

CABINET

07 December 2011

REVIEW OF HOME CHOICE PLUS

Relevant Portfolio Holder	Kit Taylor
Portfolio Holder Consulted	Yes
Relevant Head of Service	Angie Heighway
Wards Affected	All
Ward Councillor Consulted	Not applicable
Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The sub regional choice based lettings scheme known as Home Choice Plus has been in operation in Bromsgrove since October 2008.
- 1.2 In December 2009 the Government published a statutory code of guidance concerning allocations called 'Fair and Flexible: Statutory Guidance on Social Housing Allocations for Local Authorities'. The guidance clarifies Government expectations of choice based lettings and sets out examples of good practice relating to the ways in which local authorities can use new freedoms to determine how social housing should be allocated in their local area.
- 1.3 In response to this guidance, the Home Choice Plus Steering Group have conducted a review of the Allocations Policy with the following specific aims:-
 - To make sure that is the policy is legally compliant.
 - To clarify certain parts of the policy to ensure that each partner applies the policy consistently across the 6 districts.
 - To ensure that the policy is sufficiently robust to allow appeals to be successfully defended.
- 1.3 The purpose of this report is to advise members of the outcome of that review and to seek approval of the draft policy. The policy will be subject to a further stage of scrutiny by a legal expert as set out in paragraph 3.3 and Cabinet are asked to delegate to officers authority to make any final changes arising out of that exercise.
- 1.4 It is possible that further changes to the way in which the housing register and housing allocations are dealt with in Bromsgrove may have to be considered in due course as a result of the Transformation process. In addition the policy may require further review in the future to take into account welfare reform, localism and the objectives of the Tenancy Strategy that the Council is required to develop within 12 months of the enactment of the Localism Act which received the Royal Assent on 15 November 2011.

CABINET

07 December 2011

- 1.5 In addition to these changes, this report provides Members with clarification around local connection and in particular the use of special circumstances as defined in Part VII of the Housing Act 1996.

2. RECOMMENDATIONS

- 2.1 That Members approve the draft Home Choice Plus Allocations Policy and grant delegated authority to the Head of Community Services in consultation with the Portfolio Holder for Strategic Housing to approve any final amendments necessary to ensure full legal compliance.
- 2.2 That Members note the clarification around local connection and the use of special circumstances.

3. KEY ISSUES

Financial Implications

- 3.1 The changes to the allocations policy will require some changes to the Home Choice Plus system. This will incur additional charges from the IT supplier of approximately £1,000 which can be met through the current revenue funding allocated to the scheme.
- 3.2 The changes to overcrowding and financial threshold will require a review of those applications on the waiting list who are in the higher need 'Reasonable Preference' categories. An additional resource at bdht will be required to carry out this work at an estimated cost of £2,000pa which will be paid by the Council and can be met through the current revenue funding currently allocated to the scheme and which can be off set in future years by the income generated from charges made to Registered Providers who also use the system to allocate their dwellings.
- 3.3 The Home Choice Plus Steering Group have agreed that this policy should be reviewed by a legal expert before being finalised. The exact cost is not known at this stage. However, it will be shared pro rata between the partner authorities and officers anticipate it being no more than a maximum of £1,000 per authority. The cost to BDC can be met within the current revenue funding allocated to the scheme.
- 3.4 Members are asked to note that whilst these changes will ensure that the policy is legally compliant, the changes will require additional financial and staffing resources to enable system changes and reviews of those applicants in reasonable preference bands.

CABINET

07 December 2011

- 3.5 The review has taken some 18 months and the anticipated costs associated the changes were identified during the previous financial year. Therefore the budget for this year was set with these changes in mind.

