



CABINET

15 June 2016

Subject Heading:

Revised Housing Allocations Scheme and the introduction of a New Homeless Placements Policy

Cabinet Member:

Councillor Damian White

CMT Lead:

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Policy context:

Housing Strategy

Financial summary:

The proposals will require a review of all those on the housing Register, amended literature, processes and the online application form and other publicity.

The financial costs in terms of implementing the amendments of the Allocation Scheme and the new Placements Policy will be contained within the existing General Fund budget

Is this a Key Decision?

Yes, it has a significant effect on two or more Wards

When should this matter be reviewed?

June 2017

Reviewing OSC:

Towns and Communities

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for	<input type="checkbox"/>
People will be safe, in their homes and in the community	<input checked="" type="checkbox"/>
Residents will be proud to live in Havering	<input checked="" type="checkbox"/>

SUMMARY

This report seeks approval for a revised Housing Allocations Scheme and introduction of a Homelessness Placements Policy following a period of consultation which ended on 4th April 2016.

There is a statutory requirement for local authorities to publish an Allocations Scheme that sets out in detail how households are prioritised for social housing. The Localism Act 2011 provides local authorities with considerable discretion in constructing the scheme. The fully revised draft Allocations Scheme covers the eligibility and qualification for, and letting of, social housing in the borough.

The report also sets out a new draft Homeless Placements Policy which has been developed in order to clarify how and what the Council will take into account when it discharges its homelessness duty to households applying under Part VII of the Housing Act 1996.

RECOMMENDATIONS

That Cabinet:

1. **Approve** the revised draft Housing Allocations Scheme attached at Appendix 2.
2. **Approve** the new draft Homeless Placements Policy attached at Appendix 3.
3. **Delegate** to the Leader of the Council and the Lead Member for Housing authority to make any minor amendments to the revised Allocations Scheme and the Homeless Placements Policy, necessitated by any future guidance, further legal advice, national government or operational requirements, unless these would have a significant financial impact in which case a further report would be brought to Cabinet.
4. **Delegate** to the Head of Housing authority to review the circumstances of every household on the Housing Register to enable a reassessment of their priority for housing as part of the implementation of the revised Allocation Scheme and new Homeless Placements Policy.
5. **Approve** the transitional implementation period of six months for the revised Housing Allocations Scheme in order to give existing households on the housing register who will no longer qualify for housing time to secure alternative accommodation before they are removed from the housing register.
6. **Approve** full implementation of the new Homeless Placements Policy as soon as is practicable.

REPORT DETAIL

1. Background

- 1.1. The Council's Housing Allocations Scheme is used to determine which households are offered housing assistance. The Scheme will continue to recognise the contribution to the community from people who work, former service personnel volunteers, foster carers, tenants who wish to downsize and carers.
- 1.3. Since the introduction of the current Housing Allocations Scheme in September 2014, pressure on housing in the borough has increased, with the demand for homes outstripping supply, largely due to market conditions. As a result, applications on the housing register have increased to approximately 2500 as well as demand due to homelessness. In 2014/15 year, there were 654 formal homeless applications and 191 (29%) acceptances. In 2015/16, homeless applications almost doubled to 1103 and 398 (36%) acceptances. However, there were only 650 social housing units available to let during the year. The Council is therefore reliant on the use of housing in the private rented sector to meet its housing obligations.
- 1.4. At the same time, changes to local housing allowances have meant that the Council has found it increasingly difficult to procure accommodation in the private sector at Local Housing Allowance rates (housing benefit levels), as rents in Havering and London have continued to increase. This has resulted in a significant use of secure affordable homes in the private rented sector to meet this increased demand, resulting in an increase in the use of emergency temporary accommodation (both hostels and Bed & Breakfast accommodation), often at a cost that cannot be fully met through the housing benefit system, resulting in a pressure on the Council's General Fund budget.
- 1.5. Therefore the revised Housing Allocations Scheme and proposed Homeless Placements Policy will provide a more efficient housing service with better outcomes for customers in high housing need as well as enable the Council to increase access to housing supply by discharging its duty to homeless households into the private rented sector, both within and outside the borough.

