



Havering

LONDON BOROUGH

CABINET REPORT

10th April 2024

Subject Heading:

Housing Allocation Scheme (2024)

Cabinet Member:

Councillor Keith Darvill, Lead Member for Climate Change and Housing Demand

SLT Lead:

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Policy context:

This is a comprehensive revision of the Council's Housing Allocation Scheme (2021) to ensure that all available Council housing is allocated consistent, fair and in compliance with all current legislation and regulatory requirements.

Financial summary:

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

Is this a Key Decision?

Yes. It will significantly affect all wards in Havering.

When should this matter be reviewed?

One year from implementation.
People.

Reviewing OSC:

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

People - Things that matter for residents X

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Place - A great place to live, work and enjoy X

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

SUMMARY

- 1.0 The Housing Act 1996 Part VI requires local authorities to publish an allocation scheme that sets out their policy for allocating affordable housing provided by the council or housing associations in the borough. Councils are required to give reasonable preference to certain categories of applicant and have due regard to statutory guidance and the law.
- 1.1 Demand for social housing in Havering significantly exceeds the number of properties available. In the financial year 2022-23, only one in every 5 households on the Council's Housing Register had a realistic prospect of securing social housing.
- 1.2 This scheme (see appendix 1) proposes a number of revisions to the current Scheme (dated 2021) to set out how Council housing is prioritised to ensure that it is fairly allocated to households in the greatest need.
- 1.3 It also sets out how the Council will enable access to other forms of affordable housing, such as shared ownership and intermediate rented housing. [OBJ]

RECOMMENDATIONS

- 2.0 To approve the Housing Allocation Scheme 2024 attached in Appendix 1, and delegate the implementation date to the Director Living Well in consultation with the Cabinet Member for Climate Change and Housing Demand.

REPORT DETAIL

- 2.1 Following a review of the current housing allocation scheme, approved in 2021, the proposed Scheme, attached in appendix one was subject to statutory public consultation between September and November 2023. The outcome from the public consultation is attached as appendix 2.
- 2.2 **The key changes to the Scheme are as follows:**
- 2.3 Removal of Housing Banding structure to Points Based System
- 2.4 It is proposed that the existing banding structure is replaced with a points based-system that is primarily related to housing need. This does however give additional points for time waiting on the housing register.

- The point-based system is categorised under eight headings that allow applicants to accumulate points relative to their housing needs.
- Introduction of a housing needs based points system to prioritise households on the register. This replaces the former date and band prioritisation. The full new point structure is set out in the table below.

	Points award (weighting)	Housing Register	Existing Social Housing Tenants	Accepted Homeless Households
A. LOCAL CONNECTION				
Time waiting points for each year on the Housing Register	10	✓	✓	✓
B. HOMELESSNESS				
Homeless – owed a full housing duty	75			✓
Homeless – Relief Duty	50			✓
Threatened with Homelessness - (Prevention)	25			✓
C. INSANITARY, OVERCROWDED & UNSATISFACTORY CONDITIONS				
Lacking - each bedroom	20	✓	✓	
Lacking facilities (bathroom, kitchen, or WC)	25	✓	✓	
Sharing facilities (bathroom, kitchen, or WC)	10	✓	✓	
Lacking cold or hot water supplies, power or heating	30	✓	✓	
HHSRS Cat 1 Hazard (disrepair)	40	✓	✓	
D. WELFARE / HARDSHIP				
Welfare points	30	✓	✓	
Move-on from supported housing projects	60	✓		
Move-on from care	60	✓		
Fostering & Adoption	35	✓	✓	
Hardship	20	✓	✓	
Social Tenant "Right to Move"	10	✓		
Key workers	30	✓		
E. MEDICAL				
High Medical Need to Move	75	✓	✓	
Medium Medical Need to Move	50	✓	✓	
Low Medical Need to Move	25	✓	✓	
F. MANAGEMENT TRANSFERS				
Social tenants under-occupying current home by one bedroom	45		✓	
Social tenants under-occupying their current home by two or more bedrooms	90		✓	
Decants	80		✓	
Management Transfers – Immediate threat to welfare / life	150		✓	
Management Transfers - "Best Use of Stock" / Other urgent need to move	80		✓	
G. SHELTERED HOUSING				
Eligible for Sheltered Housing only	10	✓	✓	
H. ARMED FORCES REGULATIONS 2012				
Eligible under Armed Forces Regulations 2012 *	60	✓		

