

 <b>Executive –1 July 2015</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>	Ken Bruno Ext 6335	
<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Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?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>	Not applicable	
<b>Background Papers</b>	Homechoice Allocation Scheme 2008 Rural Local Lettings Policy Feb 2011 Homelessness Strategy 2015-17 Tenancy Strategy 2015	

<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>	Yes (ref 607)
<b>Equality Impact Assessment Undertaken</b>	Yes

Officer/Councillor Approval		
Officer Approval	Date	Name
Deputy Chief Executive	15/6/2015	Bill Hunt
Head of Service	10/6/2015	Andy Thompson
CMT	15/6/2015	Chris Elliott
Section 151 Officer	15/6/2015	Mike Snow
Monitoring Officer	9/06/2015	Andy Jones
Finance	10/6/2015	Mark Smith
Portfolio Holder(s)	9/06/2015	Cllr Phillips
Consultation & Community Engagement		
Consultation undertaken with relevant staff, housing associations, councillors, tenants, neighbouring local authorities, local voluntary and statutory services through the Housing Sounding Board. (Fuller details are set out below.)		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		
Not applicable.		

## 1. **Summary**

- 1.1 This report proposes a number of changes to the policy that the council uses for the allocation of housing in its own stock and for putting forward potential tenants to housing associations.
- 1.2 The changes are proposed in order to update the policy in line with recent changes in legislation and central government guidance.

## 2. **Recommendation**

- 2.1 That the changes set out in Appendix Two of this report be made to the Homechoice Allocation Scheme.
- 2.2 That the revised policy takes effect from 1<sup>st</sup> April 2016.
- 2.3 That a review of the operation of the new policy be undertaken in April 2017.

## 3. **Reasons for the Recommendation**

- 3.1 The current Homechoice Allocation Scheme was adopted in 2008. Since that date there have been several changes in central government guidance in this area of policy and the introduction of the Localism Act has given the council some additional discretion. The proposed amendments are intended to respond to this changed framework.
- 3.2 There will be a number of operational and IT changes required in order to implement the proposals and a reasonable timescale needs to be allowed for the new system to be put in place.
- 3.3 The proposals represent a significant change in policy and it is therefore prudent to review the operation of the new system after the first twelve months of operation.

## 4. **Policy Framework**

- 4.1 The Homechoice Allocation Scheme (a copy of which is attached to this report as Appendix One) 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.
- 4.2 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.
- 4.3 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. This report takes forward that action and is therefore consistent with the wider policy framework established by those two strategies.
- 4.4 Among the changes proposed are policies to:

- give council and housing association tenants greater opportunities to move to more suitable accommodation while still ultimately providing a vacancy for a non-tenant in housing need;
  - restrict access to the housing list to people with a local connection, albeit with a small number of exceptions.
- 4.5 These proposals should result in more tenants who are settled and satisfied with their accommodation and should ensure that more people with a connection to the area are rehoused. In both cases this should assist with the sustainability of local communities.
- 4.6 Housing allocations are a very visible customer service and refining the policies to assist local people more effectively contributes to the service strand of Fit For the Future.
- 4.7 The council is a signatory to the Warwickshire Tenancy Strategy 2015 and, in April 2015 also approved a new Homelessness Strategy with three priorities:
- Ensuring accessible and effective homelessness and housing advice & support services;
  - Providing suitable accommodation for all homeless households;
  - Preventing homelessness.
- 4.8 An Equality Impact Assessment of the proposals has been carried out and this shows that:
- giving tenants more opportunities to move could potentially indirectly discriminate positively in favour of any group that is disproportionately represented among tenants or conversely could discriminate negatively against any group that is disproportionately under-represented among tenants.
  - preventing most people with no local connection to the district from accessing social housing does create a barrier to accessing the allocations service for those people.
- 4.9 However both of these changes are specifically authorised by the Localism Act 2011 and in the second case the impact is upon people without a local connection rather than a protected group under the Equality Act. It is proposed that there will be a review of the new system after 12 months where the true effect of the changes in these regards can be considered.

## 5. **Budgetary Framework**

- 5.1 The main budget implications arising from this report are in terms of the resources required for implementation. As previously reported to Executive a bid has been made to the government's Social Housing Mobility Fund to enable the recruitment of a Social Housing Mobility Coordinator (SHMC) on a fixed term contract to implement the changes and this has been successful.
- 5.2 There may need to be some re-direction of internal resources in the short term to support the implementation of the changes but this is considered manageable given that the SHMC will undertake the majority of the work required.

