

**26 September 2024**

**Review of Housing Allocations Policy**

**Ward(s): All**

**Portfolios:** Councillor Garcha – Resident Access and Housing Support

**1. Aim**

The aim of this report is to provide the Scrutiny Overview Committee with a detailed overview of the Council's review of its Housing Allocations Policy ("the Policy") and seek feedback on the proposed amendments. .

**2. Recommendations**

That the Scrutiny Overview Committee consider the proposed amendments to the Housing Allocations Policy contained within section 3.4 of this report, and provide feedback to be considered by Cabinet.

**3. Report detail – know**

**Context**

3.1 Part VI of the Housing Act 1996 (as amended) sets out the legislative framework through which Local Authorities should maintain and operate their Housing Allocation Schemes. The Act gives 'reasonable preference' to certain categories of applicant, namely households who are:

- Statutorily homeless
- occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions,
- needing to move on medical or welfare grounds, including grounds relating to a disability, and
- needing to move to a particular locality in the administrative area of the housing authority, where failure to meet that need would cause hardship (to themselves or others).

As part of this requirement the Council maintains a Housing Allocations Policy and as a non-stock owning authority, the Policy sets out who qualifies to join the Council's Housing Register and how the Council will prioritise households to nominate to vacant properties supplied to the Council from housing associations who operate in Walsall.

3.2 In February of last year whg notified the Council of their intention to close the waiting list that had previously served to source households from which the Council nominated to vacant properties supplied to it from local housing associations. This meant it was necessary for the Council to launch a new housing register to ensure that customers were still able to apply for housing supplied to the Council. In September 2023 the Council launched its Housing Register and commenced

nominations from the new Register from February 2024. By April of this year 3,840 households had joined the register, with 1,995 (52%) qualifying for Reasonable Preference and the remainder being assessed as having no specific housing need as identified in law.

- 3.3 In compliance with the Housing Nominations Agreement, housing associations operating in Walsall are obliged to forward at least 50% of their vacant properties to the Council from which it can nominate households selected from the housing register. Last year (2022/23), 734 housing nominations were completed by the Council from a total of 1,365 social housing lettings across the borough. By way of context and in line with the national picture the number of social housing lettings in Walsall has declined by 46% since 2017/18 when 2,530 relets were achieved, as households remain in their tenancies for longer. This overall decline has been a consistent trajectory since 2012.

#### **Review of and recommendations for the Housing Allocations Policy**

- 3.4 The current Housing Allocations Policy essentially dates back to 2010, though minor revisions to the policy were completed in 2022 and early 2024. Last year, the Council undertook to complete a full review of the current Policy, and following an initial scoping review the following key areas were identified as in need of review:

- To Review the residency test set out in the local connection test – currently two years
- To explore the potential benefits of increasing the number of bands within the policy applicable to those who would qualify for statutory Reasonable Preference in order that the Policy could fully differentiate between higher and lower levels of housing need. Currently the Policy has 2 priority bands to accommodate those in Reasonable Preference with the third band (Band C) catering for those households registering with no identified housing need
- To consider whether those without a recognised housing need (in statute) should be excluded from joining the register, particularly in view of continuing supply and demand issues that seem unlikely to subside.
- To consider whether the Council should prioritise households who wish to downsize their home or release an adapted property.
- To consider adopting a choice-based lettings approach or to continue with making direct nominations.
- To make the Policy more navigable and to introduce greater clarity over who qualifies for Reasonable Preference and the level of priority to be awarded
- To consider any other emerging themes that come from the consultation.

- 3.5 Officers commenced a comprehensive period of consultation in April 2024 that involved both a programme of targeted focus groups and stakeholder meetings as well as a web-based survey that commenced on 07 May 2024 and concluded on 22 July 2024. The web-based survey achieved a total of 615 responses including 402 directly from households registered or in the process of registering with the housing register, representing 6% of applicants contacted. In addition, 213 responses were from a combination of residents (115) and third sector organisations and officers of the Council (98). In all a total of twelve focus groups/stakeholder meetings were concluded.