2.5 A full explanation of the categories within the points scheme is provided in the allocation scheme (Appendix 1).

- 2.6 Increasing choice - the proposed allocation scheme will increase the choice that applicants have of their home by not limiting the number of bids permitted and allowing tenants to view a number of properties before making their final choice. This will reduce or eliminate the number of properties refused.
- 2.7 Additional priority will be given to current social housing tenants who want to downsize. This will free up larger properties for families in housing need on the register.
- 2.7 Administratively more efficient - the proposed scheme will be simpler for applicants and more efficient for the council. Applicants' information will only be verified when they reach a high level of priority on the housing register. Applicants will be required to confirm annually that they wish to remain on the register however they will not have to provide all the documentation required for verification at the point of application. This will save time and money for both applicants and the council.
- 2.8 The new scheme will enable households in the private rented sector to apply on the housing register and have their housing needs assessed. They are currently excluded from the register unless they are in severe housing needs or threatened with homelessness. This will support the homelessness prevention strategy and reduce demand for temporary accommodation by encouraging applicants to remain on the housing register while taking up options in the private rented sector, rather than go into temporary accommodation.
- 2.9 Housing Register Qualification Criteria
- Change in residency criteria - It is proposed that the existing six-year continuous residency criteria is amended to three out of six-year criterion. This will enable the residence criteria to comply with the law without having a significant number of exemptions, make the criteria more consistent with the homelessness and social care legislation and simplify the scheme for applicants.
- Income cap - no threshold, save when it is apparent applicant has sufficient income or capital to meet their own housing need – the £36,000 per annum for singles/couples and £50,000 per annum for families will be guidelines for informing decisions and will be reviewed on an annual basis.
- 2.10 Removal of Community Contribution Band - Under the current scheme this gave priority to applicants who were working or doing voluntary work regardless of their housing need. It is proposed that the community contribution band will be removed, however, existing applicants who were previously placed under the Community Contribution banding will not lose priority and instead their respective housing needs will be reflected in the new points-based system as well as retention of their effective date.
- 2.11 Parental Eviction – Sons and Daughters

These points will be awarded to the single adult children of existing Havering council tenants who are threatened with homelessness but they are able to remain in the parental home until a suitable property is available.

2.12 Integration of the Opportunities Register into the main housing register to simplify the application process for residents.

REASONS AND OPTIONS

3.0 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.

3.1 Table 1 shows the number of successful allocations for each band, under the current scheme, for the last four years:

Table 1

Financial Year	ER	CC1	CC2	H	RP	Total
19/20	203	171	30	48	3	455
20/21	103	242	71	130	15	561
21/22	170	144	47	126	7	494
22/23 (Apr-Aug)	50	41	17	38	5	151

Table 2

Current Scheme	1	2a	2b	2c	3	Total
22/23 (Aug-Mar)	152	99	7	13	76	347
22/23 (Total)	202	140	24	51	81	498
Total	678	697	172	355	106	2008
% of allocations	33.8	34.7	8.6	17.7	5.2	100

3.2 Reasons for the decision:

3.3 The current allocation scheme is not serving its primary purpose of supporting applicants most in need and given the prevailing housing climate, it is

incumbent upon the local authority to allocate its scarce resources in the right way and meet our legal obligations.

- 3.4** The existing scheme awards a “community contribution” priority to households who were, for example in employment; they were prioritised as band 2. Giving applicants additional priority for working does not reflect their housing need and therefore households who were in less severe housing need were prioritised over those in severe housing need. This is particularly so for overcrowded households.
- 3.5** Table 2 shows that applicants in the current Community Contribution 1 and 2 (CC1-CC2a-c) bands make up the majority of allocations, accounting for 1249 (61%) of total allocations. Applicants in employment Band 2a benefited most from the scheme accounting for 343 (17 %) of total allocations from the housing register.
- 3.6** Comparatively, applicants unable to work on medical grounds fair less well in securing social housing with only 82 (4%) of applicants successfully finding social housing. The proposed scheme will support the council’s commitment to allocate its scarce resources in the right way and meet our legal obligations.
- 3.7** The residency criteria in the current scheme is based on a continuous residency for six years. This had been challenged legally and as a result, a series of exemptions introduced to comply with the law. In total there were 10 exemptions which rendered the residency criteria impractical and incoherent.

These exemptions are:

- Members of the Armed Forces and former Service personnel, where the application is made within five years of discharge, Bereaved spouses and civil partners of members of the Armed Forces leaving Services Family Accommodation following the death of their spouse or partner; Serving or former members of the Regular or Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service.
- People who are under-occupying their current social housing tenancy.
- Persons who fall within the statutory ‘reasonable preference’ groups:
 - people who are homeless (within the meaning of Part 7);
 - people who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3);
 - people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions; people who need to move on medical or welfare grounds (including any
 - grounds relating to a disability); and people who need to move to a particular locality in the district of the Council, where failure to meet that need would cause hardship (to themselves or to others).

