

Individual Executive Member Decision

Title of Report:	West Berkshire Council's response to the consultation on "Allocation of accommodation: guidance for local authorities in England"
Report to be considered by:	Individual Executive Member Decision
Date on which Decision is to be taken:	22/03/2012
Forward Plan Ref:	ID 2463

Purpose of Report: To agree the Council's formal response to the CLG consultation on proposed housing allocations guidance

Recommended Action: That the Portfolio Holder for Planning, Transport Policy, Housing and Economic Development approves the Council's response to the consultation paper 'Allocation of accommodation: guidance for local authorities in England'

Reason for decision to be taken: To enable the submission of a formal response by the Council to the Government's consultation paper on housing allocations

Other options considered: No formal submission is made

Key background documentation: Allocation of accommodation: guidance for local authorities, CLG, Jan 2012
Housing Act 1996
Homelessness Act 2002

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Implications

Policy:	This papers proposes a response to the Government's intended policy on housing allocations. The Council is currently reviewing it's own Allocations Policy and the finalised guidance will be taken into consideration when formulating the detailed Allocations Policy, prior to seeking Executive approval.
Financial:	There are no financial implications in this report
Personnel:	N/A
Legal/Procurement:	The Government is proposing changes to statutory guidance. The Council will be required to have regard to this guidance in exercising their function under Part VI of the Housing Act 1996.
Environmental:	N/A
Property:	N/A
Risk Management:	N/A
Equalities Impact Assessment:	This is a response to a Government-proposed policy. Equalities issues have been highlighted where applicable within the response.

Consultation Responses

Members:	
Leader of Council:	Councillor Graham Jones
Overview & Scrutiny Management Commission Chairman:	Councillor Brian Bedwell
Ward Members:	N/A
Opposition Spokesperson:	Councillor Tony Vickers - Agrees with the draft response. Expressed concern that the proposed guidance may make it hard for anyone in social housing to volunteer to foster or host a young person needing support. It would seem to increase the ghettoisation of social housing.
Local Stakeholders:	N/A
Officers Consulted:	June Graves, Head of Social Care Commissioning & Housing Cathy Dodson, Housing Options Team Leader Elizabeth Wallington, Housing Register Officer Karen Felgate, Housing Strategy Team Leader
Trade Union:	N/A

Is this item subject to call-in?	Yes: <input type="checkbox"/>	No: <input checked="" type="checkbox"/>
If not subject to call-in please put a cross in the appropriate box:		
The item is due to be referred to Council for final approval	<input type="checkbox"/>	
Delays in implementation could have serious financial implications for the Council	<input type="checkbox"/>	
Delays in implementation could compromise the Council's position	<input checked="" type="checkbox"/>	
Considered or reviewed by Overview and Scrutiny Management Commission or associated Task Groups within preceding six months	<input type="checkbox"/>	
Item is Urgent Key Decision	<input type="checkbox"/>	
Report is to note only	<input type="checkbox"/>	

Supporting Information

1. Background

- 1.1 The Government published a consultation on 'Allocation of accommodation: guidance for local housing authorities in England' on 5th January 2012. The new guidance is intended to assist authorities to take advantage of the provisions in the Localism Act 2011 which give back to local authorities the freedom to manage their own waiting lists, and make it easier for them to move existing social tenants to more suitable accommodation. It also encourages authorities to make use of the existing flexibilities within the allocation legislation to ensure that social homes go to people who need and deserve them the most.
- 1.2 This guidance replaces the following:
- (a) Code of guidance on the allocation of accommodation, issued November 2002
 - (b) Code of guidance on choice based lettings, issued August 2008
 - (c) Circular 04/2009: Housing allocations – members of the armed forces
 - (d) Fair and flexible: statutory guidance on social housing allocations, issued December 2009.

2. Summary of the proposed guidance

2.1 Definition of an allocation

For the purposes of Part 6 (Housing Act 1996 (as amended)), the allocation of housing by a housing authority is defined in s.159 (2) as:

- (1) selecting a person to be a secure or introductory tenant of housing accommodation held by them (i.e. by that authority)
- (2) nominating a person to be a secure or introductory tenant of housing accommodation held by another person (i.e. by another housing authority); or
- (3) nominating a person to be an assured tenant of housing accommodation held by a Private Registered Provider

2.2 Allocations to existing tenants

The guidance proposes changes to the treatment of existing social tenants who wish to transfer. Currently, existing tenants can be included under allocations defined in Part 6 (see 2.1 above) in the same way as non-tenants. The guidance proposes that transfer tenants will be taken outside of Part 6 and that housing authorities may set their own transfer policies in relation to these tenants. Current tenants who meet one of the reasonable preference groups will continue to be eligible for Part 6 allocations.

