

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

07 September 2022

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Executive Key Decisions

### 1 ALLOCATIONS SCHEME REVIEW

It is a statutory requirement under Part VI of the Housing Act 1996 (HA 1996) that Local Authorities (LAs) have an Allocations Scheme. These are mechanisms for assessing housing need, advertising available social housing and the allocation of social homes. The Scheme determines who can join the housing register and what level of priority they will be awarded.

Any scheme needs to reflect the current legislation and Government guidance, as well as local requirements. It is important that the Scheme is reviewed regularly to ensure that it remains fit for purpose and ensures that the limited supply of social housing is allocated fairly and in line with legislation, national and local priorities. The current Tonbridge and Malling Allocations Scheme was implemented in 2013 and was last reviewed in 2016. Since the last review, there have been several significant changes in legislation including the introduction of the Homelessness Reduction Act 2017 (HRA 2017) and the Domestic Abuse Act 2021 (DA Act 2021). These are not reflected within the current scheme. Given this there is a need to review the current scheme to reflect this changing legislation and ensure any scheme operated by Tonbridge & Malling Borough Council (TMBC) is fit for purpose and legislatively correct. A new scheme has been drafted and this report seeks permission from Cabinet to enter into the required engagement to notify those who will be affected of the changes proposed and how this will affect them and seek feedback from other key partners identified within the guidance supporting this area of work.

- 1.1 In November 2019, the Communities and Housing Advisory Board (CHAB) were informed of the intention to update the Housing Allocations Scheme and a project plan for the review was agreed. However due to the global Covid pandemic, and the increase in workload relating to this, including initiatives such as Everyone In, alongside an internal restructure of the Housing Service, this project was delayed. However, this project has now been reviewed and progressed. The project must therefore now be progressed at pace, given the unavoidable previous delays, to enable the requirement for an up to date legally compliant allocations scheme to be agreed and implemented.

- 1.1.1 Work to date has been guided by a Project Steering Group, with Audit providing quality assurance support to the group and began with some initial informal consultation being completed. The outcome of these sessions, which included discussion with key partners, is included in a report which has been attached as **Appendix A**.
- 1.1.2 Simultaneously to the informal consultation, the Housing Solutions Service was subject to a review of its temporary accommodation (TA) usage. Also progressing was the completion of a Housing Needs Assessment (HNA).
- 1.1.3 As a result of all of this work being pulled together, several proposed changes have now been made to the current allocations scheme. These proposals will change the way applications for social housing are assessed and prioritised to determine who can join the housing register and the criteria for each of the priority bands.
- 1.1.4 The key proposed amendments are
- Amendments to the local connection criteria to tighten this up including the removal of employment as a reason for joining the housing register
  - Changes to the overcrowding assessment
  - Removal of Band D
  - Amendments to bedroom need based on ages of children
  - Changes to priority dates when there is a change of circumstances
  - Penalties for the refusal of offers

A draft of the revised scheme with the changes proposed is attached to this report as **Appendix B**.

- 1.1.5 Once these proposed amendments were made, a draft scheme was taken to Members via 3 virtual teams sessions on the 20 and 21 April 2022 and the 3 May 2022. The proposed changes overall received clear support from Members. Following these sessions there was also a further opportunity emailed out to Members to come back with any final comments they may have about the proposed alterations. Feedback from these comments have been included as **Appendix C**.
- 1.1.6 Any changes to an allocations scheme require LAs to engage with housing providers who operate in the district and ensure they have a reasonable opportunity to comment on the proposals. Additionally, the guidance advises that when an alteration is made to a scheme reflecting a major change of policy then LAs must notify those who will be affected by the changes and have the effect of that change brought to their attention.

- 1.1.7 This report therefore seeks agreement for the draft Allocations Scheme to carry out that engagement to gather further feedback from partners and notify those who will be affected by it. Any feedback will be considered for inclusion in the Allocations Scheme, with the proposed approach being that a final version and an equalities impact assessment will be agreed by the Director of Planning, Housing and Environmental Health in consultation with the Cabinet Member for Housing.
- 1.1.8 It is proposed that Registered Providers are given 6 weeks to respond with any feedback and that in this same time, those on the Housing Register who are impacted are contacted to lay out the changes to the Allocations Scheme. The proposal was then to launch the new scheme late in 2022.
- 1.1.9 However, since this was proposed, there has been a tender exercise conducted by the Kent Homechoice Partnership for the IT systems used for the Housing Register. The current system in use is Locata and following this tender exercise, the contract has now been awarded to Huume which will result in the transition from Locata to Huume in the late spring, early summer 2023. Initially the proposal was to launch the new Allocations Scheme the autumn of 2022. However, to do this there would be a requirement for the council to pay Locata to reconfigure the system to accommodate the changes, which would equate to circa £5,000, as well as a close down period to reassess the applications. Given the change to the system, it is proposed that the Council continues with the engagement, and prepares the scheme for launch, and then does this in line with the introduction of the new system. This will minimise cost and will result in the system having to be closed only once for reassessment.
- 1.1.10 Therefore, it is proposed that the launch of the new scheme is delayed until late spring 2023 to tie in with this.

