

Housing Allocations Policy



Report to: Cabinet

Date: 15 February 2024

Portfolio Holder: Councillor David Carter, Deputy Leader and Portfolio Holder for Housing

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Key Decision: No

Forward Plan: Forward Plan number I016234

Call In: This item is subject to call in procedures

Corporate Priority: Fix Council Housing

Wards Affected: None specifically

Recommended that:

- A** Cabinet approves the proposed changes to the Housing Allocation Scheme (Allocations Policy) as set out in the body of the report.
- B** The revised Allocation Policy be implemented with effect from 1 April 2024 for all new applicants joining the housing needs register, with a phased implementation between 1 April 2024 and 1 October 2024 for existing housing register applicants, aligned to the implementation of the new Allocation IT module.
- C** Delegation be given to the Portfolio Holder for Housing to approve a revised Allocation Policy as a Portfolio Holder decision by 1 April 2024 in line with the decisions taken by the Cabinet.

Reason for decision

- A** In line with the 2023/24 corporate priorities, officers have conducted a review of the Housing Allocations Scheme (Allocations Policy), including carrying out full consultation with internal staff, internal and external stakeholders and the general public, resulting in a number of recommendations for changes to the council's Housing Allocations Scheme. A total of 298 responses to the consultation were received, including 9 responses from organisations. The proposed changes to the Policy that are set out in this report are a direct result of learned daily experience of the current Policy in use, a thorough desktop review, benchmarking and public consultation on emerging challenges and issues.

Other Options

- A** Do not adopt or only adopt some of the proposed changes to the Housing Allocations Scheme. However, there would be a risk that the Policy would not align to the council's corporate priorities, legislation and best practice.

Background

1. In line with the 2023/24 corporate priorities, the council embarked upon a comprehensive review of its Housing Allocations Scheme, which actively involved stakeholders and housing associations, as well as internal staff teams. As a result, a set of changes have been identified and are brought forward in this paper for Cabinet to review, make decisions and approve.
2. The Housing Act 1996 requires that every local authority in England publishes an allocations scheme for determining priorities (and the procedure to be followed) in allocating social and affordable housing accommodation. The Housing Allocations Scheme is used to let Harlow's own council stock and also Registered Providers (housing association) properties where the council has nomination arrangements in place.
3. The council currently has 5585 applicants in total on the Housing Needs Register, with 481 new applicants applying to join the Register in the last 12 months, by contrast in total of c.515 properties became available last year to applicants on the Register.
4. There is a raft of legislation that needs to be considered in the design of the Housing Allocations Scheme, covering both allocations and homelessness, as well as a published government "Code of Guidance". The law sets out the broad groups who must have priority or be given "reasonable preference". Officers have taken these into account in reviewing the existing policy and shaping proposals, as well as looking at the impact of any relevant caselaw. In framing the allocations scheme, officers have also had regard to the Localism Act 2011, the council's Homelessness Strategy, the Tenancy Strategy and the Housing Strategy, as well as the Equality Act 2010 and the Care Act 2014.
5. Implementation of approved changes will need to be staged, allowing for a period of transition. The new Housing Allocations Scheme (allocations policy) will come into effect

on 1 April 2024, subject to Cabinet approval. For all new applicants joining the register after that date, they will be assessed against the new criteria. For existing housing register applicants, between 1 April and 1 October 2024, the Housing Options and Advice Team will carry out a phased implementation of the new policy. There will be a requirement for all applicants to re-apply to ensure they meet the new eligibility criteria. The date of 1 October 2024 has been selected as it is anticipated that the council will have gone live with on-line applications by this date.

Issues/Proposals

6. There are a number of recommended changes to the Housing Allocations Scheme. These are detailed in Appendix 1. In this section of the report, each proposal is taken in turn, so that Cabinet can fully understand the impact of the proposals.