2.3 Eligibility and Qualifying Criteria

Eligibility criteria for allocations will continue to be set nationally. However, the Localism Act 2011 introduces a new power for housing authorities in England to determine what classes of persons are or are not qualified to be allocated housing locally. An applicant who has been deemed not to qualify in the past can make a fresh application if the person considers that he or she should now be treated as qualifying, but it will be for the applicant to show that his or her circumstances have changed.

2.4 Allocation Schemes

Housing authorities in England are required to allocate accommodation in accordance with a scheme which must be framed to ensure that certain categories of applicants are given reasonable preference for an allocation of social housing. Local housing authorities must have regard to their homelessness and tenancy strategies when framing their allocation scheme. The scheme must include the right to review a decision on qualification, including the right to be informed on the decision of the review and the grounds for it, as well as the existing right to a review on the grounds of eligibility.

2.5 Statement on Choice

The requirement for an allocation scheme to contain a statement of the authority's policy on offering a choice of accommodation or the opportunity to express preferences about their accommodation is retained (s.166A(2)). However, the requirement to provide a copy of this statement to people to whom they owe a homelessness duty repealed. This is because, following the changes to the main homelessness duty made by the Localism Act 2011, there can no longer be a presumption that the homelessness duty will be brought to an end in most cases with an allocation under Part 6.

2.6 Members of the Armed Forces

New Regulations are proposed to provide that authorities must not disqualify members of the armed forces on residency grounds. This prohibition extends to applications from former service personnel, where the application is made within five years of discharge. These provisions recognise the special position of members of the armed forces whose employment requires them to be mobile and who are likely therefore to be particularly disadvantaged by residency requirements.

2.7 Reasonable Preference

The proposed guidance states that local authorities must give reasonable preference to the following of people:

- (a) people who are homeless (within the meaning of Part 7 of the 1996 Act)

- (b) people who are owed a duty by any housing authority under section 190(2), 193(2) or 195(2) of the 1996 Act (or under section 65(2) or 68(2) of the Housing Act 1985) or who are occupying accommodation secured by any housing authority under s.192(3)
- (c) people occupying unsanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
- (d) people who need to move on medical or welfare grounds, including grounds relating to a disability, and
- (e) people who need to move to a particular locality in the district of the housing authority, where failure to meet that need would cause hardship (to themselves or others).

2.8 There is no requirement for local authorities to give equal weight to the reasonable preference categories so long as; overall, the categories receive reasonable preference. Nor is there a requirement to give greater priority to households who fall within more than one reasonable preference category.

2.9 Additional Preference

Housing authorities have the power to frame their allocation scheme so as to give additional preference to particular descriptions of people who fall within the statutory reasonable preference categories and who have urgent housing needs. All housing authorities must consider, in the light of local circumstances, the need to give effect to this provision. In the case of former members of the armed forces, authorities must ensure that their allocation scheme is framed to give additional preference to those applicants who fall within one or more of the reasonable preference categories and who have urgent housing needs.

2.10 Overcrowding

The proposed guidance states that the bedroom standard is an appropriate measure of overcrowding for allocation purposes, and recommends that all housing authorities should adopt a similar approach. The bedroom standard allocates a separate bedroom to each:

- (i) married or cohabiting couple
- (ii) adult aged 21 years or more
- (iii) pair of adolescents aged 10-20 years of the same sex
- (iv) pair of children aged under 10 years regardless of sex

2.11 Determining priority between households with similar levels of need

Authorities may frame their allocation scheme to take into account factors in determining relative priorities between applicants in the reasonable (or additional) preference categories. Examples of factors which may be taken into account are given in the legislation: financial resources, behaviour and local connection. However, these examples are not exclusive and authorities may take into account other factors instead or as well as these.

2.12 Local Lettings Policies

Housing authorities are able to allocate particular accommodation to people of a

particular description, whether or not they fall within the reasonable preference categories, provided that overall the authority is able to demonstrate that their allocation framework complies with the requirement to give reasonable preference to certain households. Local lettings policies may be used to achieve a wide variety of housing management and policy objectives. Before adopting a local lettings policy, authorities should consult with those who are likely to be affected and in particular with tenants and residents. Local lettings policies should be published and should be revised or revoked where they are no longer appropriate or necessary.

