

5 February 2019

Walsall's Allocations Policy and Nominations Agreement

Ward(s) All

Portfolios: Cllr Andrew - Regeneration

1. Executive Summary:

The purpose of this report is to inform members of the Scrutiny Overview Committee (the "Committee") of the comprehensive review of the Walsall Metropolitan Borough Housing Allocations Policy, and associated Nominations Agreement, and seek the views of the Committee on the proposed changes. As detailed below, the current policy and arrangements no longer meet the requirements of the Council in making best use of local housing stock, or administering the housing allocations function. The draft policy and nominations agreement are attached at Appendices I and II, taking account of consultation with housing associations, and including the data analysis at Appendix III. Successful implementation of these documents will ensure that in future the Council's public housing duties regarding allocation of social housing are fully met.

2. Recommendations:

That the Committee provide feedback on the Draft Walsall Allocations Policy and/or the Nominations Agreement.

3. Resource and Legal Implications

The legal basis on which the review and recommendations are made is the requirement for local housing authorities to comply with the Housing Act 1996 Part 6 requiring them to make all allocations and nominations in accordance with an Allocations Scheme, giving Reasonable Preference in their allocations policies to people with high levels of assessed housing need and to state within the policy what its position is on offering applicants a choice of housing accommodation.

The implications of failure to adopt and implement an effective housing allocations policy and nominations agreement may impact negatively on households in need, potentially resulting in a longer wait than necessary for a social home, and increased costs of meeting the statutory homelessness duties for the council. Such cases can be reported to the Local Government & Social Care Ombudsman who will investigate and publish findings. Where failure to implement an effective policy and agreement impacts statutory

homeless cases or impedes there is potential for Judicial Review

4. Consultation

The consultant has facilitated 2 consultation events and individual meetings with the main Private Registered Providers (PRPS) of social housing, (otherwise known as social landlords) and individual meetings with representatives from Walsall's Adults and Children's Services. Following this Committee meeting, there will be a 12 week public consultation exercise on the Draft Allocations Policy.

Report Detail

5. Review of Walsall Housing Allocations Policy

- 5.1 A statutory review of homelessness in Walsall conducted in 2017 found that the Council's Housing Allocation Policy has not been amended or updated to take account of changes to law and statutory guidance since 2010.
- 5.2 Local authorities must comply with guidance issued by the UK Government, and are entitled to expect co-operation from social landlords when allocating social rented housing. There is no obligation to have a housing register, however advice and information about housing allocation must be provided, and any application made must be considered and kept confidential. The only practical way of achieving this is to hold a Housing Register.
- 5.3 Ministry of Housing, Communities and Local Government (MHCLG) are currently seeking to better understand how local authorities administer their public law housing allocation functions, as detailed within Section 5.4 of the 2018 Social Housing Green Paper, designed to ensure that existing social housing is being used efficiently for those who need it most. Three key areas under consideration are:
 - 5.3.1 How local authority flexibilities on qualification and prioritisation of applications for social housing are being used in practice
 - 5.3.2 How housing associations work with local authorities in allocation schemes to ensure the best use of housing stock, and
 - 5.3.3 The role of local variations in lettings delivery, including how these facilitate choice for residents
- 5.4 Affordable housing is key to the Council in tackling homelessness as well as meeting local housing need generally, and therefore an action was included in the Walsall Homelessness Strategy 2018 -2022, to update the Council's Housing Allocation Policy. To ensure that the new Allocations Policy was developed in a legally compliant and best practice manner, a successful funding bid was made in 2018 to the Local Government Association (LGA) Housing Adviser Programme 2018. The LGA subsequently commissioned (and are fully funding) Neil Morland & Co. Housing Consultants to carry out

the review and, using the review findings, develop new, fit for purpose housing allocations policy and nominations agreement between WMBC and local social landlords.

6. Core review activities

6.1 Working closely with the Council and social landlords and involving adult and children social care, to ensure their best interests are accounted for, the following activities have been or will be carried out to inform the development of the new housing allocations policy and nominations agreement:

6.1.1 Analysing housing register data for example lettings trends, current stock profile, property type and household type,

6.1.2 Reviewing the existing housing allocations policy, and the nomination agreements currently in force with social landlords to let their social rented accommodation to understand if these are recognised as good practice, compliant with relevant legislation and statutory guidance, anti-discriminatory and transparent.