Proposal 1: Removal of Band 4

7. The council currently operates a Housing Needs Register, where anyone who meets the qualification criteria (including local connection) can register regardless of housing need. If they are assessed as having no housing need, they are placed in Band 4. Currently there are 2643 households in Band 4, all with no identified housing need. There have been no applicants in Band 4 that have accessed a council owned property in the last five years showing that in practice, an applicant in Band 4 has next to no chance of ever accessing a property or the type of property they are applying for.
8. There is a cost and an administrative burden associated with this process, as well as raising the expectations of those registered. It is considered far better to have an open, honest conversation with these applicants about their rehousing options and to signpost them to other housing options.
9. A small number of these households are older people seeking age-restricted (sheltered) housing. These applicants do have a good chance of being rehoused due to supply and demand issues and so it is proposed to prioritise them in Band 3. It is common practice amongst local authorities to use their Housing Needs Register as a register of actual need, as this proposal would achieve. The feedback from the consultation supports this move, with 80% of respondents (255 people) agreeing to this approach. It is proposed to move to a model of three Bands, where the focus is on housing need.

Proposal 2: Changing the lower age limit for applicants from 16 years to 18 years

10. Currently applications can be accepted from children aged 16 upwards. However, a child cannot legally hold a tenancy; the lower age limit for this is 18 years. It is proposed that the lower age limit for access to the Housing Needs Register be raised to 18.
11. There will need to be a number of exceptions to this by law, including those who are statutory homeless; those referred to the council under the Childrens' Act and those

residing in supported accommodation in Harlow. It is proposed to raise the age limit for access to the housing register to 18, subject to exceptions by law.

Proposal 3: Reviewing the local connection requirement

12. Currently there are several tests that establish local connection. These are:
 - a) Residing continually in Harlow for 5 years;
 - b) Having parents, adult siblings or non-dependent children who have continually resided in Harlow for 5 years;
 - c) Permanent employment for at least 12 months, working at least 24 hours per week; and
 - d) Other special reason (for example where the applicant has no safe connection in other areas due to violence or need to be near medical or support services
13. There are a couple of exceptions by law such as those who have served in the Armed Forces and those surviving domestic abuse.
14. It is proposed that the focus of local connection should be on residency. This reflects the strong bond that people have with Harlow by virtue of living in the area, and the contribution that is being made to the community. It is often tricky to confirm employment, particularly if there is a question around mobile workers, or the location of a head office, or where an employee can work from home. Removing connection by employment keeps the council in line with recognised practice. Where older people want to move to be closer to their adult children to receive support, this should be acceptable, assuming that they register and require age restricted accommodation.
15. Current local connection rules require 5 years residency. The online consultation survey asked residents whether they thought 7 or 10 years would be an appropriate connection requirement. The results of the survey are as follows:
 - a) 86% of the 298 respondents said that they wanted to see local connection strengthened (255 people). 11% of respondents (32 people) said no.
 - b) 29% of respondents (73 people) said they thought 7 years would be an appropriate time period.
 - c) 70% of respondents (178 people) said they thought 10 years would be an appropriate time period.
16. The council's Legal team have advised that an additional increase of two years is likely to be considered a sound minimum local connection requirement, with 10 years potentially challengeable in the courts and potentially considered higher than guidance

recommends. It has also been advised that the council would therefore be taking a risk if it increased the residency requirement to 10 years as it could be open to potential legal challenge / judicial review. There are currently no local authorities in the country with a 10-year residency requirement.

17. Cabinet should also note that a few categories of applicants will be exempt from any agreed residency requirement, by law. This will include ex service personnel and survivors of domestic abuse. There is also the scope to include some applicants by applying the extenuating circumstances test (other special reasons).
18. This is an opportunity to build in additional priority for those who have a very strong connection with Harlow, by virtue of being born and bred in Harlow, living here their whole life. It would be possible to develop a scheme within the policy that give additional priority to these people; this could be achieved by backdating their housing register application by 12 months. So, for two households that applied on the same day, in the same housing circumstances, those who have lived in Harlow all their life, would be housed more quickly than those who simply met the approved residency criteria. The Legal Team have advised that the council could “justify this under the grounds of localism”.
19. This proposal would mean additional work for the team, particularly in relation to verification of such applications. However, it is a good opportunity to strengthen the commitment to local residents.
20. It is proposed for:
 - a) Cabinet agree to move to a local connection test that focuses on current residency, and has no regard to local employment, or links to the area by virtue of family connections.
 - b) Should Cabinet wish to raise the local connection requirement, that it does so, but noting the advice with regard to a 10-year connection requirement.
 - c) Cabinet considers whether to introduce a “born and bred” aspect to the local connection criteria which would give those born in Harlow even further priority to those who meet the local connection criteria.

