

TONBRIDGE & MALLING BOROUGH COUNCIL

STRATEGIC HOUSING ADVISORY BOARD

12 November 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 1998 (as amended by the Homelessness Act 2002 and the Localism Act 2011), the Council has a legal duty to determine housing need in the borough, and to produce a housing 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 existing housing allocation schemes to reflect local needs.

1.1 Introduction

- 1.1.1 The Council's housing allocation scheme was reviewed in 2009 (when a choice based letting scheme was introduced), and 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. The current allocation scheme is very complex, and prioritises applicants by placing them into one of four hierarchical priority bands, Band A (urgent priority), Band B (high priority), Band C (medium priority) and Band D (low priority). Within each band, relative priority is determined through a points scheme, where varying levels of points are awarded for housing needs, depending on the applicant's circumstances. Cumulative preference is applied to households with composite needs where, for example, a couple who both have mobility issues which separately entitle each to a Band B priority, will be assessed cumulatively as Band A. Applicants who are seeking a move on medical, welfare or property condition grounds can be awarded either high (40 points), medium (15 points), low (5 points) or no priority, and this priority is in addition to any priority awarded for other factors such as overcrowding or underoccupation.
- 1.1.2 It remains the case that the demand for social housing in the borough far exceeds the supply, with the result that most applicants seeking rehousing via the housing register are unsuccessful. In the period 1 January 2011 to 30 June 2012 we received 2,638 applications to join the housing register, an average of 147 each

month. During the same period, 675 applicants were housed through choice based lettings, an average of 38 per month.

- 1.1.3 The majority of applicants are placed in one of the lower priority bands, with less than 10 per cent in the higher priority bands A or B. (Breakdown given at **[Annex 1]**, paragraph 1.1) As almost 50 per cent of applicants that are housed through choice based lettings are in Band A or Band B, it is common for applicants to seek to increase their priority, to improve their prospects of successfully bidding. In particular, the difference in priority between a high priority (40 points) and a medium priority (15 points) on medical/welfare grounds acts as an ‘incentive’ for customers to seek a review of decisions made and to obtain more and more supporting letters etc. Such ‘points chasing’ impacts significantly on the workload of the housing register team.

1.2 Social housing reform

- 1.2.1 In November 2010 the Government, announced plans for radical reform of the social housing system, to make it fairer and provide more local 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* 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.

- 1.2.2 The changes relevant to the allocation of housing, introduced through the Localism Act, came into force on 18 June 2012. The associated statutory guidance was subsequently published on 29 June 2012. The DCLG plain English guide to the Localism Act states: *“Previously almost anyone could apply to live in social housing, whether they need it or not. As social housing is in great demand and priority is rightly given to those most in need, many applicants have no realistic prospect of ever receiving a social home. The previous arrangements encouraged false expectations and large waiting lists. The Act gives local authorities greater freedom to set their own policies about who should qualify to go on the waiting list for social housing in their area. This means that they are now able, if they wish, to prevent people who have no need of social housing from joining the waiting list. Authorities are still obliged to ensure that social homes go to the most vulnerable in society and those who need it most.”*

1.3 The new legal structure

1.3.1 The Localism Act 2011 has amended the law on the allocation of social housing contained in the Housing Act 1996 Part VI to achieve two policy objectives:

- to give local authorities the power to determine what classes of persons are (or are not) qualifying for social housing; and
- to take social housing tenants who do not have a need to move (those who do not have a 'reasonable preference') out of the statutory housing allocation arrangements.

1.3.2 Neither of the two main changes compels a local authority to change its existing scheme. However, the need for change arises from the combined need to have regard to the new Code of Guidance, the need to dovetail housing allocations schemes with the new tenancy strategy (which must be published by January 2013), and the need to build-in the additional priority for armed forces applicants that will be required by Order in the near future.

1.3.3 The relevant sections of the Localism Act came into force on 18 June 2012. New consolidated statutory guidance accompanying the changes in the Localism Act was published on 29 June 2012. This guidance replaces the following:

- Code of guidance on allocation of accommodation, issued November 2002;
- Code of guidance on choice based lettings, issued August 2008 ;
- Circular 04/2009: Housing allocations – members of the armed forces ; and
- Fair and flexible: statutory guidance on social housing allocations, issued December 2009.

