

**Agenda Item No: 9.3**

**Report No: 125/17**

**Report Title: Housing Allocations Policy**

**Report To: Cabinet**

**Date: 27 September 2017**

**Cabinet Member: Cllr Ron Maskell, Cabinet Member for Housing**

**Ward(s) Affected: All**

**Report By: Andy Chequers – Head of Homes First**

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**Purpose of Report:**

This report recommends that Cabinet adopts a revised Housing Allocation Policy. It explains why Lewes District Council needs to review and update the existing scheme. The report considers the implications of adopting the proposed policy. This report seeks Cabinet adoption of the Housing Allocations Policy.

**Officers Recommendation(s):**

- 1** That Cabinet approves the Housing Allocations Policy as set out in Appendix A
- 2** That Cabinet approves the revocation of the previous Housing allocations Policy (adopted 2014).
- 3** That Cabinet delegates authority to the Director of Service Delivery in consultation with the Cabinet portfolio holder to make any minor or technical adjustments found necessary in the Housing Allocations Policy.

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**Reasons for Recommendations**

- 1** There is an ongoing need for the provision of Housing Allocations Policy in the Lewes District. Lewes District Council, Eastbourne Borough Council and Eastbourne Homes are coming together to provide an enhanced single housing service for both areas under the banner of Homes First.
- 2** As part of this initiative the three organisations are looking at their policies in order to bring them up-to-date and make them more consistent. This will enable staff to work more effectively and provide a better service across both areas.

## Information: Background

- 3 The Housing Act 1996 requires all local authorities in England to have an allocation scheme, which determines the priorities and the procedure to be followed in allocating housing accommodation. Local authorities are required to devise housing allocation schemes which give 'reasonable preference' to certain categories of applicant, otherwise they have a good deal of discretion over how they allocate their housing stock. This discretion was extended by measures included in the Localism Act 2011.
- 4 As part of the initiative to bring Lewes District Council, Eastbourne Borough Council and Eastbourne Homes together, we have been looking at our policies in order to bring them up-to-date and make them more consistent. This initiative will enable our staff to work more effectively and provide a better service across both areas. As part of this process, we have looked at the Housing Allocations Policy of Lewes District Council and Eastbourne Borough Council and current best practice.
  - 4.1 The Housing Allocation Policies of Lewes District Council and Eastbourne Borough Council contain similar content. However, the Lewes District Council Allocation Policy necessarily makes reference to the rural parts of the District, notably with sections entitled *Local Connection Definition and Allocation of Rural Properties*, and *Allocation of Rural Properties*.
  - 4.2 The Local Connection Definition and Allocation of Rural Properties section explains that when rural properties are advertised, preference will be given to applicants with a local connection in priority order as follows:
    - a) They live within the rural area at an address registered for Council Tax.
    - b) They have permanent employment within the rural area.
    - c) They have a close relative(s) i.e.: Mother, Father, Children or Siblings who have resided in the rural area for a minimum of five years with whom they have maintained regular contact.
  - 4.3 The Allocation of Rural Properties section sets out the order by which the Council will allocate rural properties to ensure housing need and rural connection are equally prioritised and balanced.
  - 4.4 The Housing Allocations Policy explains who is eligible to join the Housing Register and how applications are prioritised. The policy also includes information concerning who can join the Housing Register, how to apply and how to bid for a home. The policy aims to benefit those with the most urgent housing needs.
  - 4.5 The draft Lewes District Council Housing Allocations Policy was published for consultation for a period of 5 weeks between Friday 7 July and Monday 14 August. Once adopted, the Housing Allocations Policy can be used to allocate housing to those most in need in the District.

- 4.6** The consultation was publicised via a page on both Council's websites, paper copies available on request, a press release, internally to staff and members, by email to key partner organisations and interest groups, by email directly to tenant groups, through email alerts to housing and consultation subscribers and through the LDC and EBC social media accounts.

### **Proposed changes to current Housing Allocations Policy**

- 4.7** Currently in Eastbourne, only people who have a housing need are eligible to join the Housing Register. In the Lewes District, people with no housing need are able to join the Housing Register and are placed in Band D. We are proposing that people who do not have a housing need should not qualify to join either Housing Register. This would mean there is no longer a Band D on the Lewes District Housing Register. There is a very limited supply of social housing which needs to be restricted to those households who have a housing need which they cannot meet through the private market. This change will also help us to reduce the costs of managing unnecessary applications.
- 4.8** Currently only applicants who have lived in the Lewes District as their only or principle home for a continuous period of 2 or more years qualify to join the Housing Register. This is with the exception of homeless households, existing tenants, armed forces personnel and people aged 60 or over with close relatives living in Lewes District. We are proposing to allow the following people to join the Lewes District Housing Register:
- People who have lived in the Lewes District as their only or principal home for at least 3 of the previous 5 years in total.
  - People who are in permanent employment in the District and have been for the previous 2 years.
  - People who have close relatives who live in the District as their only or principal home and have done so for at least the previous 5 years.

