

 <b>Executive –9 March 2016</b>		<b>Agenda Item No.</b>  <b>3</b>
<b>Title</b>	Housing Allocations Policy Review	
<b>For further information about this report please contact</b>	Abigail Hay/Ken Bruno	
<b>Wards of the District directly affected</b>	All	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	Executive – 1 July 2015. Minute 5. Council – 12 August 2015. Minute 29.	
<b>Background Papers</b>	Homechoice Allocation Scheme 2008	

<b>Contrary to the policy framework:</b>	No
<b>Contrary to the budgetary framework:</b>	No
<b>Key Decision?</b>	Yes
<b>Included within the Forward Plan? (If yes include reference number)</b>	No
<b>Equality Impact Assessment Undertaken</b>	No

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Deputy Chief Executive	22/2/16	Bill Hunt
Head of Service	19/2/16	Andy Thompson
CMT	18/2/16	Chris Elliott
Section 151 Officer	22/2/16	Mike Snow
Monitoring Officer	22/2/16	Andy Jones
Finance		N/A
Portfolio Holder(s)	22/2/16	Cllr Phillips
<b>Consultation &amp; Community Engagement</b>		
None.		
<b>Final Decision?</b>		Yes
<b>Suggested next steps (if not final decision please set out below)</b>		
Not applicable.		

## 1. **Summary**

- 1.1 This report proposes changes to the Housing Allocations Policy to reflect current practice and to take account of recent new case law.

## 2. **Recommendations**

- 2.1 That the Executive agrees:

- (1) to amend the bedroom standard applied within the Housing Allocations Policy to ensure consistency with that specified in the Housing Benefit regulations and to grant delegated authority to the Head of Housing & Property Services in consultation with the Portfolio Holder for Housing and Property to make minor adjustments to the standard should any such issues be raised in consultation with Registered Providers;
- (2) to note that age-designated properties and applicants exempt from the under-occupation charge for specific reasons will continue to be eligible for allocations of a size equivalent to one bedroom in excess of need;
- (3) that applicants without a local connection, and not exempted from the local connection criteria for one of the reasons set out in the previously approved changes, shall be registered and placed in Band Four, but only if they are in a designated reasonable preference category.

- 2.2 That Executive notes that, subject to approval of recommendations 2.1(1) to 2.1(3), the timetable for implementing the new Housing Allocations Policy will slip from that previously reported and will not be completed until 1<sup>st</sup> June 2016.

## 3. **Reasons for the recommendations**

- 3.1 The current adopted Housing Allocations Policy was approved in 2008 and states, in relation to bedroom standards:

"The following guide is used to determine whether or not a family meets the bedroom standard. The Council considers that each of the following require one bedroom:-

- Partners living together or a lone parent.
- Those over 16 years of age.
- A child or two children sharing unless:-
  - Of the same sex, both over 8 years old with more than 4 years' age difference, or
  - They are of opposite sex and the eldest is over 8 years of age."

- 3.2 From 1<sup>st</sup> April 2013 new Housing Benefit regulations came into force whereby those considered as having one or more spare bedrooms have their Housing Benefit reduced. The standard applying for this assessment is that a separate bedroom is required for:

- An adult couple;
- Any other person aged 16 or over;
- Two children of the same sex under the age of 16;
- Two children under the age of 10 regardless of their sex'
- Any other child whose main and principal home is with the applicant and they live there permanently."

- 3.3 Prior to the introduction of the regulations in April 2013 there was considerable discussion at Overview & Scrutiny Committee, Executive and Council. The adoption of the revised bedroom standard has been informally applied since that date but recommendation 2.1(1) provides for the formal inclusion within the policy.
- 3.4 The withdrawal of “one bedroom in excess of need” principle from the Housing Allocations Policy was approved by Council in August 2015. This also took account of the new Housing Benefit regulations to ensure that applicants did not move into properties where they would then be subject to the under-occupation charge.
- 3.5 However it was not made clear in the report at the time that the charge does not apply to many people over retirement age and a small number of households with other specific needs (for example some families that include a person with a disability). Those households can continue to be offered one bedroom in excess of need.
- 3.6 This can be an important incentive in encouraging older tenants to downsize from large properties which, in turn, underpins our current strategy of seeking a small number of two-bedroom bungalows in the affordable housing mix on new housing developments.
- 3.7 As regards disability the additional space may be essential for use by a carer, or where it is inappropriate for children to share.
- 3.8 For the avoidance of doubt members are therefore asked to note that the decision to no longer allocate one bedroom in excess of need was not intended to apply to age-designated properties or to applicants exempt from the under-occupation charge for other specific reasons.
- 3.9 One of the principal changes agreed in July 2015 was the introduction of local connection criteria whereby those without a local connection (defined in the same way as in homelessness legislation) would be excluded from the housing register with the exception of:
- a) People needing to move to the district to receive support;
  - b) Armed forces cases;
  - c) Domestic violence/harassment cases (assessed in the same way as under homelessness legislation);
  - d) Council and RP tenants who have a reasonable preference because of a need to move to the district to avoid hardship and need to move because the tenant works or has been offered work in the district and has a genuine intention to take up the offer;
  - e) Key workers who do not qualify under d);
  - f) Cases where we have accepted a full homeless duty.
- 3.10 After the Council decision the Court of Appeal handed down judgment in the case of HA, R (On the Application Of) v London Borough of Ealing [2015] which restricts the extent to which local connection criteria can exclude applicants from the housing register.
- 3.11 Applicants with a “reasonable preference” as defined by the Housing Act 1996 should not be excluded from the housing register, even if they have no local connection. Those with a reasonable preference are:

