

CABINET

Subject Heading:

Housing Allocation Policy 2023

Cabinet Member:

Cllr Paul McGeary

SLT Lead:

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Policy context:

Permission to consult on proposed amendments to the current allocations scheme.

Financial summary:

No cost implications for consultation. However, we anticipate costs of £120k to deliver the implementation of the Allocations Policy.

Is this a Key Decision?

Yes – significant effect on two or more wards. All wards in the borough will be included in the consultation

When should this matter be reviewed?

November 2023

Reviewing OSC:

People OSSC

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

People - Things that matter for residents

Place - A great place to live, work and enjoy

Resources - A well run Council that delivers for People and Place.

SUMMARY

1.1. The report sets out the Council's draft Housing Allocation Scheme that will be consulted upon for the next twelve weeks following approval from Cabinet.

- 1.2. The draft scheme includes a number of proposed changes to the existing policy that was approved last year. These proposals include changing from a band system to a point system, removal of the community contribution element and implementing an open register. The opportunities register will be integrated into the main register.
- 1.3. Following cabinet approval, the Council will carry out a formal consultation with key stakeholders, members of the public, and partners over a 12-week period from May – August 2023.

2. RECOMMENDATIONS

Cabinet is asked to:

- Approve the request to go to consultation on this Housing Allocation Scheme.
- Note that the outcome of the consultation will inform and shape the final policy before approval is sought from Cabinet.

3. REPORT DETAIL

2.1. Introduction

This report presents the outline features of the 2023 Allocations Scheme. We are seeking approval from Cabinet to launch a consultation period of 12 weeks on the proposed policy.

2.2. Demand for social housing has steadily increased owing to external factors such as the cost of living crisis. The Housing Demand Service are seeing double the amount of homelessness approaches compared to pre covid-19 figures, with homelessness caused by evictions from private rented accommodation being 11% higher in 21/22 than the previous year, domestic abuse rising by over 200% and people being asked to leave by friends and family still being our highest cause for homelessness. The proposed Housing Allocation Scheme puts forward a new, innovative approach to make best use of housing stock available and ensure that priority is given according to housing need.

2.3. In order to ensure this policy is fit for purpose and delivers positive outcomes that support our residents that are in need of housing support or facing homelessness, it is important to outline what the policy **must** deliver. This policy must:

- 2.3.1. Include reasonable preference categories.
- 2.3.2. Prioritise the most in-need households in the borough.
- 2.3.3. Include provisions for care-leavers and armed forces personnel.
- 2.3.4. Balance household size with demand.
- 2.3.5. Make provisions for key-workers.
- 2.3.6. Relieve the pressure on temporary accommodation and supported housing.
- 2.3.7. Support children leaving the family home (alleviating overcrowding and homelessness due to family exclusions.)
- 2.3.8. Enable generations to move on.

2.4. The overarching objective of the new Housing Allocation Scheme is to ensure the Council meets its legal requirements for the allocation of affordable housing under Part VI of the Housing Act 1996 (as amended by the Homelessness Act 2002). This scheme will set out how the Council assesses applicants' eligibility and priority for housing and the types of property applicants can apply.

2.5. This includes the allocation of:

- Housing owned and managed by the Council
- Housing owned by housing associations with whom the Council has nomination agreements allowing the Council to nominate an applicant for housing using this scheme

2.6. The objective of the scheme are to:

- To let properties in a fair and transparent way
- To ensure appropriate levels of priority afforded to applicants
- To ensure that the scheme is as simple to engage with for applicants
- To offer as much choice to applicants as is reasonably possible
- To provide applicants access to a range of housing options
- To provide feedback to applicants about homes let through the scheme
- To encourage and support sustainable communities and social inclusion
- To ensure applicants treated fairly, individually and in accordance with the Council's commitment to Equality, Diversity and Inclusivity
- To make best use of affordable housing, including the use of targets and/or quotas to meet the needs of the local community