Legal Implications

- 3.6 The relevant legislation is set out in the 1996 Housing Act (as amended by the 2002 Homelessness Act). Under the 1996 Housing Act local authorities are required to make all allocations and nominations in accordance with an Allocations Scheme. A summary of the Allocations Scheme must be published and made available free of charge to any person who asks for a copy.
- 3.7 The Housing Act 1996, (as amended) requires local authorities to give reasonable preference in their allocations policies to people with high levels of assessed housing need. This includes homeless people, those who need to move due to welfare or medical grounds, people living in unsatisfactory housing and those who would face hardship unless they moved to a particular locality within the local authority's area. The Act also requires local authorities to state within the policy its position on offering applicants a choice of housing accommodation, or offering them the opportunity to express preference about the housing accommodation to be allocated to them.
- 3.8 The Allocations Scheme complies with the requirements of the Housing Act 1996 (as amended) and takes into account the three relevant codes of guidance - Allocation of Accommodation: Code of Guidance for Housing Authorities 2002 issued by the ODPM, the Allocation of Accommodation: Choice Based Lettings Code of Guidance for Housing Authorities 2008 and Fair and Flexible: Statutory Guidance on Social Housing Allocations for Local Authorities in England 2009, issued by the Department of Communities and Local Government (DCLG).
- 3.9 Members will recall that the other authorities involved in the Home Choice Plus project are Malvern Hills, Stratford upon Avon, Wychavon, Worcester City and Wyre Forest and that the Home Choice Plus Steering Group is responsible for overseeing the delivery of the Home Choice Plus allocations policy. As referred to in para 1.2 above the Home Choice Plus Steering Group has carried out a review of the policy. The review process included the following:-
- a legal compliance check by Stratford Upon Avon's legal team
 - consultation with customers and stakeholders,
 - a review of good practice and the strengths and weaknesses of the current policy.

The two years' experience of the partners operating the scheme also identified areas which required better explanation, not only to ensure each partner was applying the policy consistently, but also to ensure that the policy was sufficiently robust to allow appeals to be successfully defended.

- 3.10 A number of changes relating to the clarification of the policy have been based on Manchester City Council's allocation policy which has been promoted by the Department for Communities and Local Government as best practise.

Service / Operational Implications

- 3.11 On the 7th October 2008, Bromsgrove District Council, in partnership with bdht introduced the Home Choice Plus, Choice Based Lettings scheme for the allocation of social housing across the District. The Home Choice Plus scheme is a sub regional choice based lettings scheme which the Council operates in partnership with Malvern Hills District Council, Stratford on Avon District Council, Worcester City Council, Wychavon District Council and Wyre Forest District Council
- 3.11 In December 2009 the Government published a statutory code of guidance concerning allocations called 'Fair and Flexible': statutory guidance on social housing for local authorities' which clarified the position on certain aspects of Choice Based Lettings schemes, following case law, particularly around cumulative preference and giving priority for reasons other than reasonable preference. Reasonable preference is defined in the Housing Act 1996, (as amended) and includes homeless people, those who need to move due to welfare or medical grounds, people living in unsatisfactory housing and those who would face hardship unless they moved to a particular locality within the local authority's area.
- 3.12. The statutory guidance prompted a review of the Home Choice plus policy to ensure that it was legally compliant and considered the latest examples of good practice in allocations policies. It was also identified that some of the underpinning procedures and practices required greater clarity and that some applicant groups were not being given suitable priority by the current policy.
- 3.13 The Home Choice Plus Steering Group felt it was an appropriate time to survey customers using the system to canvas their views about the policy and the computer system to inform any future changes to the policy.

CABINET

07 December 2011

- 3.14 In addition, once the fundamental changes were identified, service users, partners and stakeholders were consulted on these changes. 82 people responded to the on line survey..

Key Changes

- 3.15 The key proposed changes are summarised below and are recommended as a result of consultation with customers, stakeholders and partners, as well as a review of good practise and government guidance.

