

Body:	Cabinet
Date:	13 September 2017
Subject:	Housing Allocations Policy
Report Of:	Ian Fitzpatrick – Director of Service Delivery
Ward(s)	All
Purpose	This report recommends that Cabinet adopts a revised Housing Allocation Policy. It explains why Eastbourne Borough 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.
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Recommendation(s):	<ol style="list-style-type: none"> 1 That Cabinet adopt the Housing Allocations Policy as set out in Appendix A. 2 That Cabinet approve the revocation of the previous Housing allocations Policy (adopted 2014) as set out in Appendix B. 3 That Cabinet delegate 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.

1.0 Introduction

- 1.1 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.
- 1.2 As part of the initiative to bring Eastbourne Borough Council, Lewes District

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 Eastbourne Borough Council and Lewes District Council.

- 1.3 The Housing Allocation Policies of Eastbourne Borough Council and Lewes District Council contain similar content. However, the Lewes District Council Allocations 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. These sections are not required for the Eastbourne Borough Council Housing Allocations Policy.
- 1.4 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.
- 1.5 The draft Eastbourne Borough 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 Borough.
- 1.6 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 EBC and LDC social media accounts.

2.0 Proposed changes to current Eastbourne Housing Allocations Policy

- 2.1 We are proposing that the Policy enable us to set targets for lettings to particular groups. It would mean we could advertise some properties to applicants seeking a transfer from an existing social home, and would allow us to make better use of housing that becomes available by freeing up the home that the transfer applicant is currently living in.
- 2.2 Currently in Eastbourne, only people who have a housing need are eligible to join the Housing Register.
- 2.3 We are proposing to exclude people from the Housing Register if they or a member of their household has a current conviction for drug dealing.

2.4 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.

2.5 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.

2.6 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.

2.7 We are proposing to add 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. Currently, the Eastbourne policy does not include these households in Band A and could be seen to unfairly penalise those who are making their own temporary arrangements.

2.8 The current policy in Eastbourne is to register households in Band A who need to move urgently because of 'serious personal risk'.

- The Council has issued a Statutory Housing Order (i.e. the existing accommodation has been assessed by the Council as posing an imminent risk to health).
- The Applicant's household is statutorily overcrowded or under a court order as defined in s.324 of the Housing Act 1985 or under a court order to rehouse. Priority transfer – e.g. Emergency harassment, agreed by the Head of Housing in exceptional circumstances due to significant and insurmountable problems associated with the tenant's occupation and there is imminent personal risk to the household if they remain.

These additions give more detail on the circumstances in which applicants will automatically be placed in Band A so that it is clearer to applicants.

- 2.9 We are proposing to 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. We are also proposing to include 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. We are proposing these changes to comply with the Housing Act 1996 regulations (Additional Preference for Former Armed Forces Personnel) which came into force in 2012.
- 2.10 We are proposing to include Transfer Tenants needing a permanent or temporary decant to Band A where the property is imminently required for major repair or redevelopment. Where tenants are forced to move because of an urgent major repair need or because their property – e.g. a sheltered housing scheme – is being refurbished or redeveloped, we believe it is fair that they should have priority to move. In practice, Eastbourne has given Band A priority to these applicants in the past because of the need to move tenants quickly and to reflect that these tenants are being asked to move rather than doing so from their own choice. The change in the policy is designed to make this clearer to applicants.
- 2.11 We are proposing that households lacking two or more separate bedrooms are placed in Band B. 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.
- 2.12 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.
- 2.13 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.

- 2.14 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.
- 2.15 Eastbourne Borough Council amended its policy in 2014 to 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. This will be replicated in Lewes. 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.
- 2.16 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. The current Eastbourne policy places people into Band C and very few people are able to move on. The proposal of Band B status is to allow the household a settled period of time in temporary accommodation before moving to permanent housing.
- 2.17 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.
- 2.18 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.