'Close relatives' would normally only apply to parents, adult children or siblings. Consideration may be given to other relatives if there is evidence they provide a substantial supporting role to the applicant. These changes would enable people who have strong reasons for wishing to be housed in the area to join the Housing Register if they have a housing need.

- 4.9** We are proposing that applicants should not be allowed to join the Housing Register if they:
- Have over £32,000 of savings or assets, or
  - Own accommodation or have a legal interest in home ownership, or
  - Have the financial resources to meet their housing needs in the private market.

- 4.10** We would allow some exceptions to this for applicants who are of state pension age or have a substantial disability whose current home is not suitable for their specific needs and they have insufficient financial resources to buy accommodation that meets their needs in the private market.
- 4.11** We are proposing to increase the level of savings someone can have and still be eligible to join the Housing Register in the Lewes District from £16,000 to £32,000. This reflects the increased costs of securing housing, particularly for those people on low incomes who may have some savings but do not have the ongoing income to afford to rent a home in the private market.
- 4.12** We are proposing that homeless households who we have a duty to rehouse are prioritised in Band A if they are in emergency accommodation or their temporary tenancy is due to end within the next two months. Lewes District policy currently awards Band A to 'homeless households where the landlord requires the property back or the property is unsuitable to meet the applicant's needs'.
- 4.13** The banding is intended to avoid the significant costs to the councils of placing people in bed and breakfast accommodation as well as the negative impact of this on the household themselves. This covers the temporary accommodation landlord requiring the property back as 2 months is standard notice period. Whilst we encourage everyone in temporary accommodation to look for housing in the private market rather than assuming they will be rehoused in social rented housing, we are concerned that there would be more households in high-cost bed and breakfast accommodation if they are not rehoused quickly.
- 4.14** We are proposing that households lacking two or more separate bedrooms are placed in Band B. This is a change from the Lewes District policy which currently places these households in Band A. Our proposal is that only those households with the highest level of overcrowding – i.e. statutory overcrowding – are placed in Band A. This is to ensure that Band A priority is only awarded to those applicants with the most urgent need to move.
- 4.15** We are proposing to include Armed Forces Personnel who are serving in the regular forces or who have served in the regular forces within the previous five years in Band B. This meets the legal requirement introduced in 2012 to give 'reasonable priority' to Armed Forces personnel but gives them a lower priority than those who have a serious injury, illness or disability as a result of their service.
- 4.16** We are proposing to place applicants who have deliberately worsened their circumstances or become homeless intentionally in Band C. We need to understand the level of housing need and give all those with a housing need an opportunity to bid for properties, but we are proposing that anyone who has deliberately worsened their circumstances is not given the same priority as an applicant who has found themselves in

urgent need through no fault of their own. We believe placing applicants who have worsened their circumstances deliberately into Band C should discourage potential applicants from doing this.

**4.17** The Lewes District policy currently includes 'Emergency Housing Status'. This is used in circumstances where remaining in their accommodation may cause risk of death or serious injury or where the applicant has been assessed as having multiple needs that fall within Band A. We have included these circumstances on the list of which we may make direct allocations to allow us to take action to rehouse these applicants in an emergency and subject to the same rules as now.

**4.18** The Lewes District policy currently allows people to bid for:

- 1 bedroom for every adult couple
- 1 bedroom for any other person aged 18 or over
- 1 bedroom for any two children under 18 of the same sex
- 1 bedroom for any two children aged under 10, regardless of sex
- 1 bedroom for any additional child under 18 subject to a maximum of 4 bedrooms in total.

We are proposing to reduce these ages from 18 to 16 and from 10 to 8 so that we allow bids for:

- 1 bedroom for every adult couple
- 1 bedroom for any other person aged 16 or over
- 1 bedroom for any two children under 16 of the same sex
- 1 bedroom for any two children aged under 8, regardless of sex
- 1 bedroom for any additional child under 16 subject to a maximum of 4 bedrooms in total.

This will allow applicants to bid for properties which would meet their needs in the near future rather than bidding only for properties which will become overcrowded within months. The proposed change would avoid the need for households who have recently been allocated housing to join the Housing Register again and wait for a transfer. It will reduce both the cost to the authorities and the inconvenience to customers in not anticipating these predictable changes in the number of bedrooms a household needs.