Proposal 4: Raising the financial limits that exclude residents from the housing register

21. Within the current Housing Allocations Scheme, if a household applying earns over £50,000 per year or has assets from savings or equity of over £50,000, they cannot join the housing register (with a few exceptions including tenants wishing to transfer). This earnings and assets cap has been in place since 2013.
22. Given the rise in property prices, the rental market and the dramatic shift in comparison between a £50,000 household income in 2013 and 2024, even with these earnings

and/or savings, residents would unlikely be able to secure a home on the open market. Officers recommends that this level be raised.

23. The cap is for the total household income or assets, which means there is also an inherit injustice in the fact that it is a flat cap across all applicants thereby meaning that an individual applicant with no children (and therefore with much greater disposable income) applying for a one-bedroom property could in theory earn £49,999 and be eligible for council housing, but a married couple with four children applying for a three-bedroom property (and therefore likely much less disposable income) both earning £25,500 per year each would not be eligible.
24. There are two possible approaches to this:
 - i. To simply raise the income barrier to reflect the rising costs of securing a home in the private sector. A raise to a threshold of £75,000 may be appropriate. This would mean that those with assets or earnings of over £75,000 will be denied access to the Housing Needs Register, apart from a number of exceptional circumstances (as referenced above).
 - ii. To have different thresholds for different household sizes, therefore the cap reflecting the type of property the applicant is applying for in line with market conditions, meaning that the cap stepped increasing for a one-bedroom property, a higher cap for a two-bedroom property, a further higher cap a three-bedroom property and so on.
25. In the consultation survey, 68% of respondents (203 people) agreed with the need to raise the threshold.
26. From an administration point of view, retaining one level would be easier to administer, but it would not address the matter of injustice and therefore, Cabinet is required to decide which option to take.

Proposal 5: Defining the criteria and priority for the armed forces

27. Legally the council's policy must not exclude those with a background in the Armed Forces, through its local connection requirements and income barriers. The current Housing Allocations Scheme whilst it contains these exemptions, would benefit from being strengthened in terms of defining the criteria.
28. It is therefore proposed that Cabinet approve that the content of the Housing Allocations Scheme (Allocations policy) be re-drafted to confirm the commitment that the council has towards the Armed Forces Covenant. This will include a commitment to not exclude any persons covered by the covenant.

29. That any member of the Armed Forces, or former Service personnel, or serving or former members of the Reserve Forces who joins the council's housing Needs Register within 5 years of discharge and have no housing need are awarded Band 3.
30. To award Band 2 where the housing needs assessment reflects a high need as outlined in the existing policy. To award Band 1, as assessed by the council's senior officer, a person suffering from a serious injury, illness or disability which is wholly or partly attributable to their service.
31. To now include divorced or separated spouses or civil partners of Service personnel who need to move out of accommodation provided by the Ministry of Defence.
32. Service personnel definitions to include: The Royal Navy, the Royal Marines, the regular army, or the Royal Air Force, the Royal Fleet Reserve, the Royal Naval Reserve, the Royal Marines Reserve, the Army Reserve, the Territorial Army, the Royal Air Force Reserve, or the Royal Auxiliary Air Force.

Proposal 6: Move on from supported housing quotas

33. Currently, up to 36 properties are made available to a range of agencies "to ensure efficient use of supported housing schemes". This has not been reviewed for a number of years and not all quota awards are appropriate. Some of the agencies awarded quotas no longer operate in Harlow and/or are not part of the customer journey for Harlow residents. It is proposed to review the quota arrangements, whether 36 is an appropriate number and how those homes are distributed between agencies, and the current Housing Allocations Scheme makes provision for annual review.
34. It is proposed that quotas are reviewed on an annual basis and are agreed by the Director of Housing with the Portfolio Holder for Housing annually with the agreed decision being taken as a Portfolio Holder decision, commencing April 2024.