6.1.3 Comparison of the different models of choice used by local authorities and social landlords, and consideration of what will work best in Walsall.

6.1.4 Consultation with interested parties about the proposed new policy and nomination agreement, and learn from the experiences of people who are currently, or have previously been, on the housing register

6.1.5 Engagement with public authorities, voluntary organisations and others including workshops, to foster a shared understanding of local authority and social landlord obligations when allocating and letting social housing, and gauge key stakeholder views, explaining the reasoning behind the contents of the draft housing allocation policy and nominations agreements

6.1.6 Public consultation prior to formally adopting a new housing allocation policy

6.1.7 Drafting the new Housing Allocations Policy and Nominations policy using the review findings to ensure both documents are fit for purpose.

7. Key review findings

7.1 An independent review was commissioned by the Council, the main findings and recommended responses are set out below:

7.2 Housing Register and Allocation of Accommodation

7.2.1 Finding: There is no common housing register and/or joint allocation policy between the local authority and social landlords. This often leads to housing applicants having to complete several applications for housing within the borough with different sets of criteria, and uncertainty for WMBC over whether there is appropriate uniformity of assessing and prioritizing

applications and allocating social homes.

7.2.2 Response: The new Housing Allocations Policy has been developed in full consultation with social landlords, and the potential for a common housing register / allocations policy / applications form was debated, however no agreement could be reached with the social landlords to take this forward. The draft Policy states that allocations for social housing in Walsall must be made in accordance with a local allocations scheme, including eligibility and qualification criteria, prioritisation and choice. As fit for purpose documents, both the new Housing Allocations Policy and Nominations Agreement ensure that the best use of available social housing is made and allocations processes are inclusive, contribute to local authority strategic housing functions and sustainable communities, assist with homelessness duties and address under-occupation and overcrowding.

7.2.3 Finding: The administration of housing allocation functions is carried out mainly by Walsall Housing Group as a legacy function of the original Transfer Agreement, as opposed to being formally contracted out by the Council. As a result of the housing allocation function being carried out by a third party, with many social landlords also having their own register, the Council are unable to fully monitor the effectiveness and compliance with the local allocations scheme.

7.2.4 Response: The Council needs to either return the management of the Housing Register in house, or enter into a competitive exercise to contract out this function. Returning to in-house management of the Housing Register and administration of housing allocation functions would ensure stronger performance management, giving absolute assurance to the Council that their statutory obligations, including the local allocations scheme are being fulfilled. In addition bringing the function back to the Council would ensure much needed expertise regarding allocations remains in-house and will provide the opportunity to streamline and improve the process for both administrators and applicants, particularly with regard to up to date and innovative ICT systems. The in house management of the Housing Register will be able to be managed within existing resources. Consideration should also be given to the potential to have at least a front end single access point for applications to apply to the larger PRPs and the Council. The alternative is for the Council to carry out a procurement process to contract out this function, which will have an associated cost implication.

7.3 Eligibility and Qualification Criteria

7.3.1 Finding: The rules on eligibility remain largely the same, and only persons who are habitually resident in the United Kingdom will be eligible for an allocation of housing accommodation, however the qualification criteria in the current policy requires updating. 25.1% of allocations during 2017/18 (Chart 8, Review of Social Housing Lettings Data at Appendix III) were made on the basis of Reasonable Preference. As the demand for decent affordable homes is continuing to increase and the number of voids to let each year declines (Chart 7, Appendix III) the requirement for a Bronze band including

applicants with no Reasonable Preference, is potentially now obsolete, and no longer supports the requirement to make the best use of available social housing. These applicants with no reasonable preference will still be able to apply directly to local social landlords, dependent on their individual allocations policies.