1.4 Main proposed changes

1.4.1 Following the legislative changes, there are three main aspects of the current scheme which could be changed significantly to provide a simpler way of determining priority on the housing register:

- 1) a change to a simple banding scheme based on the circumstances of the whole household, removing housing needs points and cumulative preference (see paragraph 1.5);
- 2) a 'local connection' qualification, excluding households who do not have a connection to the borough (see paragraph 1.7); and
- 3) a 'housing need' qualification, only including households with a housing need (such as overcrowding or unsuitable housing) and thereby excluding those households who have little or no prospect of being offered social

housing (that is those currently registered because they only have a local connection see paragraph 1.8).

- 1.4.2 Members have already considered these broad principles following an earlier report to this Board on 16 July 2012. At that time, it was proposed that there would be a two stage consultation process. However, following the Board meeting, further discussion with colleagues internally took place, which concluded that a single stage consultation would be more appropriate. Our thinking has developed such that Members would be invited at the November meeting of the Board to authorise the broad principles to be incorporated into a draft revised housing allocation scheme and subject to equality impact assessment prior to the draft being made available for consultation and a final equality impact assessment. A first detailed equality impact assessment of the current housing allocation scheme has already been undertaken, and this will inform the proposed scheme prior to formal consultation.
- 1.4.3 The statutory guidance states that local authorities are urged to consider giving some preference to households in low paid work or employment related training, and those unable to engage in paid employment but are contributing to their community in other ways, for example, through voluntary work. However, as it can be difficult to assess 'community contribution', together with the often transient nature of low paid employment, we do not recommend that it is appropriate to give any additional priority to applicants that may meet these criteria, beyond that to which they are entitled according to their housing needs. To do so, may also be discriminatory as people with disabilities and their carers may be less able to contribute in certain ways.
- 1.4.4 One recommendation from the statutory guidance, that housing authorities adopt the bedroom standard as an appropriate measure of overcrowding, will be incorporated into the revised housing allocation scheme. The bedroom standard provides for a separate bedroom for each:
- married or cohabiting couple;
 - adult aged 21 years or more;
 - pair of adolescents aged 10-20 years of the same sex; and
 - pair of children aged under 10 years regardless of sex
- 1.4.5 The current housing allocations scheme allows children of opposite sex to be considered for a separate bedroom when the eldest reaches 7 years of age. However, by adopting the bedroom standard and increasing this age to 10 years, the housing allocation scheme will become aligned with the forthcoming Universal Credit and Housing Benefit regulations, and ensure that families with children who are in receipt of benefits are not offered tenancies that they are unable to afford.

1.4.6 It is probable that other amendments will become necessary during the drafting process of the revised housing allocations scheme, including factors identified during the equalities impact assessment of the current scheme, and these will be subject to the same consultation and equalities impact assessment as the three policy changes detailed in this report.

1.5 Proposed change One - Simplification of the assessment of priority

1.5.1 The current housing allocation scheme places applicants into one of four priority bands. Within each band, individual applicants will also have points awarded for housing needs, and may also qualify for a higher band due to cumulative priority. The length of time waiting on the housing register is only taken into account in those property shortlists where bidders in the same band have exactly the same number of points. Our experience since its introduction in 2009, is that although this level of complexity makes it easier to determine relative priority between applicants, it does result in large numbers of applicants 'points chasing' in order to improve their prospects. Other local authorities in Kent currently have either a banding scheme or a points-based scheme, and it is likely that most will seek to simplify these further.

1.5.2 Although the statutory guidance makes no comment as to how to frame an allocations scheme, other than to ensure that reasonable preference is given to the categories of people defined in s.166A(3) Housing Act 1996, the most commonly adopted method within the sector is a simple banding scheme comprising three or four bands.

1.5.3 The reasonable preference categories are:

- people who are homeless within the meaning of Part VII of the 1996 Act;
- people who are owed a duty under s190(2), 193(2) or s195(2) (those who are intentionally homeless or threatened with homelessness intentionally and those not in priority need);
- people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory living conditions;
- people who need to move on medical, welfare or disability grounds; or
- people who need to move to a particular locality within the district, where failure to meet that need would cause hardship to themselves or others

1.5.4 It is proposed to simplify the current housing allocation scheme by removing points and cumulative priority from the assessment, and prioritising applicants by introducing a simpler cascading four band scheme.

1.5.5 The housing needs of the whole household will be considered together, and placed into the highest band that applies to their circumstances, regardless of the

number of 'needs' factors that apply. Priority within each band will be determined by the length of time that the applicant has been included on the housing register.