- Emergency cases where homes are damaged by fire, flood or other disaster
- Cases nominated under the Police Witness Protection Scheme or other similar schemes of which the Council has agreed to be party to.
- Households who need to move to the borough and where failure to meet that need would cause exceptional hardship to themselves or to others. Hardship grounds include applicants with the need to move:
- Under the Right to Move scheme where there is a genuine intention of taking up an offer of work;
- To specialist facilities where they receive care;
- To receive or give care/support which could otherwise result in higher care costs, or even the use of residential care for those who cannot move.
- People who qualify for assistance through specialist external mobility schemes
- Cases with exceptional need that are not covered under this scheme. For example, where child or public protection issues require rehousing, or for domestic abuse cases where it is not possible for the applicant to remain in their home.
- Applicants who the Director of Housing and, at the very least, one other statutory agency (e.g. the Police, NHS), has agreed are unable to access suitable accommodation other than that given by the Council or a housing association.
- To ensure compliance with the judgment of the Court of Appeal in R (Ward & Ors) v Hillingdon LBC; R(Gullu) v Hillingdon LBC

3.8 The ordering of households according to date of application does not reflect the priority of their housing need. Many households do not apply on the housing register because they are not aware of process and therefore, they are given a lower priority even though they may be living in extremely poor-quality accommodation. Waiting for housing based on the date of application does not reflect the needs for housing of individual households. The new points system is based on housing need however points are awarded based on the time that households have been waiting. These are known as “Time in Need” points.

3.9 The 2021 scheme introduced an Opportunities Register which recorded the housing needs and preferences for those households who would not be able to be housed through the housing register itself so they could be offered other housing choices. This has proved highly successful particularly at marketing shared ownership properties at New Green and St Georges developments. It is the intention to make the application process simpler by integrating the Opportunities Register into the main housing register.

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

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

3.12 Following the authorisation of this draft Scheme by Cabinet, a formal consultation was conducted in the autumn of 2023 it opened on the 7 September 2023 and closed on the 30 November 2023. The consultation was based on a proposed 3 out of 6 year residency criteria, implementing a points-based system, and removal of community contribution award both of which have subsequently changed. The consultation consisted of:

- The draft Scheme and public consultation questionnaire published on the Council's consultation portal;
- The questionnaire being sent to all key stakeholders, including housing associations, neighbouring boroughs and voluntary sector organisations.

3.13 Ninety-nine people responded to the Public Consultation. Their feedback is detailed in appendix 2, with recommendations for the adoption of the Housing Allocation Scheme (2024).

3.14 The key issues raised in the consultation were:

- Concerns that reducing the residency criteria to 3 out of 6 years would limit opportunities for local residents to successfully bid on social housing and encourage inward migration. However, no evidence was provided to support this, and the current restriction excludes many local people who have lived for short periods in the other neighbouring boroughs. The current scheme has a series of exemptions that apply to a significant proportion of application, thereby making it meaningless and difficult to understand. The proposal is a more transparent way to set out the residency criteria.
- Concerns were also raised about proposed removal of the community contribution banding with a majority of respondents opposed, viewing the community contribution as a positive part of the current scheme. This did not however demonstrate that there was opposition to the housing needs based assessment, which an employment criterion clearly contradicts.
- The management of the points-based system to ensure transparency and fairness. The proposed changes had a mixed reception with an equal number of respondents in favour than against. The main concern for the consultees was the protection of existing applicants' priority in the transition of the new scheme. This has been reflected in the transitional arrangements put in place for existing applicant through the transition points which will protect their current priority under the new scheme. Once implemented the proposed scheme will be reviewed to ensure that the benefits of the points scheme, in terms of transparency and meeting housing needs, have been achieved.

3.15 Implementation of the new scheme

The implementation of the new scheme requires formal notification to be sent to all the applicants currently on the housing register, the housing computer system changed to reflect the new scheme, change and transition to a points-based system and on-line application form to be amended to reflect the changes.

A project team has been established to implement these changes and it is anticipated that six months will be required from the date of decision before the new scheme “goes live”.

3.10 Other options considered:

Amending the current scheme to remove the community contribution and clarifying the residency criteria.

This is not recommended as the principle of prioritising applicants based on housing need would not have been achieved.

IMPLICATIONS AND RISKS

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 Revenue Account budgets.

Legal implications and risks:

- i. Consultation of Reform to Social Housing Allocations.
The Government issued a consultation in January 2024 on proposed changes to the Code of Guidance on Housing Allocations, issued under Part V1 of the Housing Act 1996.
In response to the consultation proposals legal advice was sought on the proposed changes and the implications for the Havering Housing Allocation Scheme.
 - UK connection test – where a person must demonstrate their connection to the UK before they can be allocated social housing. This can be achieved by (a) being a British citizen, Irish citizen, Commonwealth citizen with a right of abode, or EEA or Swiss citizen with equal treatment rights [footnote 2]; or (b) by being a lawful resident in the UK for 10 years (Section 5). *If this is implemented it is likely to require an amendment to the Allocation Scheme (AS) as the current or proposed Scheme do not provide for a “UK connection test”. Additionally, it is proposed that those who arrive as part of a safe and legal resettlement or relocation scheme will be exempt from the UK connection test - the Scheme would need to be amended*

accordingly. The proposed new “UK connection” test will apply to new applicants as well as those currently on the waiting lists.