- 3.6 In line with both the scoping review (set out in 3.4 above) and the conclusion of the public consultation the following recommendations are made by officers in 3.7 to 3.21 below to enable a fully revised Housing Allocations Policy to be reported to Cabinet.

### **The residency test**

- 3.7 The current residency test forms one of three independent qualifications applied to the Local Connection Test (LCT) with close family members (currently resident in Walsall) and employment in Walsall being the other two. To meet the LCT at least one of these tests must be fulfilled as a gateway to joining the Housing Register. By far the most commonly used LCT is the Residency Test which is currently set at two years uninterrupted residency in Walsall although it should be noted there are a series of exemptions to applying this test, including members of the Armed Forces, persons owed a homeless duty by the Council, care leavers supported by the Council, or persons fleeing domestic abuse or hate crime. Guidance in applying a residency test is set out in the statutory code *Providing social housing for local people (2013)*. The statutory code recommends a two-year residency test. Of note, recent case law (*Khayyat and Ibrahim v Westminster City Council 2023*) has confirmed that a local housing authority can lawfully exclude individuals when applying a residency test who would otherwise be entitled to receive a statutory Reasonable Preference in an Allocations Policy (and therefore be placed on the housing register).
- 3.8 Broadly speaking respondents from the focus groups were in favour of retaining the two-year residency test on condition that the exempted groups, in particular care leavers, homeless households and victims of domestic abuse were retained and regularly reviewed. For the web-based survey there is overwhelming support for the retention of the two-year residency requirement, where 73% of register applicants were in favour, with 78% from the remaining respondents (officers, residents and third sector organisations) also in favour. It is therefore proposed to retain the two-year residency test and apply existing exemptions as set out in Appendix One of the current policy.

### **Increase number of bands**

- 3.9 The proposal to increase the number of bands within the Housing Allocations Policy is to enable the Policy to be more responsive to the varying degrees of applicant housing need, providing greater flexibility to differentiate between higher and lower levels of need. Currently the Policy is restricted in its ability to do this as it only has 2 priority bands, with the third band (Band C) for those households registering with no identified housing need. In compliance with the Policy this latter band is currently suspended at present in order that the Council can meet its statutory housing duties. It is very rare for available properties to be nominated to this group anyway in view of the acute supply and demand issues.
- 3.10 In addition to the above, Section 166A(3) of the Housing Act 1996 gives housing authorities the power to frame their allocation scheme to give *Additional Preference* to particular descriptions of people who fall within the statutory Reasonable Preference categories who have *urgent* housing needs. For example this includes those who need to move urgently because of a life threatening illness or sudden disability or those who are homeless and require urgent re-housing as a result of violence or threats of violence. The *Allocation of accommodation: guidance for local housing authorities in England* advises that 'all housing

authorities must consider, in the light of local circumstances, the need to give effect to this provision' (i.e. Additional Need).

- 3.11 With only two priority bands (Band A and B) it is difficult to apply Additional Need, added to which the Policy has limited differentiation between those with varying needs in Reasonable Preference, for example those overcrowded by two or more bedrooms and those overcrowded by one. From the consultation there has been overwhelming support to increase the number of priority bands within the Policy, with 70% of housing applicants in favour, and 76% from the remaining pool of respondents (officers, residents and third sector organisations) also in favour. The focus groups who took part in the consultation were also broadly in favour of increasing the number of priority bands. It is therefore proposed to introduce four housing need bands within the Policy that will award varying degrees of priority within the Policy. This proposal with the designated housing need bandings is detailed in Appendix One. A fifth band could also be applied to households with no specific housing need (as identified in law), however operating such a band (currently Band C) has been reviewed as per 3.12 below.

