

# Scrutiny Committee Report



Report of Head of Health and Housing

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To: Scrutiny Committee

DATE: 19 February 2013

## Review of the council's housing allocations policy

### Recommendation

Scrutiny committee is asked to consider the proposed amendments to the housing allocations policy as set out in this report, and to submit the views of the committee to cabinet for consideration prior to its adoption of a revised allocations policy.

### Purpose of Report

1. The council is currently consulting on proposed amendments to its housing allocations policy. These proposals reflect the ability to give local priority to key issues allowed in the Localism Act. The consultation runs until the 1 March 2013.
2. Following consideration of consultation responses and the views of the Scrutiny Committee a revised Housing Allocations Policy will be submitted to cabinet for final approval.
3. This report invites the scrutiny committee to consider those proposals and submit its views for consideration in the shaping of the final proposals for cabinet.

### Strategic Objectives

4. This report relates to the strategic objective of meeting housing need.

## Background

5. The Housing Allocations Policy is a key policy for the council. This is because housing underpins many of the social and economic ambitions the councils have for their districts and consequently a policy that supports these ambitions is essential.
6. The principal legislative requirement for the allocation of housing is contained in the 1996 Housing Act. This requires that councils give what's called reasonable preference to people in housing need and defines what constitutes need.
7. The councils' current policy adheres to this requirement and within that focuses upon the prevention of homelessness. The success of the current policy has resulted in a significant fall in homelessness and consequently a reduction in expenditure on temporary accommodation.
8. Although the Localism Act has introduced new flexibilities for councils when allocating housing it has not removed the primary legislative requirement to offer reasonable preference to those in housing need. For this reason, coupled with the fact that the focus upon homeless prevention has had significant benefits for both homeless people and the councils, officers are recommending that this primary objective remains the focus of the new policy.
9. Maintaining this focus should ensure that homelessness continues to be minimised but will inevitably limit the impact of changes to the allocations policy, since the bulk of properties available will still be required to prevent homelessness.
10. Notwithstanding these limitations officers believe that the councils can address other priorities within the new policy. In consultation with cabinet members for Health and Housing officers recommend that priority be given to:
  - working people who contribute to the growth of the local economy;
  - local people seeking to access housing in their particular parish;
  - foster carers.
11. In addition officers also recommend:
  - the introduction of exclusions from the register for certain classes of applicant;
  - the adoption of the new Bedroom Standard to align the allocations policy to the new housing benefit regulations;
  - the introduction of penalties for applicants refusing a reasonable offer of accommodation.
12. Each of these is discussed in detail below

## Working people who contribute to the growth of the local economy

**SUMMARY OF CHANGES**

13. The new Allocations Code of Guidance encourages councils to consider using the Housing Allocations Policy as a tool to encourage people into work.
14. It is proposed that the new policy will offer priority to working applicants over non working applicants who are in equivalent need on the Registers.
15. However, because legislation still requires that our policy offers reasonable preference to those in housing need, officers advise that to apply this proposal for all properties would be in breach of the legislation and could be subject to challenge.
16. Notwithstanding this however the Code of Guidance and recent case law leads officers to conclude that prioritising applicants in work is within the new guidelines as long as it does not dominate the policy. Officers therefore suggest a starting point of 20% of annual nominations with the option to review.
17. Officers propose that:
  - The person carrying out the work must be the applicant or joint applicant.
  - Applicant(s) must be working for a minimum of 16 hours per week for a single person and 24 hours per week for a couple. The rationale for this being that these are the limits for a person moving from benefit to working tax credit.
  - The applicant(s) have permanent work in the district.
18. The proposed amendment will need to recognise that some applicants cannot work and should not be disadvantaged. Therefore a further advantage of limiting the percentage of nominations that the policy applies to is that it recognises that there are some applicants who cannot work or are of retirement age. In addition there will be officer discretion as to what constitutes permanent work and officers will be looking for evidence of both history and commitment to permanent work.

**Local people seeking to access housing in their particular parish**

**SUMMARY OF CHANGES**

19. Officers propose to introduce a tighter definition of local connection than district wide, a so called “strong local connection” when allocating to new build developments. The proposal is that preference would be given, in the first instance, to applicants with a strong local connection where there are two applicants with equivalent need.
20. The definition of a strong local connection is proposed to be:
  - Where the applicant(s) have lived in the parish for five years out of the last 8 and are currently resident there.
  - Where the applicant(s) were born and bred in the parish (lived there until the age of 16) and have left the family home within the last 5 years.
21. However, as stated earlier, because legislation still requires the councils to offer reasonable preference to those in housing need, to prioritise on the basis of

strength of local connection alone for all new developments would not be lawful as this could be interpreted as dominating the policy.

22. Nonetheless, to allow this priority for some proportion of new developments would, in officer's view, be within the flexibilities allowed in the Code of Guidance. Therefore officers suggest a starting point of 20% of new developments with the option to review.

### **Enhanced priority for foster carers**

23. The new Allocations Code of Guidance encourages councils to assist foster carers.
24. Officers propose therefore that these small numbers of cases are dealt with on their merits by referring to the existing officer Social and Welfare Panel for assessment, rather than giving every single case the same priority. This will allow individual circumstances to be taken into account.