## **1.2 Legal Implications**

- 1.2.1 The allocation of housing by LAs is framed by Part VI of the HA 1996. The council is required to have a scheme for determining priorities and the procedures that will be followed when allocating social housing.
- 1.2.2 An LA must not allocate housing in any circumstances other than in accordance with its allocation scheme when the LA:
- Selects a person to be a secure or introductory tenant of housing accommodation.
  - Nominates a person to be a secure or introductory tenant of housing accommodation
  - Nominates a person to be an assured tenant or assured shorthold tenant of housing accommodation held by a Private Registered Provider.

In formulating or amending their allocation scheme, a LA must have regard to:

- Its current homelessness strategy under section 1 of the Homelessness Act 2002. This is currently under review but has been considered
- Its tenancy strategy under section 150 of the Localism Act 2011. This is currently under review but has been considered.
- The statutory guidance which can be found here [Social housing allocations guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/274242/Social_housing_allocations_guidance_-_GOV.UK.pdf)
- Homelessness Code of Guidance for Local Authorities

Although the HA 1996, as amended by the Localism Act 2011, gives LAs broad discretion to determine what classes of person will be considered as qualifying under the scheme and how to determine relative priorities between qualifying applicants, there are requirements to give reasonable, and in some defined cases, additional, preference to certain categories of people. An LA cannot disqualify persons who fall within one of the classes of person for whom a reasonable preference must be secured under the scheme.

LHAs may also frame the scheme to give "additional preference" to other persons with urgent housing needs. Where the council makes provision for additional preference, this must be justified.

Due regard must also be given the public sector equality duty (PSED) in section 149 of the Equality Act 2010 that requires the council to consider all individuals when carrying out their functions; this includes changes to policy. The duty requires that due regard be given to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people. Specifically, the following protected characteristics must be given due regard

- age,
- disability,
- gender reassignment,
- pregnancy and maternity,
- race,
- religion or belief,
- sex,
- sexual orientation.

The PSED also applies to marriage and civil partnership, but only in relation to the need to eliminate discrimination, harassment, and discrimination.

It is therefore important that a robust equality assessment is undertaken to enable the council to identify and address any adverse impact on those with protected characteristics.

To ensure that the proposed approach to Allocations meets all of the Council's legal requirements and to understand any legal risks of challenge, external legal advice has been sought. This advice is appended to this report at **Appendix D** which is attached as restricted/private paper for Member's information.

### 1.3 Financial and Value for Money Considerations

- 1.3.1 The proposals if implemented will require a system reconfiguration of Locata and a spec is being worked on currently with the Kent Homechoice Partnership and quotes will be obtained to support these changes. This is a cyclical cost as Allocations Schemes require review.

### 1.4 Risk Assessment

- 1.4.1 There is a legal risk to the Council of not having an up-to-date allocations scheme and the Council could be open to challenge.
- 1.4.2 If there are significant changes to the scheme as the result of the legal review, or the consultation then this could impact on the IT system configuration which could delay the implementation of the new Allocations Scheme.
- 1.4.3 That there are delays to the launch of the new IT system, as this is being rolled out across a Kent wide partnership.

### 1.5 Equality Impact Assessment

- 1.5.1 An Equalities Impact Assessment is attached as Appendix E but this will continue to be developed as the project develops and will take account of feedback from providers to inform the Allocations Scheme, and any amendments made as a result of feedback.

### 1.6 Recommendations

- 1.6.1 That Cabinet **APPROVES** the draft Housing Allocations Scheme and delegates responsibility for agreeing and implementing of the final version of the Scheme, following the required engagement, to the Director for Planning, Housing and Environmental Health in consultation with the Cabinet Member for Housing
- 1.6.2 That Cabinet **APPROVES** implementation of the new scheme in line with the implementation of the new housing system due to be launched in Spring 2023.

Background papers:

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Nil

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