**4.19** We are proposing that homeless households who we have a duty to rehouse that we have placed into temporary accommodation with an assured short hold tenancy are still able to bid for accommodation and are placed in Band B. In this instance temporary accommodation would not include emergency or bed and breakfast accommodation. Currently the Lewes District policy places these households in Band A which can result in households securing an alternative property within weeks of moving to temporary accommodation. This is at cost to the household and the Council. The proposal of Band B status is to allow the household a settled period of time in temporary accommodation before moving to permanent housing.

- 4.20** We are proposing to continue giving applicants choice through a Choice Based Lettings system. Previously both Eastbourne Borough Council and Lewes District Council have set time limits for some applicants for bidding for homes. We are proposing to remove all time limits apart from the limits we set for homeless households. Under homelessness legislation, councils are allowed to discharge their duty to rehouse a homeless household by offering suitable housing in either the private rented sector or in social housing.
- 4.21** We do not wish to restrict the choices open to homeless households, but councils have a duty to rehouse them and, in many cases, this means we have to place them in bed and breakfast temporary accommodation until we can find a secure home. As well as being expensive for the councils and council tax payers, bed and breakfast accommodation can have a negative effect on the household. The proposed change would enable us to continue to meet our legal obligations to rehouse homeless households through making a direct allocation and would enable us to continue offering a short-period where homeless households may exercise some choice.

### **Housing Allocations Policy Consultation Responses**

- 4.22** There were a total of 221 responses to the consultations for both councils: 208 (94.12%) of the respondents were Individuals, 7 (3.17%) were An organisation or group, and 6 (2.71%) respondents were Other. In reply to the question: Where do you live? 39.72% responded Eastbourne, 53.74% responded Lewes District, and 6.54% responded Other. The Consultation report which includes the combined response results relating to Lewes District Council and Eastbourne Borough Council is attached as Appendix C. The consultation report which specifically relates to Lewes District Council is attached as Appendix D. The general results of the Lewes District Council consultation are set out below:

- 73.04% (84) of respondents agreed that the policy enable us to set targets for lettings to particular groups;
- 59.13% (68) of respondents agreed that people who do not have a housing need should not qualify to join either Housing Register. This would mean there is no longer a Band D on the Lewes District Housing Register;
- 74.78% of respondents (86) of respondents agreed that the policy should mean we exclude people from the Housing Register if they or a member of their household has a current conviction for drug dealing;
- 69.57% (80) of respondents agreed with bringing the current Lewes District policy on local connection in-line with the Eastbourne policy with regards to residency, employment and people who have close relatives who live in the District as their

only or principal home and have done so for at least the previous 5 years;

- 80% (92) of respondents agreed that we should increase the level of savings someone can have and still be eligible to join the Housing Register in the Lewes District from £16,000 to £32,000 (to bring the Lewes policy in-line with the Eastbourne policy);
- 76.32% (87) of respondents agreed that homeless households who we have a duty to rehouse are prioritised in Band A if they are in emergency accommodation or their temporary tenancy is due to end within the next two months;
- 76.32% (87) of respondents agreed with adding to Band A homeless households who we have a duty to rehouse and who are making their own temporary arrangements or suffering family split due to a genuine lack of accommodation (bringing Eastbourne in-line with Lewes);
- 78.95% (90) of respondents agreed that the expanded definition of 'serious personal risk' should be included in the policy;
- 86.96% (100) of respondents agreed that the policy should include in Band A Armed Forces Personnel (who are serving or have served in the reserve forces and who are suffering from serious injury, illness or disability as a result of their service) and the spouse or civil partner of Armed Forces Personnel who has recently ceased, or will cease to be entitled to reside in accommodation provided by the Ministry of Defence following the death of their spouse or civil partner who had service in the regular forces and whose death was attributable to their service;
- 84.07% (95) of respondents agreed that the policy should include Transfer Tenants needing a permanent or temporary decant to Band A where the property is imminently required for major repair or redevelopment. This would bring the Eastbourne policy in-line with the Lewes district policy;
- 66.96% (77) of respondents agreed that the policy should include that households lacking two or more separate bedrooms are placed in Band B;
- 64.6% (73) of respondents agreed that under the policy Armed Forces Personnel who are serving in the regular forces or who have served in the regular forces within the previous five years be placed in Band B;
- 72.17% of respondents (83) agreed that the under the policy we would place applicants who have deliberately worsened their circumstances or become homeless intentionally in Band C;

- 85.84% (97) of respondents agreed that the policy should include provision to make direct allocations when someone has 'Emergency Housing Status';
- 82.61% (95) of respondents agreed with the proposal to we allow bids for: 1 bedroom for every adult couple 1 bedroom for any other person aged 16 or over 1 bedroom for any two children under 16 of the same sex 1 bedroom for any two children aged under 8, regardless of sex 1 bedroom for any additional child under 16 subject to a maximum of 4 bedrooms in total;
- 65.22% (75) of respondents agreed that under the policy homeless households who we have a duty to rehouse that we have placed into temporary accommodation with an assured shorthold tenancy are still able to bid for accommodation and are placed in Band B; and
- 71.93% (82) of respondents agreed with the proposal to continue giving applicants choice through a Choice Based Lettings system and remove all time limits for some applicants bidding for homes apart from the limits we set for homeless households.