3.16 Homelessness

Current Policy

An applicant's homelessness is only recognised in the local authority where the application has been made. i.e. if Bromsgrove District Council makes a decision regarding a homeless application, the applicant will be placed either in the Priority band if the applicant is owed the full homelessness duty, in Gold Plus band if the applicant is threatened with homelessness or is homeless but not in priority need, or in the Gold band if the applicant has been found to be intentionally homeless. However, the applicants place in these bandings is not recognised in any of the other local authority districts operating within the Home Choice Plus scheme and applicants are instead placed in either Bronze Plus (if they have a local connection to a local authority area) or Bronze band (if they do not have a local connection).

3.17 Proposed Change

An applicant's homelessness is recognised by all partner local authorities in either the Gold Plus, Gold, Silver Plus and Silver bands depending on their circumstances and their local connection to that local authority. i.e. an applicant who is placed in the Gold Plus band by Bromsgrove District Council because they are threatened with homelessness will be placed in Gold Plus band in any of the other local authority districts to which they have a local connection. Where they do not have a local connection, they will be placed in Silver Plus band. Further clarification of the meaning of "local connection" is set out for Members at para 3.41.

- 3.18 Applicants placed in Priority band by Bromsgrove District Council will not be placed in Priority band in the other local authority districts, but instead will be placed in either Gold Plus or Silver Plus bands, depending on their local connection.
- 3.19 This change is a legal requirement, as a person's homelessness must be given 'reasonable preference' by an allocations policy regardless of

CABINET

07 December 2011

where they make their application. As the Bronze bandings are awarded to applicants who do not have a reasonable preference, it is unlawful to place a homeless person in one of these bandings. This proposed change will therefore ensure that the Home Choice Plus policy is not open to legal challenge in this area.

3.20 Disrepair

3.21 Current Policy

Applicants with disrepair to their properties will only have this recognised with a higher band if the property is subject to Enforcement Notices issued by the Local Authority. Such Notices are only awarded for very serious hazards and lead to the applicant being placed in Gold Plus or Silver Plus bands.

3.22 Proposed Change

Applicants whose homes have less serious disrepair hazards will be awarded a degree of reasonable preference by being placed in the Gold or Silver bands, while those with more serious hazards will continue to be placed in the Gold Plus or Silver Plus bands. Any reported disrepair will continue to be assessed in the same way by Private Sector Housing Officers, i.e. by using the Housing Health & Safety Rating System to assess hazards.

3.23 Overcrowding

3.24 Current Policy

All overcrowded households are awarded a Gold or Silver banding (depending on their local connection), regardless of their level of overcrowding.

3.25 Proposed Change

Overcrowded households will be awarded a Gold Plus/Silver Plus banding if they lack three or more bedrooms. All other overcrowded households will still be awarded a Gold or Silver banding. This proposed change will give greater reasonable preference and priority to those applicants who are living in severely overcrowded conditions and who require a move more urgently.

3.26 Reduced Priority

3.27 Current Policy

All applicants whose circumstances qualify them for one of the reasonable preference bandings (Gold Plus, Gold, Silver Plus, Silver) are placed in these bands, regardless of their financial resources or history of anti social behaviour or housing related debts.

CABINET

07 December 2011

3.28 Proposed Change

A new band has been created which will be used for applicants in reasonable preference categories but whose priority is reduced for one of the following reasons:

- Financial Resources – a household income of over £60K per year or savings/equity of over £50K. Applicants with this level of financial resources are considered to be able to resolve their own housing need without the need to occupy limited social housing. Each application will be assessed individually and discretion is given where it is considered that the applicant's needs are such that they can only be met by social housing.
- Deliberately worsening housing circumstances – i.e. where an applicant has deliberately done something to worsen their housing circumstances in order to qualify for a higher banding under the Home Choice Plus scheme.
- Housing related debts – where an applicant owes money to a Local Authority or Registered Social Landlord for housing related expenses, e.g. rent
- Anti Social Behaviour and other tenancy breaches – where an applicant has breached their tenancy due to anti-social behaviour or other serious breaches such as damaging the property.