**Exclude households with no statutory housing need**

- 3.12 Given the current supply and demand issues for social housing accommodation in the borough the review has also considered the option to exclude those without a recognised statutory housing need from joining the housing register. At the present time, and future projections for available relets, suggest the demand for vacant properties far outweighs supply and this places significant pressures on the Council's ability to house those who have a recognised statutory housing need, leaving the overwhelming majority of those without a statutory need unlikely to ever receive an offer of accommodation.
- 3.13 In compliance with the Housing Nominations Agreement, housing associations operating in Walsall are obliged to forward at least 50% of their vacant properties to the Council (a National standard) from which it can nominate households selected from the housing register to occupy. This target is consistently achieved. Last year (2022/23), 734 housing nominations were completed by the Council. To illustrate the supply/demand issue, 3,840 applicants were registered on the Council's housing register at April 2024, of which 1,995 (52%) qualified for a statutory Reasonable Preference. In line with the national picture the total number of social housing relets in Walsall has declined by 46% since 2017/18 with only 1,365 relets in 2022/23, meaning only 682 properties (50%) were available to the Council for nomination. This overall decline has been on a consistent trajectory since 2012.
- 3.14 From the consultation, those who took part in the focus groups had mixed views about the proposal to exclude those with no statutory housing need from joining the register. Those in favour of this proposal cited the 'false hope' that allowing any individual to join the register can generate, whilst others thought that as a matter of principle any person regardless of need should be able to join the register. Preference for the proposal was expressed in the survey, where 62% of housing applicants were in favour of exclusion with a similar 65% from the remaining pool of respondents ( officers, residents and third sector organisations) also in favour. It should be noted that a revised whg Housing Allocations Policy (the largest stockholder in the borough) has been recently introduced. This excludes non whg tenants who would qualify for Reasonable Preference (i.e. those recognised with

a statutorily recognised housing need) and offers the ability for households without a recognised housing need to register for housing, particularly those impacted by affordability, thus providing some options for those households with no statutory housing need in Walsall.

- 3.15 In view of the current acute supply and demand issues it is recommended to proceed with this proposal and to exclude households from joining the housing register who have no lawfully recognised housing need. This will enable the Council to focus more on its statutory duties in relation to housing and from the customer perspective will avoid the inevitable raised hopes from this applicant group of acquiring a social rented property via the Council when in reality the prospect of doing so is very minimal.

**Prioritise households who wish to downsize or release either an adapted or single level property**

- 3.16 Aside of the overall supply and demand issue outlined elsewhere in this report there is also a distinct mismatch between supply and household need by property type, largely centred on a shortage of larger properties needed by households with families and the need for adapted or single level properties on account of medical need (often related to mobility). To partly address this, it is proposed to prioritise households who wish to downsize or release either an adapted or single level property. In order to maximise this option a high degree of priority is needed to encourage such moves. This proposal received a strong response in favour in the consultation, with 76% of housing applicants in favour and 82% of the remaining pool of respondents also in favour (officers, residents and third sector organisations). All the focus groups supported this proposal.
- 3.17 It is unlikely that the above proposal will generate a large volume of properties however it is important where possible to stimulate any strategy aimed at making the best use of existing stock. Of note, any property 'released' under this priority will be nominated to directly by the Council exclusively to households on the Council's housing register. It is proposed that the following levels of priority be awarded to households either downsizing or releasing an adapted home, a single level property or a property designated as a 'sanctuary home' (adapted to meet the needs of persons experiencing domestic abuse, e.g. the installation of a strong room):
- **Band A:** Housing Association tenants currently under-occupying a property by at least two bedrooms or currently under-occupying a house or who wish to release an adapted property where the said adaptations are no longer in use
  - **Band B:** Housing Association tenants who currently occupy an Intermediate or Advanced Level Sanctuary Scheme property
  - **Band C:** Housing Association tenants currently resident in a flat or maisonette under-occupying by one bedroom

**Choice based lettings or direct nominations**

- 3.18 The last segment of the review has focussed on whether to adopt a choice-based lettings approach to nominations or to continue with making direct nominations. The Council currently offers vacant homes by making a direct offer of accommodation to the applicant who is top of the list for each vacant property. The

list is drawn up by applying the rules of the Policy. Another way of allocating properties – choice-based lettings - is to enable applicants to express an interest in a vacant property that has been advertised as vacant either on a website or through a newsletter. In this system, whoever comes top of the list from those who have expressed an interest in a particular property (often referred to as a ‘bid’) based on their need and in full accordance with the rules of the Policy will be offered the vacant property once the closing date for ‘bids’ has been reached.

