



Havering

LONDON BOROUGH

CABINET

16th December 2020

Subject Heading:

Housing Allocation Scheme (2021)

Cabinet Member:

Councillor Joshua Chapman, Lead Member for Housing

SLT Lead:

Patrick Odling-Smee, Director of Housing

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Policy context:

a) Consult on a comprehensive revision of the Council's Housing Allocation Scheme (2016) to ensure that all available Council housing is allocated consistently and fairly, in compliance with all current legislative and regulatory requirements.
(b) This policy also takes into account the impact of COVID 19 on all affected stakeholders.

Financial summary:

It is anticipated that the implementation of this policy may involve minor financial implications.

Is this a Key Decision?

Yes

When should this policy be reviewed?

February 2022

Reviewing OSC

Towns and Communities

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

Communities making Havering [X]
Places making Havering [X]
Opportunities making Havering [-]
Connections making Havering [-]

SUMMARY

The Housing Act 1996 Part VI requires local authorities to give reasonable preference in the way they allocate their available social housing.

Demand for social housing in Havering significantly exceeds the number of properties available. In the financial year 2019-2020, only two in every 10 households on the Council's Housing Register had a realistic prospect of securing social housing.

This draft policy proposes a number of revisions to the current policy (dated 2016) and sets out how social housing is prioritised, to ensure that it is fairly allocated to households in the greatest need. Prior to being implemented we are required to carry out a statutory consultation.

It also sets out how the Council will enable access to other forms of affordable housing, such as shared ownership and intermediate rented housing.

RECOMMENDATIONS

Cabinet is asked to agree the statutory consultation on the draft Housing Allocation Scheme attached as appendix 1.

POLICY DETAIL

Allocation Scheme Aims

The aims of the revised Allocations Scheme are to:

- ensure that we make the best possible use of the social housing stock;
- provide housing that is suitable to the specific needs and requirements of households;
- prioritise households that have been assessed to be in most need and to those who make a positive contribution to our community;
- help build sustainable communities and neighbourhoods, and
- ensure social and affordable housing is allocated in a clear, fair and transparent manner.

Consultation

The Housing Act 1996 Part VI requires significant changes to the housing allocation scheme to be consulted on with stakeholders and housing applicants. Following the authorisation of this draft scheme a formal consultation will commence. This will consist of:

- The draft policy and questionnaire being available on the council consultation portal;
- Draft questionnaire will be sent to key stakeholders such as housing association, neighbouring boroughs and voluntary sector organisations. See appendix 3.

The outcome of the consultation will be reported to Cabinet with recommendations for the adoption of the formal allocation scheme in April 2021.

IMPLICATIONS AND RISKS

1. Financial implications and risks:

It is anticipated that the implementation of this policy may involve minor financial implications.

2. Human Resources Implications and Risks:

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

Julian Sivil – HR Business Partner

3. Legal implications and risks:

Pursuant to Section 166A of the Housing Act 1996, every local authority must have an allocation scheme and must not allocate housing accommodation except on accordance with the allocation scheme. The allocation scheme must include the procedure for allocation of accommodation as well as the persons or description of persons by whom decisions are made.

- Public Sector Equalities Duty

The proposed changes relating to the residency requirement, income threshold and savings limit are changes that are open to the Council to make. In deciding whether to implement the proposed changes, the Council is required to undertake an Equality Impact Assessment and consider the impact each of the proposed changes would have on persons with protected characteristics. This should be done with a view to eliminating any potential unlawful discrimination. The draft Equality and Health Impact Assessment (EqHIA) attached to this report needs to

be developed to include further information relating to the impact of the proposed changes.

The relevant legal framework for this exercise is set out in Section 149 of the Equality Act 2010 and known as the Public Sector Equality Duty (PSED).

- Reasonable preference groups and the current reduced priority banding

It is a legal requirement under Section 166 A (3) of the Housing Act 1996 to ensure that 'reasonable preference' is given to persons falling within that section.

This section includes those who are homeless within the meaning of Part 7 of the Housing Act 1996, and not just those who are owed the full housing duty. Established case law supports the position that an allocation scheme should not seek to exclude groups of people within the reasonable preference categories.

This Report stipulates that "applicants previously placed under the Reduced Priority banding will no longer qualify for social housing". It is therefore important to ensure that those previously placed in the Reduced Priority band do not include persons who would fall within the 'reasonable preference' categories.

- Consultation, legitimate expectation and due regard to existing policies

When considering the proposed changes, the Council is required to have regard to its internal policies, including the Homelessness Strategy and Tenancy Strategy. The Council is also required to have regard to the London Housing Strategy. The legal framework for this requirement is outlined below.

Section 166 A (12) for the Housing Act 1996 provides that:-

A local housing authority in England must, in preparing or modifying their allocation scheme, have regard to—

- (a) their current homelessness strategy under section 1 of the Homelessness Act 2002,
- (b) their current tenancy strategy under section 150 of the Localism Act 2011, and
- (c) in the case of an authority that is a London borough council, the London housing strategy.

Prior to making the proposed changes, the council should consult with stakeholder and those who could be affected by the proposed changes. Additionally, the Council has a statutory duty to consult with every private registered provider of social housing and registered social landlord as well as its secure tenants. The form of consultation should be inclusive and robust to ensure that the duty to consult is satisfied.

The relevant statutory framework is outlined below:

Section 166 A (13) of the Housing Act 1996.

Before adopting an allocation scheme, or making an alteration to their scheme reflecting a major change of policy, a local housing authority in England must—

- (a) send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlord with which they have nomination arrangements (see section 159(4)), and
 - (b) afford those persons a reasonable opportunity to comment on the proposals.
- (14) A local housing authority in England shall not allocate housing accommodation except in accordance with their allocation scheme.

Section 105 of the Housing Act 1985

Consultation on matters of housing management.

(1) A landlord authority shall maintain such arrangements as it considers appropriate to enable those of its secure tenants who are likely to be substantially affected by a matter of housing management to which this section applies—

- (a) to be informed of the authority's proposals in respect of the matter, and
- (b) to make their views known to the authority within a specified period;

and the authority shall, before making any decision on the matter, consider any representations made to it in accordance with those arrangements

In addition to the above, the Council required to consult with those who would reasonably expect to be consulted. The Council should check and ensure that all those who were consulted when the 2016 allocation scheme was implemented (or when any previous amendments to the council's allocation scheme were made) are consulted also.

The Council is required to take into consideration all of the information received from the consultation exercise when deciding whether to implement the proposed changes. It would be unlawful to fail to do so.

- Part 6 Final Offer to Part 7 homeless applicants

Where an offer of accommodation under the Council's allocation scheme is made on the basis that a refusal would end the duties under homelessness legislation, the council must comply with the requirements of section 193 of the Housing Act 1996 which outlines the format for such an offer.

4. Equalities implications and risks:

The necessary Equality and Health Impact Assessment (EqHIA) is attached (please see appendix 2).

5. Consultation

Consultation with affected parties is essential to good practice.

Please see appendix 3 to view the proposed consultation paper and questionnaire.

In terms of administrative law, 'consultation' has a specific meaning and should be proportionate, fair, and inclusive. Sufficient time and information should be afforded to consultees to contribute valuable feedback after full and considered thought.

BACKGROUND PAPERS

Appendix 1: Housing Allocation Scheme (2021) Draft for Consultation

Appendix 2: Equality and Health Impact Assessment (EqHIA)

Appendix 3: Consultation paper and questionnaire