely, however, as they would not normally be placed in temporary accommodation, or if they are it is for less than 28 days.

Those in Band D fall into two categories: those served with a valid 'section 21 notice' (to quit) who would fall into the Prevention Duty and those living in insecure accommodation who may or may not be threatened with homelessness and therefore may or may not fall into the Prevention Duty.

#### Unsatisfactory housing conditions

4.4.3 - adds 'lacking space' to the list of conditions that constitute unsuitable housing, to apply where priority is not given for lacking a bedroom. This allows a more complete assessment to be made of this aspect of unsatisfactory housing conditions.

### Decants

4.6.2 - clarifies that a household that needs to be permanently re-housed due to their property requiring major works will be dealt with through the Management Supported Transfer process.

### Management supported transfers

4.10.2 - Aims to restrict the size of property offered to a tenant under a management transfer to the needs of the households, albeit allowing some discretion to consider additional bedrooms in exceptional circumstances.

The essential aim here to to make best use of the housing stock, avoiding underoccupation as far as is possible.

### Prioritisation of older applicants and applicants for older people housing

4.14.3 - gives greater priority to older households resident in the borough, in recognition of the pressures on Sutton's adult social care services.

Currently households who have no identifiable housing need but are over the age of 55 are placed into the Older People Exceptions (OPEX) Band and are considered for independent older people's accommodation. Households who do not currently live in the borough receive the same level of priority within the band as those who are borough residents. This can lead to households coming in to the borough who have care needs, potentially resulting in additional burdens on adult social care services. Where a household does not meet the residency requirement but has an identifiable need to move to the borough in order to avoid hardship they would normally qualify for Band C and therefore would be unaffected by this recommendation.

7.1.3 - relaxes the age restriction on applying for accommodation designated for older people, reducing the minimum age to 55 in some cases, with a view to help make best use of such accommodation, which is often in low demand.

7.1.6 - introduces an 'age cascade' in relation to housing designated for older people ensuring that applicants are considered in order of age, with the oldest first, thus ensuring that the needs of older people are more systematically met.

### Medical recommendations

5.1.4 - allows a household to elect to have their medical recommendation ignored on their application.

This is to clarify applicant choice regarding medical adviser recommendations, the issue having arisen as a result of complaints, appeals and enquiries. Under this proposed change applicants who have a medical condition assessed and recommendations applied can elect to have these ignored on their application although they will lose the corresponding priority awarded. Often disregarding a medical recommendation is

requested where resultant priority has been given for ground floor accommodation but the applicant wishes to be able to bid for a property above ground floor or for a house.

#### Bedroom standard - unborn children

5.2.3 - unborn children no longer taken into consideration for the purposes of assessing the number of bedrooms required by a household.

The current policy takes account of an unborn child on receipt of the 20 week scan (half way through the pregnancy), at this point a bedroom is awarded for the unborn child and the associated priority awarded to the application where appropriate, such as priority for lacking a bedroom.

This approach is in conflict with benefit regulations and could lead to households moving into properties which are unaffordable due to the benefit shortfall and lead to accruing rent arrears during the first few weeks of their tenancy.

In addition, the current policy takes account of the sex of an unborn child for the purposes of calculating bedroom size need on confirmation from a scan. Unfortunately, there are occasions when the scan has incorrectly predicted the sex of the child. This can also lead to inequality for parents who choose not to find out the gender of their child before birth.

Finally, there are times when, tragically, the child is miscarried or stillborn, and having to advise of the change in circumstances can cause additional distress.

Amending the policy to include children only upon birth will enable consistency with benefit regulations, better manage expectations of households, create better equality for those households that choose not to determine the sex of the baby before birth and afford greater priority to those households who are already overcrowded.

#### Joint tenancies

11.3.1 - amended to reflect the preference for the granting of joint tenancies to couples providing each party has recourse to public funds. A joint tenancy gives both parties security of tenure and allows the landlord to enforce tenancy conditions, including the paying of rent, against either party as they are jointly and severally liable for maintaining the tenancy.

#### Access to information

11.12.6 - Removes the £10 charge made to an applicant for being provided with information about their records.

This is in response to the General Data Protection Regulations which now preclude such a charge being made.