- 3.19 The introduction of a choice-based (CBL) scheme received support through the consultation programme both in the focus groups and through the web-based survey. The choice-based lettings approach received 47% support from housing applicants with 28% preferring to remain with the Direct Offer approach. From the remaining pool (officers, residents and third sector organisations) 41% were in favour of CBL with 37% remaining in favour of continuing with Direct Offers. The focus groups were divided on this issue, largely on the basis of drawing out specific groups who it was felt might benefit (not unfairly) from a CBL scheme set against those who would not. It was felt that CBL would help care leavers, persons with learning disabilities and young people. Other focus groups had mixed views on the impact of CBL specifically on people moving on from temporary accommodation or people affected by domestic abuse.
- 3.20 The consultation feedback on CBL and Direct Nominations has been less conclusive compared with the other proposals. A CBL or Direct Nomination approach will not impact on how the Policy will determine who qualifies to join the Council’s Housing Register and how the Council subsequently prioritises households within the Policy. Due to the considerable alterations to both the Councils administrative and software systems incurring associated costs and extending policy rollout timescales, it is proposed not to introduce CBL at this time. This can be reconsidered in any future Policy review, when there will be further information available on the effectiveness and efficiency of the Direct Nomination approach and whether this needs to be changed.

#### **Other themes / groups**

- 3.21 In considering any other themes that came from the consultation two clear concerns emerged centred on how the Policy would treat Care Leavers and those households who wish to foster and who need larger accommodation to do so particularly as the former group were often directed via the homeless route to acquire accommodation. Consequently, it is proposed that the new Policy will place all Care Leavers supported by the Council into Band A, and those not supported by the Council but who would meet the Local Connection Test into Band C. Officers have also worked closely with colleagues in Children’s Services to ensure that the policy enables households who wish to foster to be awarded Band A priority whilst at the same time safeguarding against as far as possible the allocation of a larger home to a household who subsequently withdraws or declines from fostering.

#### **4. Financial information**

There are not anticipated to be any long-term additional costs incurred by the Council as a result of implementing and administering the above policy changes. There will however be some additional short-term financial burdens associated with completing a comprehensive review of all current housing applications on the

Register and any software changes needed to improve the customer-facing on-line portal. In consideration of the current Council budget position, officers will seek to carry out the review of all existing housing applications using current staffing resources. This will however need to be closely monitored, with the aim of avoiding any in-year over-spends. A capital bid may also be needed to fund costs associated with enhancing the Customer Facing on-line portal to reflect the policy changes; a separate business-case will be produced outlining any costs associated with improving the customer-facing portal, which will be considered by the Capital Improvement Board. There is the potential to achieve long term efficiencies as a result of implementing the proposed policy changes, as proposals include no longer allowing households without a recognised statutory housing to join the register. That change, will mean a large number of applications rejected at the first point of contact through the online portal so will not require manual processing by officers.

**5. *Reducing Inequalities***

A full EQiA has been completed as part of the review. No negative impacts were identified in the assessment. Positive impacts were identified for Care Leavers (now formerly recognised in the new policy), young people, persons affected by disability and gender.

**6. *Decide***

That the Scrutiny Overview Committee consider the contents of this report and provide feedback.

**7. *Respond***

Any recommendations made by the Committee, will be included in the relevant Cabinet Report.

**8. *Review***

There will be an annual Lettings Review report which will monitor and assess the impact of the Policy.

**Background papers**

None

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