2.13 Households in work or seeking work

Local authorities are urged to consider how they can use their allocation policies to support those households who want to work, as well as those who – while unable to engage in paid employment - are contributing to their community in other ways, for example, through voluntary work. The flexibilities which authorities are encouraged to make use of to meet the needs of service personnel would apply equally here.

2.14 Carers

In making accommodation offers to applicants who receive support from carers who do not reside with them but may need to stay overnight, housing authorities should, wherever possible, take account of the applicant's need for a spare bedroom.

2.15 Prospective adopters and foster carers

When considering housing applications from prospective foster carers or adopters who would require an extra bedroom to accommodate a foster or adoptive child, authorities will wish to weigh up the risk that the application to foster or adopt may be unsuccessful (leading to the property being under-occupied), against the wider benefits which would be realised if the placement was successful.

3. Equalities Impact Assessment Outcomes

- 3.1 Housing authorities are subject to the general public sector equality duty in the Equality Act 2010. As well as the duty to eliminate unlawful discrimination, housing authorities are subject to a duty to advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, and to foster good relations between persons who share a relevant protected characteristic and those who do not. The protected characteristics are age, race, disability, sex, pregnancy and maternity, sexual orientation, religion or belief, and gender reassignment. When framing the Allocation Policy the Council will need to ensure that an Equality Impact Assessment has been undertaken.

4. The Consultation Response

- 4.1 The consultation paper asks 15 questions about the proposed guidance. The questions do not cover all aspects of the proposed guidance. The response has been prepared in accordance with these questions. Responses must be submitted to CLG by 30th March 2012.

5. Recommendation

- 5.1 That the Portfolio Holder for Planning & Housing approves the attached response as the Council's formal submission to the consultation.

Appendices

Appendix A - 'Allocation of accommodation: guidance for local housing authorities in England' consultation -West Berkshire Council Response

APPENDIX A

'Allocation of accommodation: guidance for local housing authorities in England' consultation

West Berkshire Council Response

<p>1.</p>	<p><i>Does your allocation scheme/transfer policy already provide for social tenants who are under-occupying to be given priority?</i></p> <p>Yes. The Council proactively works with tenants and providers of social housing to ensure that tenants who are under-occupying, and wish to move, have sufficient priority on the housing register to secure alternative accommodation. This ensures that family-sized accommodation is freed up and that we make best use of existing accommodation.</p>
<p>2.</p>	<p><i>Do you intend to revise your allocation scheme in order to make it easier for under-occupying social tenants to downsize to more appropriately sized accommodation?</i></p> <p>No. The Council already ensures that it is easy for under-occupying social tenants to downsize to more appropriately sized accommodation.</p>
<p>3.</p>	<p><i>If so, what changes to your allocation scheme will you be considering – to make it easier for under-occupying tenants to downsize?</i></p> <p>If Government wish to make it easier for under-occupying tenants to downsize, they could consider providing funding for under-occupation schemes. The biggest barrier for the majority of tenants wishing to move, particularly those who are older or vulnerable, is the ability to arrange removals and disconnection/reconnection of services etc. These tenants would benefit from a 'hand-holding' service to give them support with the practical aspects of moving. Changes to the Allocation Policy will not achieve this.</p>
<p>4.</p>	<p><i>Do you agree that members of the armed forces and former service personnel should not be disqualified on residency grounds? Is 5 years from the date of discharge an appropriate time limit for this restriction? If not, what would be a more appropriate period?</i></p> <p>This Council currently holds an open waiting list. This does not prevent armed forces and former service personnel from joining the register. It does however, award points for local connection but these are not currently applied to service personnel living in tied military accommodation within the district. The proposal to prohibit local authorities from applying residency qualifications on service personnel could have disproportionate impacts on local authorities with service bases within their district, and on authorities that are seen as desirable areas to live in. It may also raise false expectations about the likelihood of re-housing given the shortage of affordable accommodation.</p> <p>Five years appears to be an inordinately long time following discharge from the armed services. Twelve months would be a more appropriate time period, as this is sufficient to enable service personnel to achieve a local connection with a specific</p>