7.3.2 Response: The new Housing Allocations Policy sets out the eligibility and qualification criteria in detail at s3 of the Policy at Appendix I. The main changes are:

- 7.3.2.1 Prioritisation and Banding: Allocations for social housing accommodation will still be prioritised according to (i) their need to be re-housed, (ii) the by date they joined the Council's Housing Register, (iii) then by whether they are making a community contribution. The application will be placed in one of the following Bands:
- 7.3.2.2 Band A (similar to existing Gold Band): This includes applicants who have been awarded an additional preference, in addition to the requirement to be afforded a reasonable preference for an allocation of social housing accommodation. For example homeless households owed a statutory duty, victims of domestic abuse, severe overcrowding posing a serious health hazard and members of the Armed and Reserve Forces. (s.4.2.3. Appendix I).
- 7.3.2.3 Band B (similar to existing Silver Band): Applicants whom statute stipulates must be afforded a reasonable preference for an allocation of social housing accommodation. For example those needing to move on medical or welfare grounds such as frailty due to old age, the need to give or receive care, or those homeless or threatened with homelessness and owed a duty under Housing Act 1996, Part 7, (s. 4.2.4. Appendix I).
- 7.3.2.4 Band C: Applicants from Band A or B, who have exhausted their right to refuse an allocation of accommodation. Applicants will remain in Band C for no more than 12 months from date of final refusal.

7.4 Choice

7.4.1 Finding: The provision of up to 8 weeks choice in the current policy for homeless people has the potential to increase void times, leaving homes vacant for longer than appropriate resulting in longer waiting times, and as a result, may lead to increased costs of temporary accommodation for the Council if properties are regularly refused.

7.4.2 Response: Most Band A applicants, and other homeless applicants in Band

B, will only receive 1 reasonable offer. Certain exceptions in Band A (those underoccupying, foster carers, and members of the Armed and Reserve forces) and the rest of Band B will have a choice of three properties, identified by Council housing officers, which reflect the housing needs of the applicant. If an applicant has refused three reasonable allocations of social rented housing, they will be given reduced preference for a period of 12 months. (s. 5.1.3 Appendix I).

7.5 Local connection

7.5.1 Findings: Current local connection criteria do not make effective use of the 2011 Localism Act provisions and therefore local residents are potentially penalised in certain circumstances.

7.5.2 Response: Decisions made about local connection will be based on an applicant's main place of residence being within the Walsall Council area for a minimum period of two years. Certain exemptions to the local connection requirements will apply including applicants who are victims of domestic abuse or threats of domestic abuse, or escaping domestic abuse, certain applicants needing to move to take-up an offer of employment, and applicants who can prove they have a continuing caring responsibility for someone who is resident in the area. (S. 3.2 Appendix I).

7.6 Nominations Agreement

7.6.1 Finding: The Council has not consistently achieved the 50% nominations target with all its partners during the last five years (Chart 8, Appendix III). There is however a contractual commitment to take nominations made by the Council, with the Longhurst Group, Walsall Association of Tenant Management Organisations and Walsall Housing Group as a result of previous stock transfer arrangements. Other local social landlords have also agreed to nomination arrangements with the Council.

7.6.2 Response: The agreement for nomination of applicants from the Council's housing register to social landlords that hold stock in the local authority area (Nominations Agreement at Appendix II), specifies the proportion of voids that the local authority can nominate applicants from its housing register to, and contains provision to resolve any dispute regarding these nominations, including how social landlords can reject a nomination. In addition, it is written into the Agreement that if a social landlord does not fulfil its statutory duty to co-operate in the face of a request from the Council, the local authority will pursue the matter with the Regulator for Social Housing or through the courts.


7.7 Co-operation with PRPs (social landlords):

7.7.1 Findings: Although private registered providers of social housing are independent bodies, the Council must work closely with local PRPs to fulfil its statutory obligation to allocate social rented housing, by ensuring it has adequate nomination rights. Clearly Walsall PRPs and the Council work closely together to meet local housing need, however as stated above the 50% target is not always being consistently met and this therefore needs addressing.

7.7.2 Response: To ensure effective cooperation with PRPs, they will be fully engaged in the implementation and monitoring of the new Nominations Agreement. A more comprehensive monitoring system, as part of the Housing Register and Allocations monitoring process will be put in place to collect and report on nominations received, nominations accepted, and the number of, and reasons for nomination refusals, by each PRP.

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