## **6. Risks**

- 6.1 There is a risk that the changes may not work as intended or may have unforeseen adverse consequences. This will be mitigated by the recommendation to review the workings of the new policy 12 months after implementation.
- 6.2 As housing allocations are a statutory function there is a risk of legal challenge to the policy. Legal Services was consulted and their advice was as follows:
- “Case law shows that the courts are reluctant to interfere with local authorities’ allocation schemes unless the schemes breach the requirements of Part 6 of the Act, which the proposals in this case do not appear to do, so the risk of these measures being judicially reviewed is low, provided that there is compliance with s.168(3) of the Act and reasonable measures are taken to bring the proposed changes to the public’s attention.”
- 6.3 The advice was followed and a three-month public consultation via the website was undertaken. This was in addition to more focussed consultations with specific stakeholders.
- 6.4 There is a risk that giving tenants more opportunities to move will result in an increase in rental losses on void periods and greater costs on void repairs. This will need to be monitored and considered as part of the 12 month review.
- 6.5 One of the proposals is to introduce a “transfer list” for council and housing association tenants enabling them to be rehoused ahead of those in greatest need in certain circumstances. Those in greatest need include the homeless. Rehousing existing tenants in this way should not significantly prejudice the ability to house the homeless in accordance with the Homelessness Strategy because the property vacated by the transferring tenant will be available for an applicant in need. However this will be monitored and considered as part of the 12 month review.

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

- 7.1 Over the course of the review various other suggestions for changes to the allocations policy have been put forward. The final list of changes recommended through this report represents the outcome of a process through which a number of options have been considered and consulted upon
- 7.2 The option of making no changes at all to the allocations policy has been considered. However some of the changes are a response to central government guidance, (to which the authority is required to have regard) and failure to address these could increase the risks of legal challenge to the policy. Furthermore the changes that are proposed that are discretionary are intended to improve the operation of the policy and provide greater choice for tenants and they have been consulted upon widely and received broad support.

## **8. Background**

### **8.1 Legislative background**

- 8.1.1 The allocation of local authority housing has, for many years, been subject to certain statutory requirements. The current legislation is contained in the Housing Act 1996, as amended by the Homelessness Act 2002, the Localism Act 2011 and regulations made under these acts.

8.1.2 Councils have to give a “reasonable preference” to certain defined categories of people in housing need. These categories have changed over time but the current requirements are as follows:

- (a) people who are homeless or are owed one of a number of duties by any local housing authority under homelessness legislation or who are occupying temporary accommodation secured by any authority;
- (b) people occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions;
- (c) people who need to move on medical or welfare grounds (including any grounds relating to a disability); and
- (d) 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).

8.1.3 The local authority has discretion to give additional preference to descriptions of people within these categories if they are in urgent housing need and must give additional preference to certain classes of people with connections to the armed forces if they have a reasonable preference and an urgent housing need.

8.1.4 In addition to specifying the reasonable preference categories the legislation also requires local authorities to have an “allocations scheme” for determining priorities between applicants for housing and setting out the procedure to be followed when allocating housing accommodation or putting people forward for housing association vacancies. The council is required to have regard to its Tenancy Strategy and its Homelessness Strategy in setting out its allocations scheme.

8.1.5 The legislation contains provisions for the Secretary of State to issue guidance, which a local authority is required to have regard to in framing its allocations scheme. Current guidance is contained in three documents:

- Allocation of accommodation: guidance for local housing authorities in England, DCLG, 2012
- Providing social housing for local people, DCLG, 2013
- Right to Move: Statutory guidance on social housing allocations for local housing authorities in England, DCLG, 2015

## **8.2 Review process**

8.2.1 The review commenced in February 2014 with first-phase consultation. A wide range of people and organisations that come into contact with the allocations scheme were asked for their views on how the scheme was working and for suggestions as to how it could be improved. Those consulted were:

- Allocations and lettings staff;
- Housing associations with housing in the district;
- Councillors;
- Neighbouring local authorities;
- Local voluntary and other statutory agencies.

8.2.2 A report was taken to the Interim Housing & Property Services Board to establish the vision, aims and objectives for the policy. These were agreed as follows:

**Vision:**

The council will provide a housing allocations service that: meets all legislative and regulatory requirements; is fair, open and transparent; and addresses the needs of all users of the service.

**Aims and objectives:**

- To help create and maintain mixed, balanced and sustainable communities;
- To make best use of scarce housing resources;
- To help those in greatest need and aid the prevention of homelessness;
- To give people the information they need to make informed choices over where they wish to live and to maximise their prospects of finding suitable housing;
- To enable affordable housing providers to manage their vacancies effectively and efficiently.

8.2.3 The results of consultation, the then current versions of the local Tenancy Strategy and Homelessness Strategy, and the new legislation and guidance were appraised against the vision, aims and objectives and a set of proposals for changes to the allocations policy were drawn up in consultation with the Housing & Property Services Management Team and agreed with the Portfolio Holder.