### **Main Implications on current Housing Register applicants**

- 4.23** We are proposing that people who do not have a housing need should not qualify to join either Housing Register. This would mean there is no longer a Band D on the Lewes District Housing Register. There is a very limited supply of social housing which needs to be restricted to those households who have a housing need which they cannot meet through the private market. This change would also help us to reduce the costs of managing unnecessary applications.
- 4.24** The impact is likely to be fewer households qualifying, and thus being accepted onto the Housing Register. This is likely to reduce the costs of managing unnecessary applications and will enable a more efficient and effective allocation scheme to be implemented.
- 4.25** The removal of most time limits for bidding, except in the case of homeless households where the Council has a duty to rehouse, is likely to impact on both Eastbourne Borough and the Lewes District. In practice the time limits have proved difficult to apply, and the policy has been designed to reflect this.

### **Conclusion**

- 4.26** A new Housing Allocations Policy has been prepared as part of the initiative of Lewes District Council, Eastbourne Borough Council and Eastbourne Homes, which are looking at their policies in order to bring them up-to-date and make them more consistent. This will provide an enhanced single housing service for both areas under the banner of Homes First, and enable staff to work more effectively and provide a better service across both areas.



- 4.27** Public consultation was undertaken on the draft Housing Allocations Policy, resulting in 215 representations being received. The results of these representations indicate a relatively high level of general agreement with the modifications proposed.

## **Financial Appraisal**

- 5** There are no direct financial implications on the Council's General Fund or Housing Revenue Account budgets arising from this report. As noted above, changes to the Priority Band criteria may have an impact on the cost to the Council of temporary accommodation in certain cases.

## **Legal Implications**

- 6** The Council, as a local housing authority, must comply with Part 6 of the Housing Act 1996 ("1996 Act") but subject to that compliance section 159(7) 1996 Act allows the Council to allocate housing accommodation in such a manner as they consider appropriate; so the Council has a broad discretion as to how it frames its Allocations Policy. Nonetheless, the Council must have regard to the relevant Codes of Guidance, as referred to under section 169 1996 Act, and the relevant case law.

Members are asked to note that the consultation exercises undertaken by Councils are often subject to judicial scrutiny. The Supreme Court in *Moseley v London Borough of Haringey LBC [2014] 1 WLR 3947* approved principles in the case of *R v Brent LBC ex parte Gunning [1985] LGR 168*. The *Gunning* principles require that consultations should be undertaken at a time when the relevant proposals are still in a formative stage, sufficient reasons are given to permit intelligent consideration and response, consultees are given adequate time to respond, and the consultation responses must be conscientiously taken into account by the decision maker. The consultation period undertaken was over a period of 5 weeks. It is noted that over 60% of consultees are in favour of each individual proposal.

Under section 166A 1996 Act the Council are required to produce and publish an Allocations Policy for determining priorities and to lay out the procedures to be followed. The Council must not allocate accommodation except in accordance with the Allocations Policy as provided for in section 166A (14) 1996 Act.

The Council in framing its Allocations Policy must ensure that reasonable preference is given to those categories of people in section 166A (3) 1996 Act and those categories are reflected in the Policy. Further, under section 166A (12) 1996 Act the Council must have regard to their homelessness and tenancy strategies when drafting the Policy.

Further under section 168(3) 1996 Act when the Council makes an alteration to the scheme, reflecting a major change of policy, it shall within a reasonable time take steps to bring the changes to the attention of those likely to be affected. The Council publishes the Allocations

Policy on its website.

Lawyer commented on 18/8/2017. IKEN 6627-Joint-MW

### **Risk Management Implications**

- 7** The changes/issues covered by this report are not significant in terms of risk. No new risks will arise whether or not the recommendations are implemented or rejected.

### **Equality Screening**

- 8** A draft Equalities Impact Assessment has been produced and is subject to sign-off by the Equalities & Fairness Planning Group.

### **Background Papers**

None

### **Appendices**

Appendix A: Draft Lewes District Council Housing Allocations Policy (2017)