2.7. Proposed policy changes – Outline

	Current (2021/22)	Proposed (2023)
Residency Criteria (Years)	6	3 out of 6
Open/Closed Register	Closed	Open*
Waiting list Numbers	2,400	4,000 (estimate)
Bands vs Points	Bands	Points
Reasonable preference categories - includes	Yes	Yes
Method of application	Online	Online
Banding priorities	Five	7 points categories
Opportunities Register	Implemented	Integrated
Equality impact	Refugee, Travelling Community (Race) Mitigated	All groups mitigated

Several key changes proposed to the policy to better assess need, ensuring our social housing supply is allocated to the most in need households. These changes include a simplified housing register eligibility as part of an open register approach, a points system to

replace existing bands that seeks to move away from a blanket assessment approach with an intention to reflect the households needs more succinctly as well striving to become a more flexible, but fair residency criteria.

2.8. Housing Register Eligibility

The proposed allocations policy would operate with an open register, enabling anyone who is legally eligible for social housing to submit an application to join the housing register in Havering. However, there will be eligibility checks following this application to establish the applicant has a connection to the borough. The applicant will need to live in the borough, and have lived in Havering for three out of the past 6 years to join the register, or meet one of the exemption criteria for residency for a local connection to be established. This will be a condition of applying for social housing in the borough.

In order to relieve the pressure on homelessness approaches, we propose to support and incentivise households to stay in the private sector. We can achieve this in part by enabling applicants to join the register and allocate points where they qualify, whilst they remain in their private accommodation. We can also use this as an opportunity to improve and enhance alternative solutions for housing, such as the Find Your Own scheme or promoting shared ownership opportunities.

An open register will inevitably lead to a higher figure on the waiting list; however this will be more reflective of actual demand in the borough. Understanding the borough's ever changing needs is critical to our demand and supply forecast and will form the basis for planned development and regeneration over the next 30 years.

2.9. Points scheme

The proposed 2023 Housing Allocation Scheme introduces a points scheme, replacing the existing band categorisation system, which is used to establish priority need. The new policy contains 7 points categories, each including various points awards. These categories include:

- Homelessness
- Unsanitary, overcrowded & unsatisfactory conditions
- Welfare/ hardship
- Medical
- Management transfers
- Sheltered housing
- Armed Forces

No points will be awarded for residency, as this is a condition of eligibility and therefore does not require a points allocation. In addition to the points awarded to the applicant based on their need, points will be accrued for every year the applicant has stayed on the waiting list.

This system will evaluate need with more detail, rather than grouping applicants in bands with similar circumstances. This addresses the current issue created by the band system, where there is a lack of movement and longer waiting times for households who are in band 3.

The introduction of a points system helps to manage applicant's expectations of wait time based on their housing need, as applicants will be able to self-assess. In addition, properties will have a different points threshold and 'price' depending on demand and supply. For

example, a person applying for a 1 bed property will not have sufficient points for a 2 or 3 bed and respectively a 3-bed in a sought-after area may have a higher points value compared to a 3-bed in a lesser sought-after area. This will encourage movement on the housing register.

2.10. Choice Based Lettings

The proposed scheme will retain usage of Choice Based Lettings that will enable eligible applicants to bid for suitable accommodation via weekly bid cycles. Applicants will be able to note their position based on their points and be able to determine successful bids via the point system.

2.11. Points Terms of Reference

Some measures will be taken to ensure that existing applicants on the register will not be disadvantaged following the transfer from the existing system to the new points system. 'Legacy' cases will be protected against their effective date, with points awarded retrospectively to account for time spent on the register. Priority, previously given for sheltered accommodation and/or community contribution will be protected. Applicants will need to re-register annually to protect their points. This is to encourage applicants to actively bid on suitable properties.

2.12. Keyworker scheme

The new policy will award additional points to key workers. This includes professionals who belong to the following sectors:

- Education
- NHS
- Social care workers
- Police
- Fire Fighters
- Foster carers

The keyworker scheme will promote Havering as a great place to live and work, and support securing accommodation for vital workers in the borough. This follows the removal of the community contribution band.