3.29 Applicants will be banded according to their current housing need but then demoted to the reduced priority band. This decision will be reassessed by the District Council or their agent after a period of six months, or at the applicant's request at any time. This change has been proposed based on legal advice and government guidance.

3.30 Banding Reviews

Current Policy

3.31 A banding decision will continue subject to the applicant's circumstances remaining the same, regardless of whether they have placed bids on properties. Banding decisions are reviewed at set time periods of 3 months, 6 months, twelve months and two years depending on the band.

Proposed Change

3.32 Where applicants in the Gold Plus, Silver Plus, Gold and Silver bands have failed to place bids, or have placed successful bids but refused properties, and there is evidence that properties that would meet their

CABINET

07 December 2011

needs have been advertised on Home Choice Plus, their banding will be reviewed within the set time period above and may be removed.

- 3.33 This proposed change will ensure that only those households who have a genuine and urgent need to move will retain their higher priority band status. Where applicants in these bands are either not bidding on or refusing suitable properties, the local authority or its agent will be able to review the household's circumstances and assess whether their need is as serious as they claim.

3.34 Applicants Requiring an Adaptation Via Grant

3.35 Current Policy

Where an applicant has applied for a Disabled Facilities Grant and this has been approved, they are not prevented from being allocated a home under Home Choice Plus.

3.36 Proposed Change

Applicants who are applying for a Disabled Facilities Grant which has been approved and works have commenced may not be considered for an allocation on the Home Choice Plus scheme, to ensure that public funds are best utilised. There may be exceptional circumstances in which an applicant will still be considered for a move, such as a significant change in circumstances. One example of this may be a further and serious deterioration in health meaning more suitable accommodation is required.

3.37 Members of the Armed Forces

- 3.38 The current policy does not mention members of the armed forces as a distinct client group. However, feedback during consultation has led to the inclusion of a specific section on this group, setting out how their housing applications will be treated. This is as follows:
"Members of the Armed Forces who have been served with a cessation to occupy accommodation' notice will be given housing advice and the appropriate banding and, if required, considered under the Homeless legislation (Housing Act 1996, Part VII and other relevant legislation).

- 3.39 The Home Choice Plus Partnership will give consideration to the Military Covenant and any further legislation and guidance as applicable to this Allocations Policy."

- 3.40 This does not represent a change to the application of the policy, but clarifies the existing position to ensure that this client group and those representing them understand how their needs will be met.

- 3.41 Local Connection

CABINET

07 December 2011

- 3.42 The factors taken into account when determining local connection with a local authority areas are set out in s199 Housing Act 1996 as follows:
- has lived in the relevant Local Authority area, by choice, for a certain time (usually for six months out of the last 12 months or for three years out of the last five years);
 - has close family living in the relevant local Authority area, who have been permanently resident for at least the previous five years;
 - has permanent employment in the relevant Local Authority area.
 - has special circumstances that give rise to a local connection.

With regard to the fourth factor 'special circumstances' these might include the need to be near special medical or support services which are available only in a particular district'. This factor is only used in very exceptional circumstances.

4. Draft Policy Consultation

- 4.1 During June and July 2011, the draft policy with the above changes was circulated for consultation and an online questionnaire was provided for consultees to give their feedback on the proposals. The consultation period was promoted in Council and Registered Social Landlord offices and on their websites, and customers were given the opportunity to complete a paper feedback form if they were unable to complete the online questionnaire.
- 4.2 100 consultation responses were received. The breakdown in terms of respondent type was as follows:
- 39% housing applicant
 - 20% current tenant
 - 23% Home Choice Plus partner agency
 - 18% other.

- 4.3 The consultation feedback showed an overwhelmingly positive response to the greater clarification provided and the changes proposed. In response to the proposed changes, the following responses were provided:

Disrepair

- 4.4 90% of respondents agreed with this change; 10% of respondents disagreed with this change.

Overcrowding

- 4.5 87% of respondents agreed with this change; 13% of respondents disagreed with this change.