- Local connection test – where a person must demonstrate a connection to a local area for at least 2 years before they can be allocated social housing. This will ensure greater consistency across the country and ensure more local people can access social housing in the area they call home, supporting people to put down roots and maintain links to family and community (Section 6). - *The Scheme complies with the minimum proposed local connection requirement. i.e. a minimum 2 years. (The new scheme proposes a 3 out of 6 year residency). However, the government proposal intends to use a broader definition for local connection than just “residence”, in order to capture employment and family associations as well. Also, it’s proposed that there might be other “statutory” exemptions to the local connection test.*
- Income test – setting thresholds for applicants and those on a waiting list to qualify for social housing. This will have no impact on existing tenants, but rather will ensure new tenancies are reserved for those who, at the point of signing for a new social home, would most struggle to afford private accommodation (Section 7). *The proposed scheme will include an income assessment for when the applicant will be able to meet their own housing needs. Applicants will also be excluded from the register when it has been determined that an applicant or partner has deliberately deprived themselves of capital to access social housing. To this effect the current income threshold is £36,000 for single people or couples without children and £50,000 is applicable.*

The Government is consulting on whether the income threshold should be set and whether this should vary at a regional level. They are also looking at whether local housing authorities could continue to set their own lower thresholds based on local circumstances. This means that the current set income threshold may need to be revised. The government proposes to issue guidance on this so the scheme would need to be reviewed in light of any set guidance. It is also proposed that there would be exceptions to the income test. Therefore, is likely that our income threshold may meet the requirements of the new guidance.

- Anti-social behaviour test – people who have unspent convictions for certain criminal anti-social behaviour, as well as certain civil sanctions, will be disqualified from social housing for a defined period (Section 8). *The current provision in the proposed scheme on anti-social behaviour is unlikely to be sufficient. The Scheme would need to be revised to ensure that it complies with the new requirements. Additionally, it is likely that we would need other internal procedure*

which outline how the test would be applied as well as how any Equalities/PSED would be addressed.

- Terrorism test – it is proposed that terrorist offenders with unspent convictions will not qualify for social housing unless excluding them would increase the risk to public safety (Section 9). - *The Scheme may need to be revised to include this provision.*
 - Grounds for eviction (anti-social behaviour and terrorist offences) – implementing a ‘three strikes and you’re out’ policy for repeat offenders of anti-social behaviour and creating a new ground for eviction for terrorist offences (Section 10). *This is unlikely to have a huge bearing on the Scheme, however checks would be required to ensure that the provisions of the Scheme are in line with any internal anti-social behaviour policies created.*
 - Fraudulent declaration test - mandating a period of disqualification for those who knowingly or recklessly make false statements when applying for social housing (Section 11). *The Scheme confirms disqualification of fraudulent applicant for a period of two years.*
 - Applicants on a waiting list – applying the new eligibility and qualification tests not only to new applicants but also to those currently on a social housing waiting list (Section 12). *Applying these new tests may be administratively burdensome for Local Authorities and the response to the consultation will reflect this and the need to this to be recognised in the new burdens assessment.*
- ii. The current and proposed allocation scheme allows for minor changes to be made by the Director of Living Well, in consultation with the relevant Portfolio Holder to make minor changes to the scheme. Based on legal advice at the time, if these changes are introduced, they may be considered minor and changes introduced under this procedure.
- iii. 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.
- iv. Public Sector Equalities Duty
The proposed changes relating to residency requirements, income threshold and points system 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. 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.

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).

v. Reasonable preference groups

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.

The revised Scheme excepts those within reasonable preference groups from the 3 out of 6 year 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.

vi. 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.

(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.

Prior to presenting this Scheme, extensive consultation in accordance with the statutory requirements has been carried out and the results of this exercise are set out in Appendix 2. 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.

vii. 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.

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.

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 3) which will serve to identify opportunities to maximise health benefits and mitigate potential harms arising from the specific actions proposed.

BACKGROUND PAPERS

APPENDIX 1: Housing Allocation Scheme (2024)

APPENDIX 2: Public Consultation report – Feedback and raw data

APPENDIX 3: Equalities and Health Impact Assessment

[Consultation on reforms to social housing allocations - GOV.UK \(www.gov.uk\)](https://www.gov.uk)