2.13. Accessible Opportunities – Opportunities register

We will retain an element of the accessible opportunities register, by continuing to support those who approach the council for help with housing who are not eligible to join the register. This includes providing information about shared ownership and private sector rents.

An open register allows people to understand the housing opportunities the council have on offer outside of the stock it owns and this provides greater variety of housing options.

3. Proposed timetable for the adoption of the policy

Action	Date
Cabinet decision to consult on the draft policy	5 th May 2023
Consultation period (12 weeks)	May 2023 – July/August 2023
Consultation analysis/updated policy	October 2023

Cabinet decision to adopt the policy

November 2023

4. Consultation

4.1. The consultation process will run for 12 weeks. This is in line with the Council's Consultation Policy on the basis that this is a major strategy and has significant impact.

4.2. The Council will engage with:

- Residents including rough sleepers, those living in temporary accommodation and those on the Council's housing register
- Members of Havering Council, MP's, Senior Managers of the Council
- Statutory partners
- Members of the Homelessness Forum
- Third sector and voluntary sector partners
- Private landlords
- Other council departments
- Housing providers
- Metropolitan Police
- Barking and Dagenham, Havering and Redbridge Clinical commissioning group
- Members of the Tenant Participation Panel
- Other relevant forums and interested parties

4.3. The methods of engagement that will be used will include:

- An online survey available on the Council's website for all using a summarised version of the strategy with a notification in 'At the Heart' and 'Living' magazines for all residents. Summarised versions of the strategy will be produced in accessible formats for hard to reach groups.
- Round table discussions with organisations/forum members
- Team and one to one discussions
- Email briefings to staff, members and other stakeholders
- Rough sleeper engagement at the drop-in service at Salvation Army and Ahava Night Shelter.
- Social media

4.4. The outcome of the consultation will shape the final policy and inform the Equality and Health Impact Assessment that will accompany the final version of the Housing Allocations Policy.

5. REASONS & OPTIONS

5.0 The recommendations throughout this report have been made so that the Council's Housing Register more accurately reflects the level of housing need in the borough, ensuring that those with the greatest need continue to be prioritised.

5.1 The table below shows the number of successful allocations for each band for the last four years:

Financial Year	1 (ER)	2a (CC1)	2b (CC2)	2c (H)	3 (RP)	Total
19/20	203	171	30	48	3	455
20/21	103	242	71	130	15	561
21/22	173	151	55	100	13	492
22/23	199	141	24	50	78	492
Average	170	176	45	82	27	500
Total	678	705	180	328	109	2000

5.2 Reasons for the decision:

5.3 The above table shows applicants in the Community Contribution bands make up the most allocations, accounting for 44% of allocations in 22/23.

5.4 Emergency Rehousing cases make up the second highest proportion of allocations with 199 lets.

5.5 Interestingly 50% of properties allocated to lower band applicants (Band 3) were of family size (2 bed plus) with the highest proportion of successful applicants being 2 bed need. Greater access to properties has presented better chances for applicants in the lower bands to be successful in getting larger accommodation.

5.6 With reference to the above, section 7.8 details future letting projections for 2023-26. The Housing Allocation Scheme seeks to further advance opportunities created by the current scheme to greater the chances of applicants bidding successfully on their home of choice.

5.7 The Housing Act 1996 Part VI requires significant changes to the Housing Allocation Scheme to be consulted on with stakeholders and housing applicants.

5.8 Consultation with affected parties is essential to good practice and in terms of administrative law; 'consultation' has a specific meaning and should be proportionate, fair, and inclusive.

5.9 Following the authorisation of this proposed scheme, a formal consultation will be conducted in the summer of 2023 with particular objective to move to a points scheme as well as a 3 out of 6-year qualification criteria. The consultation will consist of:

- The proposed scheme and public consultation questionnaire to be published on the Council's consultation portal;

- The questionnaire will be sent to all key stakeholders, including housing associations, neighbouring boroughs and voluntary sector organisations.

Their feedback will be sought and detailed findings will be presented at cabinet.