2. Key proposed amendments to the Housing Allocation Scheme

- 2.1. The proposed draft Allocations Scheme is attached at Appendix 1. This section of the report summarises the key proposed policy changes and indicates how the Housing Service has responded to the findings of the consultation.

2.2. Proposal 1: Extending the residency period qualifying criterion.

- 2.2.1 Under the current policy, an applicant must have lived in Havering for at least 5 years OR at least the last 2 years prior to applying if they have lived a total of 5 out of the last 10 years in the borough.
- 2.2.2 Respondents were asked to consider the exact length of residency period they felt was appropriate. 62% felt that the residency period should remain unchanged at 5 or less years and 29% felt that it should be extended. Surprisingly, of the 29%, over half of them (16%) wanted the period extended to 8 years.
- 2.2.3 As this was one of the most controversial changes, analysis of the impact of the various residency period options on people on the housing register was carried out. As a result, it is proposed to extend the residency period by one year to at least 6 years as this option has a low adverse impact on all groups.
- 2.2.4 This is further mitigated by the ability to apply discretion in exceptional circumstances on a case by case basis as set out in the Housing Allocation Scheme.

2.3. Proposal 2: Continuous period of residency.

- 2.3.1 Under the current policy, an applicant must have lived in Havering for at least the last 2 years prior to applying if they have lived a total of 5 out of the last 10 years in the borough.
- 2.3.2 The proposal is that the residency period becomes a continuous 6 year period (without any break) which makes it easier to assess and clearer for residents to understand. The majority of the respondents (84%) agreed with the proposal.
- 2.3.4 Proposals 1 and 2 are likely to affect approximately 290 (11%) households who currently have less than 6 years continuous residency as they will no longer qualify and will therefore be removed from the housing register.
- 2.3.5 Again, the exceptional circumstances mentioned in 4.2 above apply.

2.4 Proposal 3: Financial circumstances.

- 2.4.1 Under the current policy, an applicant cannot join the housing register if the household income is £27,500 or more because of the severe shortage of social and affordable rented properties in the borough.
- 2.4.2 The proposal is to increase this level to £36,000 which is the income needed to afford to privately rent in the borough at current average market rents. It is assumed that if you cannot afford to rent a private sector property, you cannot afford to buy, which is why we have used the private rental as the measure.
- 2.4.3 This proposal was supported by 69% of the respondents and will not affect existing housing register applicants. However, it is estimated that approximately

100 additional households a year will be able to join the housing register based on previous applications.

2.5. Proposal 4: Qualifying criteria – Unacceptable behaviour.

2.5.1 Under the current policy, an applicant found guilty of unacceptable behaviour can join the housing register but an offer of accommodation may be withdrawn once they are successful in bidding for a property.

2.5.2 The proposal is to exclude such applicants from joining the housing register altogether as such behaviour would prevent the applicant from being considered a suitable tenant. Examples of the behaviours includes anti-social behaviour; obtaining a tenancy by deception; sub-letting social housing; unspent housing or welfare benefit convictions; providing false or misleading information and threat or actual violence against neighbours, council staff, members and Council contractors.

2.5.3 The majority of the respondents (86%) agreed with the proposal. There is no data currently available to assess if any existing housing register applicant will be affected.

2.6. Proposal 5: Restricting the housing register to those applicants who can demonstrate a housing need.

2.6.1 Under the current policy, council or private sector leased tenants who have been in their accommodation for 5 years but are not in housing need can qualify to be moved to alternative accommodation.

2.6.2 The proposal is to only allow people who can demonstrate they have a housing need to join the housing register as there is limited supply of social housing. Examples of housing need include:

- Homeless people,
- People who need to move on welfare or medical grounds where their situation is being made worse by their current housing,
- People living in unsanitary, unsatisfactory or overcrowded housing, and
- People who would face hardship unless they move to another area.