1.5.6 Broad categories of housing need in each band

Band A

- Under occupation - Housing Association or Council tenants* who need a home with 2 or more bedrooms less than they currently occupy
- Applicants (or members of the applicant's household) who are wheelchair users, and do not currently occupy a wheelchair accessible/adapted home

Band B

- Overcrowding – applicants requiring an additional 2 or more bedrooms than they currently occupy
- Households where one or more applicants awarded a high priority on medical, welfare or disability grounds
- Applicants awarded a high priority on property condition grounds
- Under occupation - Housing Association or Council tenants* who need a home with 1 bedroom less than they currently occupy
- Housing Association or Council tenants* living in a home with significant adaptations that are no longer required

Band C

- Minor overcrowding – applicants requiring an additional 1 bedroom than they currently occupy
- Homeless applicants where the Council has accepted a duty to secure accommodation under part VII Housing Act 1996
- Homeless applicants where the Council does not owe a duty to secure accommodation (for example. non-priority and intentionally homeless households), or those who are of no fixed abode or residing in non secure accommodation for example with relatives/friends/sofa surfing/ or living in shed/ garage/caravan/car/tent
- Private sector assured shorthold tenants who have been served with a valid notice to quit their tenancy (usually at least 2 months)
- Tenants occupying HM Forces service family accommodation who have been served with a valid notice to vacate their tenancy (usually at least 3 months)
- Housing Association or Council tenants* assessed as requiring sheltered accommodation

Band D

- Households where one or more applicants awarded a low priority on medical, welfare or disability grounds
- Applicants awarded a low priority on property condition grounds
- Applicants who are not overcrowded but are sharing kitchen and/or bathroom facilities with others who are not part of their household
- Private sector applicants assessed as requiring sheltered accommodation

* Although there are no council tenants within Tonbridge and Malling, Council tenants from other areas will be eligible to join this Council's housing register, provided that they meet both the local connection and the housing need qualification.

- 1.5.7 As a result of this simplification, the number of assessments made on medical and welfare grounds should decrease, as routine assessments which previously may have resulted in an award of additional points will not be required. Assessments will only be necessary for households who do not meet the criteria of one or more of the priority bands. In addition, the range of priority will be reduced from the current four to three categories – high priority, where an urgent move is essential, low priority, where a move would be beneficial and no priority, where a move would have little or no impact, with clear guidelines as to the range of situations where each priority will apply. The current inclusion of a medium priority acts as a perverse incentive for those assessed as a low priority to seek several reviews where they have provided additional supporting letters, for example from their GP, health visitor, or support worker although there has been no change in their circumstances. Assessments will continue to be based on the impact that the current housing has on the applicant, rather than the severity of the actual medical condition.
- 1.5.8 One significant change is the downbanding of 'homeless accepted' cases where the Council has a duty to provide accommodation from Band B to Band C, where they will have the same level of priority as other homeless households where the Council does not have a duty to provide accommodation, for example those who do not fall into one of the priority need categories. The reason for this change is that the Localism Act 2011 allows local authorities to discharge their duties to accepted homeless households by way of an offer of suitable private sector accommodation. The relevant sections of the Localism Act 2011 will come into force on 9 November 2012, alongside the Homelessness (Suitability of Accommodation) (England) Order 2012.
- 1.5.9 The following paragraphs highlight the impact of simplifying the banding system on those applicants currently assessed as Band A or Band B due to composite needs. Further details of the comparative data are included in **[Annex 1]** at paragraph 1.1.

Band A cases

From the live data of 1,855 households, there are 63 households in Band A, with points ranging between 20 and 95. Of these, six households (10 per cent) have been placed into Band A because they have composite needs (two x Band B priority). Under the proposed scheme these six households would be a lower priority in Band B. All six households are aged over 60 years and three have been awarded a high medical priority plus a high welfare priority for needing sheltered accommodation (all single person households) and the other three have been awarded two x high medical priority (all two person households). **Therefore six of the 1,855 households would potentially be downbanded from band A to band B.**

From the housed data of 430 households, 42 households are in Band A, with points ranging between 25 and 105. Of these, six households (14 per cent) have

been placed into Band A because they have composite needs (two x Band B priority). Four of these households are families with children with multiple housing needs (combinations of overcrowding, medical, welfare, property condition). Two households are aged over 60 years and have two x high medical/welfare priority. **Therefore 6 of the 430 households would potentially be downbanded under the proposed revised scheme.**

Band B cases

From the live data, there are 153 households in Band B, with points ranging between 25 and 70. Of these, one household has been placed into Band B because they have composite needs (three x Band C priority). Under the proposed scheme this household would be a lower priority in Band C. This household is aged over 60 years and has been awarded a medium medical priority, a medium welfare priority and a medium priority on property condition grounds. **Therefore one of the 1,855 households would potentially be downbanded under the proposed revised scheme.**

