

# TONBRIDGE & MALLING BOROUGH COUNCIL

## STRATEGIC HOUSING ADVISORY BOARD

16 July 2012

### Joint Report of the Director of Health and Housing and Cabinet Member for Housing

#### Part 1- Public

#### Matters for Recommendation to Cabinet - Non-Key Decision (Decision may be taken by the Cabinet Member)

#### 1 REVIEW OF THE HOUSING ALLOCATION SCHEME

##### Summary

In accordance with Part VI Housing Act 1996, (as amended by the Homelessness Act 2002), the Council has a legal duty to determine housing need in the borough, and to produce an allocation scheme which explains how affordable housing is allocated to those in housing need. The Localism Act 2011 allows local housing authorities in England to consider major revisions to housing allocation schemes to reflect local needs. This report sets out a summary of the main changes to legislation and guidance, and the anticipated process for considering revisions to the Council's housing allocation scheme.

#### 1.1 Background

1.1.1 In November 2010, the Government announced plans for radical reform of the social housing system, to make it fairer and provide more flexibility to landlords to use their social housing stock in a way which best meets the needs of individual households and their local area. *Local decisions: a fairer future for social housing - a consultation* - published 22 Nov 2010, included proposals to:

- provide social landlords with more flexibility on the types of tenancies they can grant, whilst protecting the rights of existing tenants;
- give local authorities back the power to better manage their housing waiting list;
- make it easier for social tenants to move within the social sector through the introduction of an integrated home swap scheme; and
- allow local authorities to fully discharge a duty to secure accommodation by arranging an offer of suitable accommodation in the private rented sector, without requiring the applicant's consent.

- 1.1.2 The relevant sections of the Localism Act 2011 came into force on 18 June 2012, and introduce significant amendments to Part VI of the Housing Act 1996, which deals with the allocation of social housing. The associated consolidated guidance (Allocation of accommodation: guidance for local housing authorities in England) was subsequently published on 29 June 2012. This is statutory guidance which must be reflected within our housing allocation scheme. A copy of the guidance is available at:

<http://www.communities.gov.uk/publications/housing/allocationaccommodationguide>

## 1.2 Introduction

- 1.2.1 This Council's housing allocation scheme was last reviewed in 2009 to provide a banding and points scheme, to coincide with the implementation of a choice based lettings scheme. The current scheme provides an 'open' housing register, where applicants do not need to be in need of housing, nor have any connection to the borough to be included. At the time of writing, there were 1,855 applicants on the housing register, of which 190 (ten per cent) were assessed as having no local connection to the borough through residence, employment or family association. A further 560 (30 per cent) were assessed as having no housing need, and little or no prospect of being offered social housing. 188 of these were existing tenants of Russet Homes and other housing associations.
- 1.2.2 The Government's main policy objectives behind the amendments contained in the Localism Act are to:
- enable local authorities to better manage the housing register by giving them the power to determine which applicants do not qualify for an allocation of social housing. Authorities will be able to operate a more focused list to reflect local circumstances, and manage expectations by excluding people who have little or no prospect of being allocated social housing;
  - make it easier for existing social tenants to move, when they do not have a recognised need and therefore do not fall into one of the reasonable preference categories, for example to take up employment. This will enable authorities to strike a balance between meeting the needs of existing tenants and homeseekers, whilst making the best use of the housing stock. Transferring tenants who do fall within one of the reasonable preference categories, for example overcrowded families, will continue to be given appropriate priority on the housing register; and
  - maintain the protection provided by the reasonable preference criteria to ensure that priority for social housing goes to those in the greatest need. Reasonable preference is given to people that are homeless, those in insanitary, overcrowded or unsatisfactory housing, those needing to move

on medical or welfare grounds (including grounds relating to a disability), and those who need to move to a particular locality where failure to meet that need would cause hardship to themselves or others.

### **1.3 Overview of the amendments to Part VI Housing Act 1996 (Allocation of accommodation) made by the Localism Act 2011**

1.3.1 The detailed changes to the legislation include:

- existing social housing tenants who do not meet the reasonable preference criteria are now outside the scope of Part VI;
- housing authorities have the power to determine what classes of persons are or are not qualified to be allocated housing; and
- the power to treat a person as ineligible by reason of unacceptable behaviour serious enough to make them unsuitable to be a tenant has been repealed. However, housing authorities have the power to take behaviour (good as well as bad) into account when determining priorities between people within the reasonable preference categories.

### **1.4 Qualification**

1.4.1 Housing authorities may only allocate accommodation to people who are defined as 'qualifying persons'. There are two classes of persons where 'qualification' is stated, and it is for housing authorities to decide any other classes of people who are (or are not) qualifying persons. The two exceptions are:

- persons from abroad who are subject to immigration control remain ineligible, and are excluded from the definition; and
- members of the Armed Forces and Reserve Forces must not be disqualified on the grounds that they do not have a local connection.