2.6.3 Overall the majority 63% agreed with the proposal, but a notable 26% disagreed. This proposal is likely to affect approximately 353 tenants. Such applicants will be given advice to find their own housing solution if they want to move to another accommodation, including private rented sector options.

2.7. Proposal 6: Reduced housing priority criterion.

2.7.1 The Council is proposing to implement a new 'reduced priority' criterion to the 'banding' system which will be awarded to accepted homeless households who do not meet the Havering residency period.

2.7.2 This is because as a result of the homelessness legislation and the Housing Act, homeless households have a reasonable preference whether they comply with the residency qualification criteria or not. In addition, the local connection rules

under the homelessness legislation is different from the residency criteria that a local authority can apply under the Allocation Scheme (e.g. under homelessness legislation, it is 6 out of the last 12 months or a family association). This proposal ensures that we continue to comply with the requirements placed on us by law.

- 2.7.3 Overall the majority 61% agreed with the proposal indicating an understanding that the Council must meet its statutory obligations to assist homeless households. Reduced priority is likely to be awarded to approximately 214 of the 464 (46%) of all occupants in temporary accommodation that are on the housing register as they will not meet the 6 year residency period (*total households in temporary accommodation is 670*).

2.8. Proposal 7: Priority banding system

- 2.8.1 Under the current policy, there are four priority bands with a number of different qualifying conditions which are complicated and can be difficult to understand and administer.

- 2.8.2 The proposal is to introduce five simple priority bands to make it easier to determine, award appropriate housing need priority and explain to residents the rationale for the decision:

a) Emergency Rehousing Band (ER)

For households with an urgent need to move, examples include life threatening health or medical needs, domestic violence, critical safeguarding issues and serious disrepair.

b) Community Contribution Reward 1 Band (CCR1)

For households with an identified housing need plus Community Contribution for working, being an ex-service personnel and council tenant wishing to downsize due to welfare reform impact.

c) Community Contribution Reward 2 Band (CCR2)

For households with an identified housing need plus Community Contribution for fostering and adopting, volunteering, council tenants needing to downsize and caring for a Havering resident.

d) Home-seeker Band (H)

Households with an identified housing need only.

e) Reduced Priority Band (RP)

- Accepted homeless households who do not meet the local residency criteria
- Other confirmed homeless households with no priority need or those who are intentionally homeless.

- 2.8.3 The proportion of estimated households in each priority band under the new proposal (Table 1) shows that there will be fewer households in the highest 'emergency band' and the majority will be placed in the 'home-seeker band'.

TABLE 1: Proposed Band	Households based on current Priority Band	Estimated households based on proposed Priority Band
Emergency Rehousing Band (ER)	194 (8%)	115 (4%)
Community Contribution Reward 1 Band (CCR1)	636 (24%)	483 (18%)
Community Contribution Reward 2 Band (CCR2)		207 (8%)
Home-seeker Band (H)	1785 (includes 186 in PSL Band) – 68%	1596 (61%)
Reduced Priority Band (RP)		214 (9%)
Total	2615	2615

2.8.4 Overall the majority 69% agreed with the proposal which will ensure that priority is based on the severity of the impact on the household of lack of alternative accommodation.

2.9. Proposal 8: Choice Based Lettings/Assisted Bidding.

2.9.1 The proposal is to continue to operate a Choice Based Lettings system by advertising properties through East London Lettings Company. However, under the current policy, all applicants in the ‘Emergency Rehousing Band’ are made a direct offer (assisted bids) which means that although all properties are advertised, they are not available to other residents to bid on which causes frustration (See Table 2)

TABLE 2: Year	Assisted Bid/ Direct Offer	Resident Bidding	Total Council Lets
2013/14	108 (15%)	634 (85%)	742
2014/15	273 (35%)	503 (65%)	776
2015/16	225 (34%)	430 (66%)	655

2.9.2 In order to improve transparency of the system (a) the circumstances under which assisted bids (direct offers) can be made will be limited and (b) only properties available for residents to place bids on will be advertised. It is expected that at least 70% of all allocations will be as a result of resident bidding activity and the properties directly allocated will still be reported in the feedback sheet.