From the housed data, 162 households are in Band B, with points ranging between 20 and 70. Of these, two households (one per cent) have been placed into Band B because they have composite needs (three x Band C priority). Both of these households have multiple housing needs (combinations of underoccupation, medical, welfare) and aged over 60 years. **Therefore two of the 430 households would potentially be downbanded under the proposed revised scheme.**

1.6 Bidding Outcomes

- 1.6.1 The bidding outcomes table at **[Annex 1]**, paragraph 1.2.1 gives the bidding outcomes of the last 30 properties let through choice based lettings as at 8 October 2012. Of these 30 successful bidders, six would be assessed in a lower band under the simplified scheme. Two cases have been awarded a priority for needing sheltered accommodation and one is a composite need case (high priority on both medical and welfare grounds). Three of these are homeless accepted cases who will be offered private rented accommodation once our policy for discharging our statutory homeless duty into the private rented sector is adopted following the implementation of the relevant sections of the Localism Act 2011. Members have already endorsed the change in our policy for discharging the duty to homeless households at an earlier meeting of this Board on 16 July 2012, subject to a full equalities impact assessment and incorporation into the revised housing allocation scheme which will be subject to public consultation prior to reporting back to Members for adoption.
- 1.6.2 Fourteen (47 per cent) of the successful bidders, highlighted in italics in the table, could potentially be displaced by other bidders, usually in the same band, but who have been registered for housing for a longer period. (Thirteen of the successful bidders had been registered for less than six months). Although the outcomes may not actually change due to other factors (higher placed applicants refusing

properties or being bypassed on the shortlists for other reasons), the fact that the time spent waiting on the housing register becomes the means to prioritise between applicants in the same band potentially makes the allocation scheme easier to understand.

- 1.6.3 In four of the cases (numbers 16, 19, 24 and 27) the same applicant assessed as Band B with 29 points and living in overcrowded conditions with parents, relatives or friends has 'lost' the opportunity to be offered a two bedroomed house as preference has been given to a similar household, but who (in three of the cases) has made a homeless application. This lack of opportunity can often be the 'final straw' for a parent, relative or friend accommodating a family (usually with one or more young children) in overcrowded conditions and result in them being asked to leave.

1.7 Proposed change Two – Local connection qualification

- 1.7.1 In accordance with the current housing allocation scheme, applicants who can demonstrate a local connection to the borough are entitled to five points. An applicant will have a local connection if they:

- currently reside in the borough, or have previously lived within the borough for six out of the last twelve months, or three out of the last five years;
- are employed in the borough, or need to move into the borough in order to take up an offer of employment;
- have close family members (parents, siblings, adult children) currently resident in the borough, who have lived here for at least the last five years;
- have some other special reason for needing to reside in the borough (for example, households currently residing outside the borough who are fleeing violence or harassment, or those that need to move into the borough in order to provide or receive care or support); or
- are members of the Armed Forces or former Service personnel within five years of discharge (or bereaved spouses or civil partners of such members), or serving or former members of the Reserve Forces who need to move because of a serious injury, medical condition or disability sustained as a result of their service

- 1.7.2 It is proposed to revise the housing allocation scheme by excluding applicants from the housing register if they do not meet the criteria for establishing a local connection. The following paragraphs highlight the impact of excluding applicants assessed as having no local connection. Further details of the comparative data are included in **[Annex 1]** at paragraph 1.3.

Live applicants

From the live data of 1,855 households, there are 190 households (10 per cent) who are assessed as having no local connection, comprising 127 (67 per cent) homeseekers and 63 (33 per cent) transfers. Of these, 23 are high priority cases in Band A or Band B), with nine households awarded priority due to overcrowding and a further seven awarded priority on welfare grounds (fleeing violence, or needing to move on from supported housing). **Therefore 190 of the 1,855 households would potentially be removed from the housing register under the proposed revised scheme.**

Housed applicants

From the housed data of 430 households, there are 28 households (seven per cent) who are assessed as having no local connection, comprising 20 (71 per cent) homeseekers and eight (39 per cent) transfers. Of these, 11 are high priority cases in Band A or Band B), with four households awarded priority due to overcrowding and a further five awarded priority on welfare grounds (fleeing violence, or needing to move on from supported housing).

The 28 households were housed in the following properties:

1 x 4 bed house	12 x 3 bed house	4 x 2 bed house
2 x 2 bed flat	5 x 1 bed flat	2 x 1 bed bungalow
2 x studio flat		

- 1.7.3 From the above, one of the effects of removing applicants with no local connection would be the potential to allocate a number of larger properties with three or four bedrooms to local residents, who were displaced by overcrowded families from other areas. It would also provide an approximate reduction in the number of applicants on the housing register of ten per cent.