8.2.4 The council has a statutory duty to consult with local housing associations over specific changes to the allocations policy. Initially the intention was to undertake the statutory consultation from July to September and report to November Executive with a view to implementation from 6<sup>th</sup> April 2015.

8.2.5 However Corporate Management Team (CMT) requested a pause in the process to allow for additional member consultation. In view of the summer holiday period, the heavy workload of members at that time (in particular around the Local Plan), and the fact that a new Head of Housing & Property Services had been recruited and would be taking up post in September 2014 the process was delayed into the autumn.

8.2.6 Consultation was arranged with individual political groups of members and took place in November 2014. Members' views were incorporated into the proposals and statutory consultation with housing associations was then carried out. The proposed changes were put on the website and publicised to tenants for them to contribute their views in accordance with tenant consultation requirements under the Housing Act 1985.

8.2.7 As a result of the pre-election purdah period it was not possible to report the changes to Executive for approval prior to the local elections and the report was therefore moved on the Forward Plan to the current meeting.

**8.3 Proposed changes**

8.3.1 The proposed changes are set out in Appendix Two and a brief further explanation is included below.

**Section 1 - A "transfer list" for council and housing association tenants**

8.3.2 The first section is in response to the Localism Act: it is recommended that the council takes advantage of the new flexibilities offered with regard to existing tenants. This will mean that council and housing association tenants who do not have a reasonable preference will no longer have to compete directly against

non-tenants who do have such a preference. In the circumstances set out in section one of appendix two the council will be able to transfer the tenant to a suitable vacancy without that tenant bidding in competition with all non-tenants for the property.

- 8.3.3 The rationale for this is that it has become increasingly difficult for tenants to secure rehousing because the bidding system gives priority to those in greatest need which, by and large, precludes existing council and housing association tenants. Rehousing existing tenants should not significantly prejudice those in greatest need because the property vacated by the transferring tenant will become available for an applicant in need.
- 8.3.4 In the circumstances set out in section one of appendix two it is therefore considered appropriate to consider the option of transferring an existing tenant first, before advertising the property for those in need to bid on.

## **Section 2 – Qualification criteria**

- 8.3.5 This again is a new Localism Act flexibility. With the exception of certain classes of people from abroad, who are statutorily excluded from an allocation of social housing, the council is able to decide whether to define other categories of people that should be excluded from an allocation of social housing.
- 8.3.6 Recent regulations have limited this power so that certain members of the armed forces and council and housing association tenants living in other areas with a need to move to the district for work must not be excluded.
- 8.3.7 The proposal in section two is to exclude from consideration people with no local connection to Warwick district unless they fall into the six categories set out there, two of which are in response to the regulations referred to in 8.3.6.

## **Sections 3 and 4 – Prioritisation and property eligibility**

- 8.3.8 The changes in these two sections are in response to comments raised during the consultation and issues with the operation of the current system. These are largely self-explanatory however two of them require further explanation.
- “Property quotas” (section 3, bullet point 2). Current policy is that for each advert 50% of lettings should go to people in band one, 30% to people in band two and 20% to people in band three. However there are rarely enough properties on an advert to fulfil these quotas and the cumulative effect is that for band three in particular the quota is missed substantially. By applying the quota across the year and with regular monitoring it should be possible to get closer to meeting these targets.
  - “Best fit” (section 4, bullet point 2). With the current system applicants are shortlisted according to their banding and time on the list. However if two applicants have the same banding the time on the list criterion may be overridden: if the household that has been on the list a shorter time is of a size that better matches the number of bedrooms in the property they will be matched to the property.

## **Appendix One – Homechoice Allocation Scheme 2008**



## **Appendix Two – Proposed changes to the allocation scheme**

### **Section 1 Existing council/housing association tenants**

Existing council and housing association tenants will be considered for rehousing outside of the bidding and banding system in the following circumstances:

#### **a) Under-occupation**

This will cover under-occupying tenants generally and also those being financially affected by the welfare reform policy of “removal of the spare-room subsidy”.

#### **b) “Two for one” moves**

A “two for one” move is where two tenants of social landlords wish to move in together therefore freeing up two vacancies in return for the one property available. There will be a number of conditions:

- Both properties must be within the Warwick District Council (WDC) boundary.
- Both landlords must be social landlords.
- Both resulting vacancies must be in demand. (The views of landlords and lettings staff will be sought prior to a two-for-one offer being made.)
- Both resulting vacancies must be advertised through Homechoice. (A Housing Association landlord will need to confirm this to the council before a two-for-one offer is made.)
- Both tenants must give vacant possession of their existing tenancies and sign a joint tenancy of the new property.
- Normal size entitlement rules will apply – i.e. no under-occupation.

#### **c) Making best use of stock**

This will cover situations where a tenant in an adapted property no longer needs the adaptations and is willing to move to an un-adapted property or conversely where an adapted property is available and a tenant needing the adaptations does not have priority under the banding system.