### **The introduction of exclusions for certain categories of people from the housing register.**

#### SUMMARY OF CHANGES

25. The Localism Act allows councils the flexibility to specify groups of applicants that will be excluded from the Housing Register, albeit on a case by case basis. Consequently, officers recommend that the following groups of applicant be excluded from the housing registers.

#### **(a) Applicants guilty of “unacceptable behaviour” or defined as not fit to be an affordable housing tenant:**

26. The Code of Guidance does not specify all behaviours classed as unacceptable and officers will consider each case. However examples would be nuisance or anti social behaviour, using premises for immoral or illegal behaviour, violence towards a partner and deliberate rent arrears.
27. Applicants excluded on these grounds will normally be disqualified for 12 months.
28. In terms of impact, the new policy will affect only a small number of applicants in either council but will be significant in the messages that it gives out.

#### **(b) Applicants with no local connection to the district**

29. Up until the Localism Act councils were required by law to operate an open housing register. This meant that people with a high level of housing need but who had no connection to the districts could join the register and be housed ahead of those with a lower level of need but who do have a local connection.
30. Councils no longer have to operate an open register and officers recommend that our registers be closed, the rationale for this being that with very high local demand there is little justification for allowing persons from outside the districts to apply for housing. The majority of councils are taking advantage of this new power and closing their registers.

31. In terms of impact there are currently 231 applicants (19%) in the Vale and 274 applicants (19%) in South on our registers in housing need but with no local connection who will be withdrawn from the register. Last year 27 (9 %) applicants at SODC and 21 (7%) at VWHDC with no local connection to the respective districts were housed.

**(c) Owner Occupiers**

32. The new Code of Guidance recommends that owner-occupiers should be excluded from housing registers and officers believe that, with the high demand for social housing in the district, there is no justification for owner occupiers to look to the council for assistance with housing.
33. The policy would be on a case by case basis and there would be some exceptions eg where there is clear evidence that the applicant is at risk of losing their home.
34. The impact will affect only a small number of applicants. At present there are 230 applicants at SODC and 140 at Vale that would be withdrawn from the Registers and the majority of these applicants are not in housing need. Last year 6 applicants at either council were housed.

**(d) Applicants who have sufficient financial resources**

35. Prior to the Localism Act, councils were required to accept housing applications from households, regardless of their financial situation. This can lead to situations where the council offers housing to an applicant who is on a high income and / or has a significant level of savings and who could meet their own housing requirements. In the last year 18 applicants at SODC and 20 applicants at VWHDC fell into this category, usually as a consequence of having received substantial redundancy payments.
36. The ability of the councils to investigate the personal finances of applicants is limited so officers recommend instead setting a relatively high bar and exclude applicants with gross household income/savings of over £60,000 since this would be a point at which we calculate an applicant would be able to purchase a shared ownership property in the local markets. The policy would however be on a case by case basis and individual circumstances will be taken into account.

**The adoption of the new Bedroom Standard to align the allocations policy to the new housing benefit regulations**

37. The new Allocations Code of guidance introduced a new bedroom standard for the purposes of assessing both priority and eligibility for housing .This standard will be introduced to the rules for assessing Housing Benefit (HB) claims as of April 2013 and will mean that eligibility for HB in the affordable rented sector will be assessed in the same way as the private rented sector.
38. Officers therefore recommend that the councils' new housing allocations policy adopt the new Bedroom Standard as set out in the 2012 Allocations Code of Guidance.
39. The impact will reduce the choice of properties for all applicants. However, the amendment is required to align our policy to the new benefit regulations, since to

do otherwise would potentially allow people to bid for properties they could not afford, thus creating unsustainable tenancies.

### **Introduction of penalties for applicants who refuse a reasonable offer of accommodation**

40. Under the existing the policy, applicants can refuse as many properties as they like without penalty. This was introduced so applicants could benefit from as much choice as possible when choosing accommodation. However, in practice, refusal rates are approximately a third of all nominations made and in the majority of cases the applicant refuses the property before ever viewing it. This “failure demand” does not represent an efficient use of both council and landlord resources.
41. Officers therefore recommend that penalties be introduced for applicants who refuse a reasonable offer of accommodation. The penalty proposed is suspension from the register for 12 months after two refusals considered unreasonable.
42. Procedures will be implemented to assess the reasons for refusal and only when the refusal is deemed to be unreasonable or has been made without a prior viewing will the applicant be penalised.

### **Financial Implications**

43. There are no financial implications arising directly from this report. Budget bids have been submitted at both councils to cover the costs of adjusting the housing allocations databases once the policy is finalised

### **Legal Implications**

44. This report as been verified by legal services as complying with the relevant legislation

### **Risks**

45. There are no risks associated with this report

### **Other Implications**

46. None

### **Conclusion**

47. Since the 1985 Housing Act, successive legislation has required local authorities to allocate housing in a progressively prescribed manner. The Localism Act and associated Code of Guidance has reversed this trend and given increased flexibilities.
48. This report proposes a number of amendments to the allocations policy to take advantage of the new flexibilities in a way that better meets the objectives of the councils

**Background Papers**

49. Localism Act 2012

50. Revised Code of Guidance for the allocation of affordable housing

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