CABINET

07 December 2011

Reduced Priority due to Financial Resources

- 4.6 88% of respondents agreed with this change; 12% of respondents disagreed with this change.

Homelessness Bandings

- 4.7 95% of respondents agreed with this change; 5% of respondents disagreed with this change.

Reduced Priority due to other reasons (e.g. Anti-Social Behaviour and Debt)

- 4.8 95% of respondents agreed with this change; 5% of respondents disagreed with this change.

Applicants Requiring an Adaptation Via Grant

- 4.9 97% of respondents agreed with this change; 3% of respondents disagreed with this change.

- 4.10 The Home Choice Plus Steering Group reviewed all the comments received by respondents, particularly by those who disagreed with some of the proposed changes and found that the majority of negative comments were due to a misunderstanding of the proposals or the way in which social housing is currently allocated. In order to address this, the Steering Group is planning to conduct a review of the information provided about the scheme on the Home Choice Plus website and to include a Frequently Asked Questions and 'Myth busting' section to ensure that the policy and operation of the scheme is clearly understood.

5. Customer / Equalities and Diversity Implications

- 5.1 The current Home Choice Plus scheme has an existing Equalities Impact Assessment in place. A new assessment will need to be undertaken to ensure that all applicants have an equal opportunity to participate in the scheme and that it does not discriminate on any grounds.

- 5.2 An interim assessment of the changes in terms of equalities legislations is as follows:

- Homelessness – this change is necessary for the policy to be considered legally compliant. It does not affect one specific equalities group more than another.

CABINET

07 December 2011

- Disrepair – this change allows lesser disrepair to be taken into account in the assessment of housing need and is likely to have greater relevance in the Private rented sector. As ethnic minority groups are more likely to occupy private rented accommodation this change is likely to benefit some ethnic minority households.
 - Overcrowding – this change recognises more severe levels of overcrowding and as ethnic minority groups are more likely to live in overcrowded accommodation, this change is likely to benefit some ethnic minority households.
 - Reduce priority – This change means that those who can afford to resolve their own housing need are encouraged to do so. Also those who have deliberately worsened their circumstances, have outstanding housing related debts or have breached their tenancy due to anti social behaviour or other serious tenancy breaches will be placed in a reduced priority band. This may affect a greater proportion of older people in the District who have equity in their properties.
 - Applicants requiring an adaptation via grant which has been approved may not be considered for an allocation through Home Choice Plus. This change is likely to affect households with physical disabilities. However, it can be justified through the need to make best use of Disabled Facilities Grants and where a condition had deteriorated and the adaptation is no longer appropriate, the allocation of a property can still be made.
- 5.3 Home Choice Plus customers have been offered an opportunity to influence this review. We are aware that customers are frustrated by the lack of availability of social housing. The changes to the policy will help to ensure that the local authority complies with current legislation and also makes best use of the existing supply of social housing by:
1. Giving additional preference to households who are severely overcrowded.
 2. Separating disrepair into two banding levels depending on the extent of the disrepair.
 3. Giving reduced priority to certain individuals, for example; those who have sufficient financial resources to resolve their own housing need.
 4. Working with the Home Improvement Agency to minimise needless expenditure in application of Disabled Facilities Grants.
 5. Providing clarity and consistency in how participating authorities apply the policy.

6. RISK MANAGEMENT

CABINET

07 December 2011

- 6.1 As identified by the legal compliance check and by the experience of partners operating the scheme, the lack of clarity around some elements of the current policy places Bromsgrove District Council at risk of a legal challenge to some of the decisions made according to the policy and the way in which the policy is applied. Adoption of the amended draft policy with greater clarification around key issues, as well as the additional proposed changes, will significantly reduce this risk.

7. APPENDICES

Appendix 1 – Draft Home Choice Plus Allocations Policy

8. BACKGROUND PAPERS

None

9. AUTHOR OF REPORT

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