2.9.3 Overall the majority 69% agreed with the proposal to limit the circumstances under which assisted bids can be made.

2.10. Proposal 9: One offer only policy.

2.10.1 Under the current policy, there are different numbers of offers and penalties that can be made to households on the housing register depending on the ‘priority band’ a household is awarded.

2.10.2 The proposal is to implement a one offer only policy. However, respondents were split on this with 44% agreeing and 47% disagreeing with the proposal. The evidence shows that there were 241 refusals on offers of accommodation between 1 April 2015 and 31 March 2016. This represents 37% of the total 655

lettings. In addition 504 (19%) households on the housing register have never placed a bid. This suggests that many households are delaying acceptance of a reasonable and suitable offer in the hope that a better property will become available. This causes a delay in letting the property and loss of income when there is a high demand for housing overall.

2.10.3 In view of the above, applicants will be offered one property which they will be expected to accept or risk being removed from the housing register for a 12 month period. In the event that homeless applicants turn down a suitable offer, duty will be discharged and if they are occupying temporary accommodation provided by the council, eviction proceedings will commence.

2.10.4 Applicants will still have the option to appeal against an offer if they consider it to be unreasonable, and will receive another offer if their appeal is successful.

2.10.5 The one offer policy will not apply to sheltered housing.

2.11. Proposal 10: Sheltered housing eligibility criteria

2.11.1 Currently, there is no eligibility criterion for sheltered housing.

2.11.2 It is proposed to implement a criterion that will ensure that the lifestyle of those residing in sheltered accommodation is compatible with the scheme. Therefore applicants, who are currently on the housing register (shown in Table 3 below), will be assessed to determine if (a) they would like to move to such accommodation and (b) sheltered accommodation is suitable for them:

- 60 years and over or
- Aged 55 to 59 years and requiring a higher level of support due to frailty, ill-health or restricted mobility.
- In need of the housing support provided by the scheme
- The applicants can be single or joint applicants with no children

Table 3: Priority Band	Age 55-59	Age 60-79	Age 80+	Total
Emergency Rehousing	18	26	17	61
Community Contribution Reward	32	78	12	122
Home-seeker	55	120	32	207
Private Sector Leased Accommodation	2	3	0	5
Total	107	227	61	395

Overall the majority 81% of the respondents agreed with the proposal.

2.12. Proposal 11: New Allocation Scheme implementation options.

2.12.1 As the proposed changes will mean that some applicants on the housing register will no longer qualify, resident views were sought on the implementation options. 62% wanted a transition period. In addition, there was a split on the transition timescale with 39% opting for a year and 26% opting for six months.

- 2.12.2 As a transitional arrangement means operating two systems at the same time and taking into account that it is not a majority view to do so for a year, it is proposed to proceed with a transitional arrangement for six months.
- 2.12.3 This will mean that existing applicants who will no longer qualify due to residency or housing need criteria will be given a transition period of 6 months from the date of implementation of the new scheme. They will remain on the register with the current priority and continue to bid for alternative accommodation. If after 6 months they have not moved, their application will be closed/removed from the housing register. Based on June Cabinet decision, if approved, the new scheme will be implemented in July 2016 and the transitional period will end in January 2017.
- 2.12.4 Therefore, work will be required to review all those on the housing register and write to them advising them of the change and what effect it has on them, amend current literature in relation to applying and bidding for properties and the online application form.
- 2.12.5 Other minor amendments have also been made to the Scheme which is mainly areas where clarification is required, for example, property owners who may have sold their property within the last 5 years will be expected to provide evidence of the proceeds received from the sale and what has become of them etc.

3. Key proposals of Homeless Placements Policy

- 3.1. The introduction of this policy is intended to increase the Council's ability to place households into more affordable accommodation within or outside of the borough, either as temporary accommodation or when discharging homeless duty into the private rented sector.
- 3.2. A draft Homeless Placements Policy (attached as Appendix 3) has been produced to set out how the Council will make use of the private sector in meeting its legal duties to homeless households, taking into account housing market and supply issues. The Policy sets out the key tests that will be used to ensure that the Council makes suitable offers of accommodation. These include:
- ensuring that a property meets the standards sets out the Suitability regulations
 - ensuring that the circumstances of the applicant have been considered in terms of the location of the property, and
 - ensuring that the applicant is able to afford to live in the property taking into account their income once they have paid the rent.