- 4.2 It may be noted that, although not necessitating any change to the allocations policy, the Homelessness Reduction Act has also introduced new requirements in relation to care

leavers. Specifically, the Act has amended the local connection requirement for this group and makes the following provisions:

1. A young person owed leaving care duties under s23C, Children Act 1989 will have a local connection to the area of the children services authority that owes them the duty. If the children services authority is a county council and not a housing authority, the young person will have a local connection with every housing authority district falling within the area of the children services authority.
  2. Where a care leaver is aged under 21 and normally lives in a different area to that of a local authority that owes them leaving care duties, and has done for at least two years including some time before they turned 16, the young person will also have a local connection in that area
- 4.3 Local authorities have a unique responsibility to the children they look after and their care leavers (relevant and former relevant children). In this context local authorities are often referred to as being the ‘corporate parent’ of these children and young people, and the critical question that local authorities should ask in adopting such an approach is: ‘would this be good enough for my child?’.
- 4.4 The Children and Social Work Act 2017 sets out the responsibility of corporate parents to ensure, as far as possible, secure, nurturing and positive experiences for looked-after children and young people, and care leavers. In order to thrive, children and young people have certain key needs that good parents generally meet. The corporate parenting principles set out seven principles that local authorities must have regard to when exercising their functions in relation to looked after children and young people, as follows:
1. to act in the best interests, and promote the physical and mental health and wellbeing, of those children and young people
  2. to encourage those children and young people to express their views, wishes and feelings
  3. to take into account the views, wishes and feelings of those children and young people
  4. to help those children and young people gain access to, and make the best use of, services provided by the local authority and its relevant partners
  5. to promote high aspirations, and seek to secure the best outcomes, for those children and young people
  6. for those children and young people to be safe, and for stability in their home lives, relationships and education or work; and
  7. to prepare those children and young people for adulthood and independent living.
- 4.5 Finally, the “appended example financial assessment calculations” have been taken out of the housing allocations policy since they are considered no longer helpful, given the increasingly

complex array of permutations at play in assessing the requirement or otherwise for permanent accommodation. Under the Homelessness Reduction Act, local housing authorities are required to produce personal action plans which look in detail at the circumstances and options available for each presenting household.

## 5. Options Considered

- 5.1 In most cases the amendments to the housing allocations policy proposed are required as a result of legislative changes. Some more minor amendments, although not strictly essential, were considered to be needed in order to ensure that the policy is brought fully up to date and reflects current practice.

## 6. Impacts and Implications

### Financial

- 6.1 There are no direct cost pressures or implications as a result of the amendments. This document essentially represents amendments to policy as required by changes in legislation.
- 6.2 Issues detailed in point 4.1 indicate that the change in policy to “speed up the move on of households living in often unsuitable and costly temporary accommodation” may have beneficial implications, in that it may reduce the cost of temporary accommodation to the authority, but this has not been quantified.

### Legal

- 6.3 Members will note that the Homelessness Reduction Act (HRA) 2017 has made significant amendments to the Housing Act 1996, with increased duties of a Local Housing Authority. There has also been a re-issued Code of Guidance to augment the statutory obligations created by the HRA 2017. Further statutes and Guidance on specific areas have followed so that the amendments to the Allocation Policy recognise the statutory position, and the that of the Guidance which a Local Housing Authority must pay proper regard to its contents, and should only depart from its recommendations if there is some considered and rational basis for doing so. The other amendments also reflect the continued position under the Localism Act 2011 that allow a Local Housing Authority to adapt to local conditions and needs.

### Equality impact assessment

- 6.4 The majority of the proposed changes arguably lead to more equality for households. The exception, potentially, is the amendment in relation to 'un-tenant like behaviour' as this could be argued to disadvantage non-homeless households. However, it does seek to recognise both the urgency of the housing needed and the level of the unsuitability of current accommodation. Since the range of households that fall into this category can include all 'protected characteristics' it doesn't create inequality in that respect.

**7. Appendices and Background Documents**

<b>Appendix letter</b>	<b>Title</b>
A	Housing Allocations Policy with proposed amendments

<b>Background documents</b>
None

<b>Audit Trail</b>		
Version:	Final	Date: 5 March 2019
<b>Consultation with other officers</b>		
Finance	Yes	Steve Watts
Legal	Yes	Mark Cooper
Equality Impact Assessment required?	No	See para 6.4