1.4.2 Housing authorities are urged to consider how to make use of the new power to define 'qualifying persons' to support households who want to work or who are contributing to their community in other ways such as through voluntary work. This might involve giving some preference to those in low paid work or employment related training where they do not otherwise meet the criteria of 'reasonable preference' or to give greater priority to those in reasonable preference categories who are also in work or actively seeking work.

### **1.5 Next steps**

1.5.1 It is widely acknowledged within local authorities, that the Government's reforms to streamline housing waiting lists are welcomed, particularly in areas of high demand such as the South East, and will effectively overturn the 'open' waiting lists introduced by the Homelessness Act 2002. The new power to define the type

of people who qualify for inclusion on the housing register could result in major changes to the way applicants are assessed, and we will be consulting on the changes with existing applicants and other stakeholders.

- 1.5.2 The recently published guidance confirms that those who are likely to be affected by any changes must have the effect brought to their attention, taking such steps as the housing authority considers reasonable. Members will recall from an earlier report to this Board in February that we intend to consult in two stages.
- 1.5.3 The first stage will be a questionnaire which is currently being developed with assistance from the internal Improvement and Development Unit, and will be sent to all Housing Associations with whom the Council has nomination rights, other partners and referral bodies such as Social Services, health authorities, Connexions, Supporting People teams and relevant voluntary sector organisations, who will be invited to comment on the proposed changes.
- 1.5.4 Copies will also be sent to a sample of households already included on the housing register, including both home seekers and existing tenants, alongside the annual register review process. In addition, customers contacting the housing needs service will also be invited to participate during the consultation period.
- 1.5.5 The questionnaire will seek views on possible changes to various aspects of the housing allocations scheme, including the assessment process, and seek views on any proposals to remove some applicants with no housing need or no local connection to the borough. Whilst this would help to manage unrealistic expectations and encourage applicants to consider alternative options, and reduce the considerable resources currently deployed in the processing of such applications, we also need to carefully consider any positive and negative impacts on applicants arising from the potential changes in order to inform the consultation process. These impacts will be identified and detailed in the consultation process.
- 1.5.6 A thorough Equalities Impact Assessment has been carried out on the existing housing allocations scheme which has identified a number of areas to be considered with the revised scheme, to minimise potential impacts on some applicants.
- 1.5.7 These include disparities between tenants and homeseekers when assessing priority due to underoccupation. Currently, only social tenants are awarded a priority on this basis to encourage them to downsize and free up larger homes for overcrowded families, Private tenants in larger properties, many of whom are older people, would also benefit from moving to smaller homes but are not currently given priority on the basis of underoccupation.
- 1.5.8 Following the preliminary questionnaire, the responses will be analysed and incorporated into a draft housing allocations scheme. The impact of the proposed changes to the housing allocations scheme will be subject to a further modelling exercise to minimise any potential impacts, including cumulative impacts, on applicants with protected characteristics wherever possible. We will carefully

consider the implications of any changes to our housing allocation scheme, and will undertake a comprehensive equalities impact assessment to ensure that the consultation of the draft scheme is both well informed and meaningful.

- 1.5.9 A draft housing allocations scheme will then be reported to the Strategic Housing Advisory Board, and the Board will be asked to approve the draft for the purposes of a second period of consultation, when it will be shared with key partners and stakeholders.

## **1.6 Legal Implications**

- 1.6.1 The Council has a legal duty under Part 6 of the Housing Act 1996 (as amended by the Homelessness Act 2002 and the Localism Act 2011) to determine housing need in the borough, and to produce an allocations scheme which explains how affordable housing is allocated to those in housing need.

## **1.7 Financial and Value for Money Considerations**

- 1.7.1 Some temporary staffing resources may be required to assist with the input and analysis of the consultation responses, and testing the impact of the revised scheme on a sample of existing housing applicants. In addition, once approved, all current applications will need to be reassessed, and reprioritised in accordance with the revised scheme. This was anticipated when the budgets for the current year were set, and there is some limited provision within the Homelessness reserve fund.

## **1.8 Risk Assessment**

- 1.8.1 Failure to properly assess housing need and homelessness would leave vulnerable households at risk of homelessness and the Council open to legal challenge.

## **1.9 Equality Impact Assessment**

- 1.9.1 See 'Screening for equality impacts' table at end of report.

## **1.10 Recommendations**

**CABINET is RECOMMENDED to**

- 1.10.1 **APPROVE** the measures outlined in this report to review and update the housing allocation scheme in accordance with the published statutory guidance.

The Director of Health and Housing confirms that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

contact: Lynn Wilders

Nil

John Batty  
Director of Health and Housing

Councillor Jill Anderson  
Cabinet Member for Housing

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	No change to current policy at this time
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	No change to current policy at this time
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N/A

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*