3.3. Proposal 1: Homeless Placements Pathway

- 3.3.1 This proposal describes the Council's approach for placements into interim and long-term temporary accommodation and settled private rented sector accommodation. In general, the Council will place people in hostels first (Bed Breakfast as a last resort) and then move them into longer-term private sector

leased (PSL) accommodation. The household will remain in the private sector leased accommodation until they secure alternative settled accommodation

3.3.2 For those households who applied as homeless from 9th November 2012, a private rented sector offer will be made at any stage to discharge the main homelessness duty.

3.3.3 73% of the respondents agreed with this proposal.

3.4. Proposal 2: Discharging homelessness duty by using private rented sector accommodation.

3.4.1 The Council intends to use its powers under the Localism Act 2011 to discharge its homeless duty by arranging for a private landlord to make a suitable offer of private rented for a period of at least 12 months. This means that a PRSO offer could be made instead of long-term temporary accommodation.

3.4.2 This will be applied to accepted statutory homeless applicants who approached the Council as homeless after 9th November 2012.

3.4.3 68% of the respondents agreed with the proposal.

3.5. Proposal 3: Factors to take into account in making placement decision.

3.5.1 It is the Council's aim to provide accommodation within Havering wherever possible however due to the increasing demand pressures in the borough, this is no longer achievable and the accommodation may be located outside the borough.

3.5.2 Therefore the following factors will be taken into account in any placement decision:

- Medical needs – applicant with severe and enduring health conditions receiving intensive and specialist medical treatment.
- Welfare and Support needs – applicants who are in receipt of a significant package and range of health care options that cannot be easily transferred or Applicants on the Child protection register in Havering
- Employment needs – travelling factors will be considered for working applicants.
- Education needs – disruption in key stages of a child's education.

3.5.3 74% of the respondents agreed with the proposal.

3.6. Proposal 4: Criteria for prioritising transfers of applicants between units of temporary accommodation.

3.6.1 There are circumstances under which an existing temporary accommodation property may become unsuitable or unavailable for existing tenants. Therefore the Council has to move the household to alternative temporary accommodation.

3.6.2 In order to ensure there is a fair and transparent process to allocate the limited supply of temporary accommodation, the Council is proposing to adopt the following priority:

- a) Emergency circumstance – for example, serious disrepair that poses a threat to life, violence or an evidenced serious health or medical need.
- b) Shared facilities - households with children or pregnant women in non self-contained Bed & Breakfast for at least 5 weeks (to comply with guidance).
- c) Private sector leased property hand-back - where the long-term private sector lease is coming to the end and the landlord has requested for the property to be returned.
- d) Unsuitability - Where the accommodation has been found to be unsuitable for the household following a statutory review.
- e) Serious disrepair - where the temporary accommodation has become
- f) Under-occupation - Where the household is under-occupying the accommodation
- g) Overcrowding - Where the household is overcrowded

3.6.3 77% of the respondents agreed with the proposal

4. Consultation

4.1. The Council consulted widely on the proposed amendments during a six week period. The consultation was conducted through an online survey which was widely publicised. Information was sent to over 3800 residents and stakeholders including:

- Letters to housing register and temporary accommodation occupants
- Letters to housing associations operating in the borough
- Face to face meetings with residents who did not have access to an online facility.

4.2 The proposals and a link to the survey were also actively promoted through:

- The Council website
- Social media (Council twitter, Facebook pages)
- Council staff intranet
- Articles in 'At the Heart' and 'Living' tenant magazines
- Email briefings for council staff, Members, housing association staff, private sector developers and landlords, agencies, voluntary and community organisations and other housing specialists

4.3 There were 392 responses including residents from all tenures and representatives of local organisations. This represents 10.3% response rate and the profile of the respondents (age, ethnicity etc.) broadly reflects the census and housing register data.