Proposal 7: Time limited bidding

35. Currently, certain categories of applicants are given time limited bidding. This enables them to look for a home of their choice, but also allows the council to manage their rehousing if they are not bidding for suitable homes. The time given needs to be realistic otherwise no suitable properties on which they could have bid may have been advertised.
36. At present, the policy states that homeless households will have 3 months in which to bid for a home. However, this is unrealistic, and it is better to manage this through case management. In addition, the new Housing IT system will enable officers to place applicants on "auto-bid", where the system automatically places a bid on a suitable property. This, combined with case management, is a better tool for ensuring applicants in temporary accommodation are rehoused in permanent accommodation.

37. There is a need to manage Band 1 more effectively. Applicants in this band have a very urgent need to move and therefore should be bidding on available homes. This needs to be closely managed. Band 1 status is not an opportunity to have priority for the most desirable properties; it represents an urgent need to move. If applicants are not bidding on available suitable homes, then the need to move cannot be deemed as urgent at Band 1 should represent.
38. The proposal is that those in Band 1 will receive priority for 6 months. If applicants have failed to bid for suitable homes that were available in this time, they will have their Band 1 assessed, reviewed and removed if suitable properties have been available within this time period. This will not apply to those downsizing to free up larger homes.
39. It is proposed for Cabinet to agree:
 - a) 3-month time limited bidding for homeless applicants be removed.
 - b) Band 1 priority be awarded, in most circumstances, for a maximum of 6 months and withdrawn if applicants have not bid on suitable properties that would have resolved their urgent housing need.

Proposal 8: Property entitlement for carers

40. There is a table in the policy that sets out which household members are entitled to a separate bedroom. There is a need to strengthen the definition over carers who are allowed a bedroom within an applicant's home, for clarity. The new definition will make this much clearer and should read "A carer who provides permanent 24 our 'live in' care – confirmation is required from social services – will be eligible for an additional bedroom." An extra bedroom will not be considered if the carer does not/will not reside permanently with the applicant as their main and principal home.
41. It is proposed that cabinet approve the revised definition of accommodation for live in carers.

Proposal 9: More effective management of refusals

42. Currently, applicants may refuse one offer of a property without incurring any penalties, and applicants who refuse a second offer of accommodation will be moved down a band for 6 months. Refusal of offers create a lot of administrative work and ultimately leads to council homes standing empty for longer, which results in rent loss. Ultimately, with choice-based lettings, applicants should consider whether they would accept an offer of a property before they place a bid on it. However, this is not necessarily the case and on average a quarter of all offers are refused.
43. If Cabinet approve the proposal to remove Band 4, moving applicants who have refused an offer down a band is not practical, because those in Band 3 cannot be moved down a band. It is therefore proposed that applicants are instead suspended with the inability to

bid. It is proposed that applicants may refuse one offer of accommodation, but if they refuse a second, they will be suspended from bidding for 12 months.

44. The results of the consultation survey show that 65% of respondents (193 people) agreed that tougher measures for refusals were supported, with 28% (83 people) saying they did not support this.
45. It is proposed that cabinet approve that applicants who refuse their second reasonable offer of a property, be suspended from bidding for 12 months from the date of the refusal.

Proposal 10: Removal of “living in flats with children above ground floor” as an assessed housing need

46. Currently, applicants who live in flats above the ground floor who have no other housing need, are considered to be in housing need by virtue of living in a flat (Band 3). However, in the modern day, families with children do live in flats. It is not considered to be unsuitable accommodation. The law requires local housing authorities to take into consideration a number of circumstances that define housing need; living in flatbed accommodation is not one of these.
47. Applicants living in flats with children should not be able to access the Housing Needs Register unless they have some other element of housing need, as they are already adequately housed. They would still be able to apply for a mutual exchange. There are currently 233 applicants on the Housing Needs Register living in flats with no other defined need.
48. It is proposed that applicants living in flats with children will not be able to access the Housing Needs Register unless they meet a further criteria within the Housing Allocations Scheme