6.0 Other options considered:

6.1 *To retain the existing allocations policy following launch in August 2022.*

Current policy is not conducive to the changing market and does not meet local need.

6.2 *Removing the allocations policy altogether*

The Council have a statutory duty to deliver an allocations policy therefore, it is not an option to consider the use of one.

7. IMPLICATIONS AND RISKS

7.1 Financial implications and risks:

The implementation of this Scheme has minimal financial implications. However, there could be legal fees incurred in defending challenges against this Scheme. These costs would be met from Housing budgets. We also anticipate costs of £120k to deliver the implementation of the Allocations Policy.

7.2 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 mitigation to residency requirements, 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 must have regard to an Equality Impact Assessment and consider the impact each of the proposed changes would have on persons with protected characteristics with a view to eliminating any potential unlawful discrimination. Where potentially negative consequences of the Scheme change have been identified, effective mitigation should be put in place to reduce the impact. Travellers and refugees have a protected characteristic of race, and who by the nature of their status will be less likely to satisfy a residency criteria. In the circumstances of these groups the residency requirement has been amended and is 5 years rather than the 6 year residency requirement for other applicants to the scheme. A failure to include an effective mitigation to the residency requirement for these groups could lead to the risk of successful challenge of the scheme by an applicant within this group. It is noted

in the EQHIA that the impact on those with this protected characteristic is neutral/positive depending on the accommodation size required. . Further the scheme now including those who have a reasonable preference as being exempt from residency requirements and being able to access the scheme has been stated in the EQHIA to likely include those within the traveller/ refugee cohort.

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).

iii. Reasonable preference groups and 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. These categories of persons are outlined in detail in section 166(3), but in summary they are;

- Homeless households
- Homeless households in temporary accommodation
- People living in overcrowded or unsatisfactory housing
- People who need to move on medical or welfare grounds (including any ground relating to a disability)
- People who need to move to a particular locality within the district where to not move them would cause hardship (to themselves or others).

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.

The revised Scheme excepts those within reasonable preference groups from the 6 year continuous residency period, allowing these individuals to access the housing register. Recent case law in the Administrative Court has also confirmed that "the legislation does not prohibit a disqualification criterion that affects some persons falling within a reasonable preference category, provided that as a whole the scheme does give reasonable preference to that category of persons". As such the Scheme as proposed meets the statutory requirements around reasonable preference criteria, and the latest line of case law. It is noted that this is a fruitful area of legal challenge and so decisions in the Courts will need to be monitored to ensure that the Council's Scheme remains in line. This can be done through the periodic review of the Scheme.

iv. 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 Scheme, 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.*

Section 166 A (14) of the Housing Act 1996.

A local housing authority in England shall not allocate housing accommodation except in accordance with their allocation scheme.

In addition to the above, the Council is 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 and in this case the result of the consultation have led to the proposed 10 year residency requirement having been kept at 6 years per the existing policy, with the relevant statutory and required exemptions to that residency requirement.

The four key principles in relation to consultation are set out in the four principles of consultation in the *R (Gunning) v Brent LBC* case which were subsequently approved by the Supreme Court and those principles are as follows: (i) consultation must take place when the proposal is still at a formative stage; (ii) sufficient reasons must be put forward for the proposal to allow for intelligent consideration and response; (iii) adequate time must be given for consideration and response; and (iv) the product of consultation must be conscientiously taken into account.

v. 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. The process regarding making an offer of accommodation is appropriately dealt with in Part 4 of the proposed Scheme, with the appeals process also detailed at Part 5.

- vi. Regard to the need to safeguard and promote the welfare of children – Section 11 of the Children Act 2004
Section 11 of the Children Act 2004 places a duty on local authorities to make arrangements to ensure that their functions are discharged with regard to the need to safeguard and promote the welfare of children.

7.3 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.

7.4 Equalities implications and risks:

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the Council, when exercising its functions, to have 'due regard' to:

- (i) The need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) The need to advance equality of opportunity between persons who share protected characteristics¹ and those who do not, and;
- (iii) Foster good relations between those who have protected characteristics and those who do not.