	<p>area upon discharge.</p> <p>Will the prohibition be applicable to all discharges i.e. will it also be applicable to those are discharged due to misconduct? This would appear to reward service personnel who have demonstrated misconduct at the expense of other residents who do not meet residency qualifications?</p>
5.	<p><i>Does the draft guidance provide sufficient clarity on how to implement the new power for housing authorities to set their own allocations qualification criteria? If not, in what areas would more guidance be useful?</i></p> <p>Yes</p>
6.	<p><i>Do you agree that the bedroom standard is an appropriate measure of overcrowding for the purpose of according reasonable preference? If not, what measure do you consider would be more appropriate?</i></p> <p>The Council welcomes the clarification of which standard to apply when measuring overcrowding for the purposes of according reasonable preference. The standard appears to differ very slightly from that applied to Local Housing Allowance and it would be preferable that the two standards were the same to ease confusion.</p>
7.	<p><i>Should this guidance provide advice on how to define 'overcrowding' for the purpose of according additional preference? If so, would an appropriate measure be two bedrooms or more short of the bedroom standard?</i></p> <p>Yes. If local authorities are expected to include overcrowding in their criteria for additional preference, as well as reasonable preference, it would be beneficial to have guidance on the definition of overcrowding for additional preference purposes. The Council considers that lacking two or more bedrooms as assessed by the bedroom standard would be an appropriate measure for according additional preference.</p>
8.	<p><i>How does your allocation scheme currently define 'overcrowding' for allocation purposes? Does it, for example, use the bedroom standard, the statutory overcrowding standards in Part 10 of the Housing Act 1985, or another definition? If the last of these, please provide brief details.</i></p> <p>The Council's current allocation schemes adopts the Local Housing Allowance bedroom standard and awards a set amount of points per bedroom lacking.</p>
9.	<p><i>The Government proposes to regulate to require housing authorities to frame their allocation scheme to provide for former service personnel with urgent housing needs to be given additional preference for social housing. Do you agree with this proposal?</i></p> <p>Additional preference should be awarded on the basis of housing need only. The requirement to frame the allocation scheme specifically to provide for former service personnel with urgent housing needs is unnecessary. Former service personnel have already been given access to a waiting list from which they may otherwise have been excluded and any award of additional priority should be on the basis of housing need only, in line with other members of the scheme.</p>

<p>10.</p>	<p><i>Does your allocation scheme already make use of the flexibilities within the allocation legislation to provide for those who have served in the armed forces to be given greater priority for social housing? If so, how does your scheme provide for this?</i></p> <p>No. The Council's allocation scheme gives priority to those in greatest housing need, irrespective of their employment background. By providing greater priority for armed forces personnel on the basis of their career choice may effectively prevent a household in greater housing need from accessing accommodation.</p>
<p>11.</p>	<p><i>If not, do you intend to take advantage of the flexibilities in the allocation legislation to provide for former members of the armed forces to be given greater priority for social housing? If so, what changes might you be considering?</i></p> <p>The Council will have full regard to the statutory guidance in drafting its Allocations Policy. No decisions have yet been made in respect of armed forces personnel.</p>
<p>12.</p>	<p><i>Does your allocation scheme already provide for some priority to be given to people who are in work, seeking work, or otherwise contributing to the community? If so, how does your scheme provide for this?</i></p> <p>No, however this will be considered by Members as part of the review into the Council's Allocation Policy.</p>
<p>13.</p>	<p><i>If not, do you intend to revise your allocation scheme to provide for more priority to be given to people who are in work, seeking work, or otherwise contributing to the community? If so, what changes might you be considering?</i></p> <p>The Council will be giving consideration to providing more priority through its Allocation Policy to people who are in work, seeking work or otherwise contributing to the community as part of its current review of the Allocation Policy. The Council is concerned that introducing priority for this would create a large administrative burden which would be difficult to manage, particularly as people move in and out of work, and this may be an area that the Statutory Guidance may wish to provide greater clarification on.</p> <p>The Council does, where appropriate, use Local Lettings Plans for specific developments in partnership with its Registered Providers. Some of these Local Lettings Plans do give preference to households that are economically active in order to create a balanced community.</p>
<p>14.</p>	<p><i>Are there other ways in which housing authorities can frame their allocation scheme to meet the needs of prospective adopters and foster carers?</i></p> <p>Any provision for carers and prospective adoptive/foster parents needs to be carefully balanced against current Housing Benefit regulations (particularly in relation to under-occupation) and the significant demand for a limited supply of social housing. Consideration also needs to be given to the fact that a large number of households on the housing register are over-crowded.</p>

15.	<i>Does the draft guidance provide sufficient clarity on the extent of flexibilities available to housing authorities when framing their allocation scheme?</i> Yes
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