3.0 Housing Allocations Policy Consultation Responses

3.1 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 results relating to Eastbourne Borough Council and Lewes District Council is attached as Appendix C. The consultation report which specifically relates to Eastbourne Borough Council is attached as Appendix D. The general results of the Eastbourne Borough Council consultation are set out below:

- 71.76% (61) of respondents agreed that the policy enable us to set targets for lettings to particular groups;
- 63.53% (54) 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;
- 90.59% of respondents (77) 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;
- 84.71% (72) 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;
- 83.53% (71) 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);
- 77.65% (66) 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;
- 81.18% (69) 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);
- 88.24% (75) of respondents agreed that the expanded definition of

'serious personal risk' should be included in the policy;

- 94.05% (79) 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;
- 90.48% (76) 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;
- 81.18.42% (69) of respondents agreed that the policy should include that households lacking two or more separate bedrooms are placed in Band B;
- 80.49% (66) 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;
- 81.18% of respondents (69) agreed that the under the policy we would place applicants who have deliberately worsened their circumstances or become homeless intentionally in Band C;
- 90.59% (77) of respondents agreed that the policy should include provision to make direct allocations when someone has 'Emergency Housing Status';
- 81.18% (69) 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;
- 82.14% (69) 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
- 78.82% (67) 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.

4.0 Main Implications on current Housing Register applicants

- 4.1 The main impact is likely to affect the Lewes District. The proposal that people who do not have a housing need should not qualify to join the Housing Register 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 to reduce the costs of managing unnecessary applications.
- 4.2 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.
- 4.3 The change which is likely to have the greatest impact for Eastbourne Borough will arise from the policy of setting a target for the proportion of initial voids let to people seeking transfers. This will potentially improve the chances of those applicants getting a property more quickly. This may also result in a longer wait for new applicants not already residing in a property and who may be waiting for a property due to needing a larger home for example. This is because transfer applicants are likely to have a higher proportion of those properties than they did previously (depending on the target), and will be freeing up smaller properties.
- 4.4 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.

5.0 Implications

5.1 Legal Implications

- 5.1.1 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.

- 5.1.2 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.
- 5.1.3 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.
- 5.1.4 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.
- 5.1.5 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

5.2 Financial Implications

- 5.2.1 There are no direct financial implications on the Council's General Fund or Housing Revenue Account budgets arising from this report.

5.3 Human Resource Implications

- 5.3.1 The implementation of the Housing Allocations Policy will be through the usual work of the Housing functions, and therefore it is not expected that there will be a significant resource implication for the Council.

5.4 Equalities and Fairness Implications

- 5.4.1 A draft Equalities Impact Assessment has been completed and is a background paper to this report. This is subject to sign-off by the Equalities & Fairness Planning Group.

6.0 Conclusion

- 6.1 A new Housing Allocations Policy has been prepared as part of the initiative of Eastbourne Borough Council, Lewes District 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.
- 6.2 Public consultation was undertaken on the draft Housing Allocations Policy, resulting in 85 representations being received for Eastbourne Borough, and 215 representations being received overall. The results of these representations indicate a relatively high level of general agreement with the modifications proposed.

Background Papers

- Draft Eastbourne Borough Council Housing Allocations Policy (2017)
- Eastbourne Borough Council Housing Allocations Policy (adopted 2014)
- Housing Act 1996
- Homelessness Act 2002
- Localism Act 2011
- Allocation of accommodation: guidance for local housing authorities in England (DCLG. 2012)
- Providing social housing for local people: Statutory guidance on social housing allocations for local authorities in England (DCLG. 2013)
- Homelessness Reduction Act 2017
- Allocating social housing (England) (House of Commons. Briefing Paper number 06397. 9 June 2017)
- Equalities Impact Assessment

Appendices

Appendix A: Draft Eastbourne Borough Council Housing Allocations Policy (2017)

Appendix B: Eastbourne Borough Council Housing Allocations Policy (adopted 2014)

Appendix C: Consultation on the Housing Allocations Policy for Eastbourne Borough Council and Lewes District Council

Appendix D: Consultation on the Housing Allocations Policy for Eastbourne Borough Council