Proposal 10: Strengthening the definitions around deliberately worsening circumstances

49. The current policy enables the council to penalise housing applicants who have deliberately worsened their circumstances to gain an advantage on the Housing Needs Register. The current penalty is applicants are placed in Band 4 for a minimum of 24 months.
50. If there is no Band 4, an alternative penalty needs to be developed. In addition, this policy could benefit from extra clarity to enable officers to investigate and implement it fairly. It is proposed to revise the wording for additional clarity, as well as changing the penalty to exclusion from the housing register for 24 months, from the date of application.
51. The revised wording that is recommended reads: “The council will consider whether an applicant has deliberately made their housing situation worse in order to improve their chances of rehousing through the housing register. To reduce the likelihood of applicants

moving deliberately into poorer accommodation in order to qualify for higher priority and quicker re-housing, applicants who are deemed to have deliberately worsened their circumstances will normally be suspended for a period of 24 months. At the end of this period, the applicant can request that their application is re-assessed. All relevant facts and information available will be considered in the re-assessment process.”

52. It is proposed that Cabinet approve the revisions to the penalty for applicants who deliberately worsen their circumstances, to include the text above.

Proposal 11: Removal of “Tied tenant” category from the banding scheme.

53. The current policy states that a Harlow Council tied tenant will be placed in Band 1 as the council has a contractual obligation to re-house them. A tied tenant is one who lives in housing that is provided as part of their employment. Having reviewed this matter with the council’s Human Resources department, they have confirmed that there are no tied tenants or contractual obligation to anyone at the current time. It is therefore recommended that this be removed as it is a historic anomaly. It is proposed that Cabinet agree to the removal of Harlow tied tenant from Band 1.

Proposal 12: Adding in homeless applicants to the Banding Scheme

54. There is a legal requirement for those applicants who are under investigation under the homelessness legislation to be added to the housing needs register. Currently they are held undetermined, awaiting assessment. In order to balance registration with not being housed until the investigations are complete, the proposal is to place these within Band 3. Where a homelessness duty is accepted by the council, these applicants will be prioritised in Band 2 and their “priority date” will be the date of the homelessness application.

Proposal 13: Priority for applicants who wish to give up two social housing properties in Harlow for one

55. The current Allocations Policy does not make provision for this situation, but it is in the council’s interest to do so, in order to make best use of stock. Where two separate households wish to live together (i.e. join their families) but each home is not large enough to accommodate, they should be placed in Band 2.
56. It is proposed that Cabinet agree that Band 2 be awarded where two separate households who are social housing tenants in Harlow wish to become one household.

Implications

Equalities and Diversity

EIA attached as appendix 4.

Climate Change

The decision will have no impact on Climate Change.

Communities and Environment

The proposed allocations policy will ensure that the approach to housing provision is clearer, has greater links to local connections and is updated to reflect current social housing market and economic factors.

Author: Simon Freeman, Deputy Chief Executive and Director of Finance

Finance

There are no specific financial implications associated with this report.

Author: Simon Freeman, Deputy Chief Executive and Director of Finance

Governance and Corporate Services

The legislative framework is set out in the report under each heading. Members should take account of the advice given by legal about length of local connection set out in paragraph 8.

Author: Simon Hill, Director of Governance and Corporate Services

Housing

Implications within the body of the report.

Author: Cara Stevens, Assistant Director - Housing Operations

Appendices

Appendix 1 – Table of proposed changes to the Housing Allocations Policy

Appendix 2 – Benchmarking with other local authorities in key housing allocations policy areas

Appendix 3 – Results of public consultation

Appendix 4 – Equality Impact Assessment

Background Papers

Current Housing Allocations policy

<https://www.harlow.gov.uk/sites/default/files/documents/Housing%20allocation%20policy.pdf>

Glossary of terms/abbreviations used.

CBL – Choice based lettings.

RP – Registered Provider (housing association)