#### **d) Like-for-like moves**

Tenants wishing to move to a property of the same type and size as the one that they currently occupy will be considered where there are good housing management grounds or where the move would address exceptional problems caused by housing circumstances.

#### **e) People with children in above-ground flats and maisonettes**

Tenants with children under 16 years of age in flats/maisonettes above the ground floor will be considered for a transfer move. Where there is more than one applicant in this class the applicant on the highest floor will be prioritised.

#### **f) Management moves**

There are a number of exceptional circumstances that will be considered under this heading.

- Tenants who have succeeded to a Secure or Introductory Tenancy but cannot remain in the current property because this would lead to under-occupation or over-crowding
- Tenants who require accommodation that would allow a carer to live-in and their current property is not suitable.
- Where a property requires repairs that cannot be undertaken with a household in residence. Priority transfers in such circumstances are normally temporary until the property is ready for re-occupation but in appropriate circumstances may be made permanent. – While WDC may consider providing temporary accommodation for an RP tenant in this situation the option to make this permanent would only apply to WDC tenants.

- Where there is a significant threat of violence or other harm to an individual (including, but not limited to, domestic violence or racial harassment). The request for rehousing will need to be supported by the Police or a formally established body such as the Risk Assessment Management Panel under the countywide Multi-Agency Public Protection Arrangements (MAPPA), Multi Agency Risk Assessment Conference (MARAC) or the National Witness Support Scheme.

## **Section 2 Qualifying persons**

The list will remain largely open but with local connection criteria (based upon the definition in homeless legislation) to limit access for people with no local connection at all. The following exceptions will be made:

- 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 housing association 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) (see below);
- f) Cases where we have accepted a full homeless duty.

People seeking to move to the district to take up a confirmed offer of a key public sector post will be considered on a case-by-case basis and may be approved as a qualifying person at the discretion of the Head of Service. Issues to be taken into consideration will be: the nature of the service to be provided; an affordability assessment; and the efforts that have been made to recruit locally. Requests from private sector employers seeking key worker housing for employees who do not live in the district will be considered on an individual basis and if the Head of Housing & Property Services considers that there is a strong argument in favour of agreeing to the request it will be reported to the Executive for approval.

New government guidance requires local authorities to set aside a proportion of lets to enable tenants under category d) above to move to the district. This will be fixed at five for 2015/16 and will be reviewed and adjusted as necessary on an annual basis.

## **Section 3 Prioritisation**

As regards the method of prioritising and banding applicants for housing:

- Applicants from outside the WDC area that meet the local connection criteria should be assessed and banded in the same way as all other applicants.
- Property quotas on allocations (50% to band 1, 30% to band 2, 20% to band 3) will be retained but will be applied across the whole year rather than to each advert.
- For households that include a pregnant woman the expected child will be taken into account for assessing the size of property needed from 25 weeks into the pregnancy. Where the gender is known this will be taken into account but otherwise the child will be assumed to have a gender that minimises the number of bedrooms required until the gender is confirmed.
- The definition of "welfare need" will include financial hardship.
- There will be flexibility to allocate property outside of the Homechoice system if it has not been let after two adverts.
- In accordance with legislation additional priority will be given to armed forces personnel who have reasonable preference and urgent housing needs.
- Debt Policy – The list of debts that may affect banding will not include mortgage arrears as these can arise in circumstances beyond the control of the client. It will include housing related debts that may impact on the risk assessment

landlords may wish to make when determining their approach to supporting tenants. Each landlord will have its own policy on letting properties to those with previous housing debt, which will need to be recognised and highlighted to applicants. A lower banding may be applied for those with housing related debts with the banding being raised once an agreed repayment plan has been adhered to. The Landlord sets the repayment plan with the customer. The customer has a reduced banding until they have brought the debt below a defined level or they have stuck to a payment plan for a defined period of time, once this has been done it is for the applicant to inform the Housing Advice team.

- Exemptions from the debt policy will be made for domestic violence victims where debts have been run up either by, or through coercion by, the partner. This should be linked to the homeless decision as we would take this into consideration at that point.
- To ensure consistency with the new transfer policy non-tenants with young children younger than 16 years of age living in flats above the ground floor will be in band three (currently it only applies to those above the first floor). In the event of there being two or more applicants with this need that express an interest in a property the applicant on the highest floor will be prioritised.

#### **Section 4 Property eligibility**

- Couples in bedsits will be classed as lacking a bedroom.
- We will remove the "best fit" of household to property that is currently overlaid upon the banding and time on the list.
- We will no longer offer one bedroom in excess of need.
- We will allow a bedroom for a live-in carer (defined to be consistent with Housing Benefit rules and case law).