

# TONBRIDGE & MALLING BOROUGH COUNCIL

## STRATEGIC HOUSING ADVISORY BOARD

25 February 2013

### Joint Report of the Director of the Director of Health and 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 ALLOCATIONS 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 last reviewed in 2009 (when a choice based letting scheme was introduced), and provides an 'open' housing register, where applicants do not have to be in need of housing, nor have any connection to the borough, to be included. Such features were in accordance with previous guidance now rescinded. Members will be aware from previous reports to this Board, that we propose to simplify the way we prioritise applicants by removing housing need points and cumulative preference, and using a simpler four band hierarchical scheme, broadly equating to Band A (urgent priority), Band B (high priority), Band C (medium priority) and Band D (low priority).

1.1.2 It is also proposed to introduce two qualification criteria, which means that we will only include applicants on the housing register who have both a local connection to the borough, and a housing need.

#### **1.2 Consultation**

1.2.1 Since the last report to this Board in November 2012, we have amended the consultation process on the advice of our internal Improvement and Development Unit (IDU). The IDU have clarified that we do not need to hold a full public consultation as the statutory guidance states before altering an allocation scheme

to reflect a major change of policy, a copy of the draft scheme should be sent to every Private Registered Provider with which we have nomination arrangements, who should be given a reasonable opportunity to comment on the proposals. We are not required to consult with current or future housing applicants, as long as we take reasonable steps to bring the changes to their attention. We will be informing applicants once the amended housing allocation scheme is finalised.

- 1.2.2 It is therefore proposed to draft a questionnaire based on the specific changes that are proposed. We work with 13 housing associations within the borough, and this questionnaire will be available for them to complete on-line. As there are a limited number of consultees, it is also proposed to reduce the consultation period to six weeks, between 1 March 2013 and 12 April 2013.
- 1.2.3 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.

### **1.3 Scope of consultation**

- 1.3.1 In line with best practice, we are only consulting on those issues that are open to be influenced or changed according to the feedback received. **[Annex 1]** sets out the draft proposed scoping document, which identifies the changes we seek Member approval for (see section 1.4), and so are not open to consultation; and those where a final decision has not yet been made (section 1.5).
- 1.3.2 Members will note that the changes to the housing allocation scheme that we do not propose consulting on include the requirement for all applicants to meet both the local connection and housing need qualifying criteria, and the change from a bands plus points scheme to a simpler band only method of prioritisation.

### **1.4 Changes to be Excluded from the Consultation**

- 1.4.1 It is proposed that the following changes to the allocation scheme be approved now. They will not therefore be influenced by the consultation:

- Applicants must have both a local connection and a housing need to be included on the housing register
- Applicants with a local connection will include 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
- Applicants with a housing need will include:

- Private sector assured shorthold tenants who are threatened with homelessness because they have been served with a valid notice to quit their tenancy (usually at least 2 months)
- Tenants occupying HM Forces service family accommodation who are threatened with homelessness because they have been served with a valid notice to vacate their tenancy (usually at least 3 months)
- The revised scheme will be based on priority bands (rather than a combination of bands and points). Households will be placed in the appropriate band according to their highest need (not the accumulation of their needs)
- The range of priority on medical and welfare grounds will be reduced from the current four to three categories
- The priority bands will take account of under-occupation as well as housing need
- Mandatory additional preference will be awarded by placing applicants in the band that is one band higher than their assessed need. This applies only to serving or former members of the armed forces or reserve forces, or their bereaved spouses or civil partners
- Discretionary additional preference based on 'community contribution' will not be awarded, because of the practical difficulties in making an assessment
- Children of the opposite sex will be expected to share a bedroom until the oldest is 10 years of age
- The Housing Needs Panel will replace the Medical and Welfare Panel and its range of decision making will be extended to include:
  - Whether an extra bedroom is needed to accommodate a carer
  - Whether an extra bedroom is needed to accommodate shared access to children
  - Whether or not to apply down-banding to an application
  - Awarding exceptional priority.