- People who are homeless;
- People who are owed a duty by another local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any such authority under section 192(3);
- People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
- People who need to move on medical or welfare grounds (including any grounds relating to disability); and
- People who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship (to themselves or to others).

3.12 However the Council may take account of local connection in deciding how much priority to give to those applicants. The recommendation is therefore that the cases that the Council was intending to exclude, but are now entitled to be admitted to the register, should be placed in Band Four.

3.13 As a result of needing to respond to these issues there is likely to be some slippage in implementing the new allocations policy. The original project plan anticipated an implementation of 1<sup>st</sup> April 2016 but this is now expected to be 1<sup>st</sup> June 2016.

3.14 Part 3 Section 3 of the Constitution (Executive Functions) defines that, subject to those matters reserved to Council and except matters delegated to an officer by Council, the Executive can exercise all the powers and duties of the Council as Housing Authority (Page C8 and C9 of the Constitution).

#### **4. Policy Framework**

4.1 The council's vision is to make Warwick district a great place to live, work and visit and its aspirations as regards sustainable communities are outlined in the Sustainable Community Strategy (SCS). Housing is one of the five key policy priority areas in the SCS and the Housing Strategy 2014-17, which was agreed by the council in February 2014, is set within the framework established by the SCS.

4.2 The Council's Housing Allocations Policy is the Homechoice Allocation Scheme which sets out how the council will determine priorities in allocating vacant council and housing association properties in the district. It therefore plays an important part in building sustainable communities.

4.3 Under the objective of meeting the need for housing across the district, the Housing Strategy includes an action point to review the housing allocations policy.

#### **5. Budgetary Framework**

5.1 There are no budget implications to this report.

#### **6. Risks**

6.1 As regards the Bedroom Standard, this could be considered to be a major change of the Housing Allocations Policy in which case consultation with Registered Providers is required. However at the time that the change was

introduced Registered Providers themselves were changing their own policies to reflect the Housing Benefit regulations and were asking the Council to consider doing this as well.

- 6.2 Furthermore as the revised standard has been applied for some time now, if any of the Registered Providers had any concerns about it they would have raised them and there have been no such issues. On the contrary, those that have mentioned it have welcomed the change.
- 6.3 The risk is therefore extremely small but, to mitigate it, the Registered Providers have been written to advising them that the standard is to be formally adopted and giving them an opportunity to comment. If this does produce any comments they are likely to be very minor so it is recommended that the Head of Housing & Property Services and the Portfolio Holder for Housing and Property be given delegated authority to deal with these.
- 6.4 Should any legitimate major issues be raised then these would be reported back to Executive for consideration.

## **7. Alternative Option(s) considered**

- 7.1 The option of not introducing the changes has been considered.
- 7.2 As regards the Bedroom Standard this would mean reverting to the rules from around three years ago that it was agreed at the time should be changed. The practical effect would be the potential for applicants entitled to Housing Benefit to be signed up for properties for which their benefit will not cover the full rent and the consequent risk of rent arrears and repossession.
- 7.3 The second recommendation about “one-bedroom in excess of need” is a point of clarification for the avoidance of doubt rather than a change per se.
- 7.4 The third recommendation is in response to a High Court decision so failure to introduce this could risk a legal challenge at a later date.

## **8. Background**

- 8.1 The current adopted Housing Allocations Policy was approved in 2008.
- 8.2 In August 2015 Council approved a schedule of changes to the allocations policy.
- 8.3 In working through the implementation of the changes:
  - an anomaly came to light which recommendation 2.1(1) corrects;
  - an issue of clarification arose which is dealt with by recommendation 2.1(2);
  - a new High Court judgment was handed down which requires the changes set out in recommendation 2.1(3) to be adopted.