4.4 Respondents were asked if they agreed or disagreed with the key proposals. Overall the responses indicated broad support for the proposals. However, there were split views on two of the proposals:

- a) Extending the residency period – given the aims of the policy change is to encourage individuals to make a home for themselves and stay in the borough, extending the residency by a year to 6 years delivers this aim whilst having a proportionate impact across the groups with protected characteristics. This is further mitigated by the application of discretion in exceptional circumstances based on individual cases.
- b) One offer policy. This is mitigated by the fact that majority of the applicants will choose to bid for properties that they are interested in, which should mean that there will be a low level of refusals. Applicants also have a right of review of an offer if they feel that it is unsuitable. If the review is in their favour, they will be entitled to a second offer.

4.5 A summary report of the respondents' views is contained in Appendix 5

REASONS AND OPTIONS

Reasons for the decision:

Havering is a popular place in which to live and the revised Housing Allocations Scheme and the proposed Placements Policy will provide a more efficient housing service with better outcomes for residents in high housing need as well as enable the Council to discharge its duty to homeless households into the private rented sector housing.

In addition, welfare reform means that households who are not working will not be able to receive more in benefits than the average wage of those in work. This will mean that some households may be offered homes in more affordable areas outside of the borough. The Homeless Placements Policy clarifies what the Council will take into account when it discharges its homelessness duty to households applying under Part VII of the Housing Act 1996.

Other options considered:

Significant freedoms exist in devising the Allocations Scheme, following the enactment of the Localism Act 2011, and statutory guidance from the Department of Communities and Local Government. Therefore one of the options explored was to extend the residency criterion to up to 8 years. This was rejected as it would have had a disproportionate adverse impact on black and Minority ethnic communities.

To maintain the existing Allocations Scheme and not to introduce the Homeless Placements Policy. This was rejected because there would potentially be further increased costs to the Council as it would have to consider providing a subsidy for households placed in the private sector locally as a result of the introduction of the welfare benefit cap from August 2013 (which means that the rents charged in Havering and other parts of London for temporary accommodation and private rented sector homes are unaffordable)

IMPLICATIONS AND RISKS

Financial implications and risks:

The proposed amendments to the Housing Allocations Scheme will result in an increased use of temporary accommodation as most homeless households will have reduced priority for social housing. Often the cost of temporary accommodation cannot be fully met through the housing benefit system which will result in a pressure on the Council's General Fund budget. It is expected that the introduction of a Placements Policy will mitigate the impact by enabling the Council to place households into more affordable accommodation outside of the borough, either as temporary accommodation or when discharging homeless duty into the private rented sector.

Work will be required to review all those on the housing register, amended literature, online application form and other publicity. The financial costs of this work will be contained within the General Fund. Provision has been made within the 2016/17 GF/HRA budget to deliver this work.

Legal implications and risks:

Allocation Scheme

Part 6 of the Housing Act 1996 governs the allocation of housing accommodation by local housing authorities. The Council has a duty to comply with the provisions of Part 6 in allocating housing accommodation (s.159(1)). In particular, the Council must comply with the duty to have a scheme both for determining priorities between applicants and as to the procedure to be followed and must not allocate housing except in accordance with that scheme (s.166A(1) & (14)). The Council must frame the allocation scheme so as to secure that reasonable preference is given to the various categories of person identified under s.166A(3), including persons owed a homeless duty by the Council. In modifying their allocation scheme, the Council must have regard to their current homelessness strategy and tenancy strategy (s.166A(12)).

Subject to the provisions of Part 6, however, the Council has a broad discretion under s.159(7), to allocate accommodation in such manner as they consider appropriate. Further, by s.160ZA(8), the Council may decide what classes of person are or are not qualifying persons to whom housing accommodation may be allocated under the scheme. Again, this is a broad discretion. Residence conditions are not unlawful *per se* and can be applied in cases involving reasonable preference. The Council also has discretion as to whether a preference afforded to an applicant is reasonable. However, any discretion must always be exercised in accordance with the general principles of public law and, in particular, in a rational and reasonable manner. The ability to consider exceptional circumstances mitigates the risk of challenge and acts as a "safety valve".