The Council is committed to all of the above in the provision, procurement and commissioning of its services, and the employment of its workforce.

In addition, the Council is also committed to improving the quality of life and wellbeing for all Havering residents in respect of socio-economics and health determinants

7.5 Equalities Health and Wellbeing implications and Risks

It is anticipated that the implementation of this Scheme will generate positive health and wellbeing benefits to directly affected residents. Significant decisions entailed in implementing aspects of the Scheme will be informed by the accompanying Equality and Health Impact Assessment (EqHIA - please see appendix 2) which will serve to identify opportunities to maximise health benefits and mitigate potential harms arising from the specific actions proposed.

7.6 Health and Wellbeing implications and Risks

It is anticipated that the implementation of this Scheme will generate positive health and wellbeing benefits to directly affected residents. Significant decisions entailed in implementing aspects of the

¹ 'Protected characteristics' are age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex/gender, and sexual orientation.

Scheme will be informed by the accompanying Equality and Health Impact Assessment (EqHIA - please see appendix 2) which will serve to identify opportunities to maximise health benefits and mitigate potential harms arising from the specific actions proposed.

7.7 ENVIRONMENTAL AND CLIMATE CHANGE IMPLICATIONS AND RISKS

The recommendations made in this report do not give rise to any identifiable Climate Change risks or implications that would affect either the Council or borough.

7.8 Future letting projections – 2023-2026

The below tables details allocation projections within the borough for the next three years averaging 800 lets per year. With the regeneration of the Waterloo estate expected to complete in 24/25, there will be higher than usual allocation in the borough. The below table presents an overarching view on projections, with detailed analysis by bedroom size.

Allocation projections – 22/26

	2023-24	2024-25	2025-26
Start Stock number	8,900	8,915	9,471
Loss through RTB & other disposals.	105	110	112
New lets (acquisitions & new build)	120	666	78
Total stock	8,915	9,471	9,437
Stock Turnover	3.9%	4.11%	4%
Relets based on turnover	348	389	374
Relets generated by new lets	65	312	50
Total lets	533	1,367	502

Studio/One bedroom

	2023-24	2024-25	2025-26
Start Stock number	2,910	2,972	3,204
Loss through RTB & other disposals.	20	20	22
New lets (acquisitions & new build)	82	252	18
Total stock	2,972	3,204	3,200
Stock Turnover	4.4%	6%	5%
Relets based on turnover	119	192	170
Relets generated by new lets	37	118	8
Total lets	238	562	196

Cabinet, 03 May 2023

Two bedroom

	2023-24	2024-25	2025-26
Start Stock number	3,230	3,214	3,452
Loss through RTB & other disposals.	50	50	50
New lets (acquisitions & new build)	34	288	40
Total stock	3,214	3,452	3,442
Stock Turnover	5%	4.9%	4.9%
Relets based on turnover	160	169	175
Relets generated by new lets	28	135	19
Total lets	222	592	234

Three bedroom

	2023-24	2024-25	2025-26
Start Stock number	2,560	2,527	2,587
Loss through RTB & other disposals.	35	40	40
New lets (acquisitions & new build)	2	100	12
Total stock	2,527	2,587	2,559
Stock Turnover	2.65%	1%	1%
Relets based on turnover	67	26	27
Relets generated by new lets	0	47	19
Total lets	69	173	58

Four bedroom

	2023-24	2024-25	2025-26
Start Stock number	200	202	228
Loss through RTB & other disposals.	0	0	0
New lets (acquisitions & new build)	2	26	8
Total stock	202	228	236
Stock Turnover	1%	1%	1%
Relets based on turnover	2	2	2
Relets generated by new lets	0	12	4
Total lets	4	40	14

From the above one bedroom and two bedrooms will continue to make up the vast proportion of future allocations, with larger family accommodation making up remaining demand

APPENDIX

1. Housing Allocation Scheme – draft copy
2. Equalities and Health Impact Assessment (EQHIA)