## **1.5 Changes to be Included in the Consultation**

1.5.1 It is proposed that the following changes to the allocation scheme be subject to consultation:

- What constitutes a local connection over and above, or qualifying, what has already been decided

- What constitutes a housing need over and above, or qualifying, what has already been decided
- The allocation of housing needs to priority bands
- Whether or not the revised scheme should take account of affordability
- The circumstances that would result in an application being down-banded
- The definition and application of the over-crowding assessment
- The current scheme, other than those parts that have been revised and decided upon in section 1.4 above.

## **1.6 Legal Implications**

- 1.6.1 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.

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

There are no immediate additional costs arising from the decisions outlined in the report. However, a further report will be submitted to Members detailing the outcome of the consultation and explaining the final changes to the allocation scheme and measures recommended to mitigate any adverse impacts identified through the equalities impact assessment. The report will also identify the options for implementation of the final allocation scheme and their cost implications. This will include the costs of changes required to the Locata system which hosts the allocations scheme.

## **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 A detailed equalities impact assessment has been carried out on the proposed changes to the housing allocation scheme, which has also taken into account the findings of an earlier equalities impact assessment on the existing scheme. This detail will be found at **[Annex 2 & 3]**. Further detail will also be found in the 'Screening for equality impacts' table at end of this report.

1.9.2 Members are reminded of the need to consider the equalities implications when considering the recommendations at section 1.10.

## 1.10 Recommendations

1.10.1 **CABINET** is **RECOMMENDED** to:

1.10.2 **APPROVE** the changes to the allocation scheme identified in section 1.4 and which are recommended to be excluded from the consultation;

1.10.3 **APPROVE** the potential changes which are to be included within the consultation (section 1.5) upon which a final decision for adoption will await the consultation outcome and be the subject of a further report;

1.10.4 **AUTHORISE** the Director of Health and Housing to finalise the details of the consultation process in consultation with the Cabinet Member for Housing and the Chairman of the Strategic Housing Advisory Board; and

1.10.5 **APPROVE** the timetable for the review and update of the housing allocation scheme set out in section 1.2 including the further reporting of final details for adoption.

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?	Yes	The main impacts arise from: a) Removal from the register due to having no local connection or housing need: whilst the data at Annex 2 shows that those who would potentially be removed from the register would include a higher proportion of younger age groups and a small proportion of people with disabilities, it is not expected to result in any adverse impacts as local

Screening for equality impacts:		
Question	Answer	Explanation of impacts
		<p>connection criteria receive a relatively small advantage under the existing scheme and those with a low priority housing need are unlikely to be housed under the existing scheme.</p> <p>b) Down banding: whilst the data at annex 2 shows that those who would potentially be down banded includes a higher proportion of households aged over 60 and a small proportion of people with disabilities, this would have a minimal impact on their chances of being rehoused as they would still retain a significant high priority due to there being lower proportions of live applicants in band A and band B overall. We would also attempt to mitigate this impact by undertaking a further evaluation of the individual housing applications, ensuring that all affected households were fully advised of suitable alternative accommodation.</p> <p>c) Reducing the range of priority on medical and welfare grounds: whilst the data at annex 2 shows that those who would potentially be down banded includes a small proportion of people with disabilities and households over 60, this will be subject to a further review of their circumstances.</p>

<b>Screening for equality impacts:</b>		
<b>Question</b>	<b>Answer</b>	<b>Explanation of impacts</b>
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	Yes	<p>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.</p> <p>Taking account of under-occupation in priority bands may have a positive impact on older tenants or tenants with disabilities who are more likely to downsize.</p> <p>Not including a 'community contribution' criterion in the scheme may have positive impact on some people who are unable to work due to their protected characteristics e.g. disability, carers etc.</p>
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		The introduction of the new allocations scheme will be monitored closely to establish whether any unidentified impacts arise which require may further mitigation.

*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.*