Counsel has advised on the draft Scheme and considers that, broadly, the legislation empowers what the Council are proposing. Subject to some detailed points which may require further amendment to the proposed Scheme, counsel also considers that the

banding system proposed is a permissible means of securing that reasonable preference is afforded to the statutory groups identified under s.166A(3).

It is recommended that there be careful and routine monitoring of the operation of the proposed Scheme to determine how allocations are made, what changes are apparent from the existing scheme and that key objectives are being met. Central to this will be monitoring of the equalities impacts. The Council will also need to allow for further adjustments to the Scheme once it is operating, to take account of any challenges that are made on a case by case basis.

Homeless Placements Policy

The Council's statutory housing functions in respect of homeless persons are contained within Part VII of the Housing Act 1996. Duties towards those whom the Council are satisfied are eligible, homeless, in priority need and not intentionally homeless are governed by section 193 of the Act; the main housing duty towards unintentionally homeless persons is to secure that suitable accommodation is available for their occupation.

The Localism Act 2011 allows for greater flexibility in discharging the main housing duty by use of the private sector. From 9 November 2012, when s.148 of the LA 2011 came into force (and save in relation to applications made before that date and in respect of which the accommodation duty had arisen but not ceased), an offer of private rented sector accommodation by a local housing authority ends the main housing duty under s.193 of the HA 1996.

A private rented sector accommodation offer is (i) an offer of an assured shorthold tenancy for a fixed term of at least 12 months, (ii) made by a private landlord to the applicant and (iii) made with the approval of the authority in pursuance of arrangements between the authority and the landlord with a view to bringing the authority's duty to an end (s.193(7AC), HA 1996). An applicant who becomes homeless within two years of acceptance is entitled to further assistance from the local authority even if he or she is no longer in priority need.

In addition, the Homelessness (Suitability of Accommodation) (England) Order 2012 contains various requirements relating to the suitability of accommodation which must be considered by the Council when making an offer of accommodation.

The proposed policy should assist the Council in avoiding the difficulties faced by the local authority in the case of in *Nzolameso v Westminster City Council* [2015] UKSC 22, namely a lack of strategic planning in relation to out-of-borough placements.

Counsel has advised generally on the draft policy and overall considers that it is a sensible, necessary and robust document which should serve to provide protection from the risks of non-performance of the Council's duties and legal challenge.

Human Resources implications and risks:

The recommendations made in this report do not give rise to any identifiable Human Resource risks or implications that would affect either the Council or its workforce.

It is expected that the transition phase and the full implementation of the policy (after 6 months) will be managed within existing staff resources in the Housing Service.

Provision to carry out these duties has been taken into account with the implementation of the new Housing Services structure.

Equalities implications and risks:

Both policies will affect both new and existing applicants on the Housing Register and those assisted under the homelessness legislation. It will therefore impact on people across all the protected characteristics. Cabinet Members must pay particular attention to the Equalities Impact Assessment which is at Appendices 3 and 4.

Having had careful regard to the analysis, and also the consultation responses at Appendix 5, Cabinet Members are under a duty to have due regard (that is, proportionate) to the matters set out in this report and (i) to consider how the decision is likely to affect those with protected characteristics in practical terms; (ii) to remove any unlawful discrimination, harassment, victimisation and other prohibited conduct; (iii) to consider whether practical steps should be taken to mitigate or avoid any adverse consequences that the decision is likely to have, for persons with protected characteristics; (iv) to consider whether steps should be taken to advance equality, foster good relations and generally promote the interests of persons with protected characteristics, either by varying the recommended decision or by taking some other decision.

However, whilst Cabinet Members are under this duty, in reaching their decision, they may also take into account other considerations, such as the desirability of providing fair strategies based on local priorities.

BACKGROUND PAPERS

None.