1.8 Proposed change Three – Housing need qualification

- 1.8.1 In accordance with the current housing allocation scheme, applicants do not require a housing 'need' such as overcrowding in order to be included on the housing register. It is proposed to revise the housing allocation scheme by excluding applicants from the housing register if they do not meet the criteria for establishing a housing need. The following paragraphs highlight the impact of excluding applicants assessed as having no housing need. Further details of the comparative data are included in **[Annex 1]** at paragraph 1.4.

Live applicants

From the live data of 1,855 households, there are 560 households (30 per cent) in Band D who are assessed as having no housing need, (that is they are registered with five points for local connection only) comprising 372 (66 per cent)

homeseekers and 188 (34 per cent) transfers. Typically, these applicants are adequately housed with no need to move. **Therefore 560 of the 1,855 households would potentially be removed from the housing register under the proposed revised scheme.**

Housed applicants

From the housed data of 430 households, there are 15 households (three per cent) in Band D who are assessed as having no housing need, (that is they are registered with five points for local connection only) comprising ten (67 per cent) homeseekers and five (33 per cent) transfers. 11 of these applicants were aged over 50, and were all housed in homes advertised as suitable for those aged over 45, including seven within sheltered schemes.

The 15 households were housed in the following properties:

2 x 3 bed house	2 x 2 bed flat	1 x 1 bed bungalow
3 x 1 bed flat	7 x 1 bed flat/studio flat within sheltered scheme	

- 1.8.2 From the above, one of the effects of removing applicants with no housing need could be the potential to reduce the pool of applicants who are willing to accept a property within a sheltered scheme, some of which are difficult to let. However, as an assessment that an applicant needs sheltered accommodation is classified as a housing need within the proposed banding scheme, with existing tenants (with no other housing needs) placed in Band C, and private sector applicants (with no other housing needs) placed in Band D, this should not have a detrimental impact. It would also provide an approximate reduction in the number of applicants on the housing register of thirty per cent.

1.9 Next steps

- 1.9.1 Subject to the approval of Members, it is proposed to draft a revised housing allocation scheme to incorporate the changes detailed in this report. This draft housing allocation scheme will be subject to an equalities impact assessment, and then a minimum period of eight weeks public consultation including housing association partners, Citizens Advice Bureau and other local advice agencies, current service users and other stakeholders. Although the details of the consultation process have not yet been finalised, this will be undertaken with advice and assistance from the internal Improvement and Development Unit, mindful of best practice gleaned from other recent consultation experiences, for example in drafting the Council Tax Benefit scheme.
- 1.9.2 Following the consultation period, all responses will be considered and the draft scheme amended as appropriate. The equalities impact assessment will then be updated and any final amendments made before the scheme is reported back to Members for adoption at the May 2013 meeting of the Strategic Housing Advisory Board.

1.10 Legal Implications

1.10.1 The Council has a legal duty under Part VI 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 a housing allocation scheme which explains how affordable housing is allocated to those in housing need. The Council needs to respond to the changes introduced by recent legislation and statutory guidance by reviewing the housing allocations scheme accordingly.

1.11 Financial and Value for Money Considerations

1.11.1 None at this stage.

1.12 Risk Assessment

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

1.13 Equality Impact Assessment

1.13.1 See 'Screening for equality impacts' table at end of report

1.14 Recommendations

1.14.1 **CABINET** is **RECOMMENDED** to:

1.14.2 **ENDORSE** the proposed changes to the housing allocation scheme for the purposes of the Director of Health and Housing to finalise the drafting of a revised scheme in consultation with the Cabinet Member for Housing and the Chairman of the Strategic Housing Advisory Board, for public consultation; and

1.14.3 **ENDORSE** the Director of Health and Housing to finalise the public consultation process in consultation with the Cabinet Member for Housing and the Chairman of the Strategic Housing Advisory Board

1.14.4 **APPROVE** the timetable for the review of the housing allocation scheme set out in section 1.9 above.

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

Screening for equality impacts:		
Question	Answer	Explanation of impacts
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	There is no change to current policy at this time. However, it is possible that the proposed changes could have an impact, and this will be addressed by a detailed equalities impact assessment prior to public consultation.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Not yet assessed	There is no change to current policy at this time. However, it is possible that the proposed changes could make a positive contribution, and this will be addressed by a detailed equalities impact assessment prior to public consultation.
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.