

Report to Housing Scrutiny Panel

Date of meeting: 13 March 2012

Portfolio: Housing – Councillor Mrs M McEwen

Subject: Council response to CLG Consultation Paper on Revised Allocations Code of Guidance

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Recommendations/Decisions Required:

- (1) That the CLG Consultation Paper “Allocation of accommodation: guidance for local authorities in England”, which is attached as Appendix 2 to the report be noted;**
- (2) That consideration be given to the proposed Council response to the Consultation Paper attached as Appendix 1; and**
- (3) That the Scrutiny Panel considers whether any different or additional comments should be included within the Council’s response.**

Report:

1. In January of this year, the Department for Communities and Local Government issued a consultation paper on “Allocation of accommodation: guidance for local housing authorities in England”. The Consultation Paper is attached as Appendix 2 to the report. The closing date for responses is 30 March 2012.
2. A proposed response by the Council to each of the questions asked within the Consultation Paper is set out in Appendix 1 to the report.
3. The Scrutiny Panel is invited to consider the proposed Council response and whether any different or additional comments should be included within the response.

Reason for decision:

4. Responding to the Government’s Consultation Paper is an opportunity for the Council to influence and comment on the future guidance on the new arrangements for the allocation of accommodation.

Options considered and rejected:

5. Not to respond to the Government’s Consultation Paper

Consultation undertaken:

6. The Tenants and Leaseholders Federation will be consulted on the Council’s agreed response at their meeting on 28 March 2012 and will be invited to submit its own views to the CLG directly.

APPENDIX

Consultation Questions	Proposed Response
Chapter One	
1. Does your allocations scheme/transfer policy already provide for social tenants who are under-occupying to be given priority?	Yes. Tenants who wish to “downsize” are given both Band One priority (the highest priority) and also a financial incentive.
2. 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?	Members will give the matter consideration later in the year, once the final guidance has been issued.
3. If so, what changes to your allocations scheme will you be considering – to make it easier for under-occupying tenants to downsize?	May consider removing any penalties for refusals of tenancy offers for those downsizing and also reduce the Council’s current age restriction for occupying bungalows for those downsizing.
<i>Other comments on Chapter One:</i>	Paragraphs 1.7 &1.8 – Paragraph 1.7 states that transfer applicants with “reasonable preference” are to be treated on the same basis as new applicants, whereas authorities may set their own transfer policies for transfer applicants who do not have reasonable preference. This therefore means that <u>any</u> priority could be given to transfer applicants who are not entitled to reasonable preference. For example, they could be given greater priority than transfer applicants in reasonable preference categories. There should be provisions to prevent any authority from prioritising in this way.

Consultation Questions	Proposed Response
Chapter Two	
<i>Comments on Chapter Two</i>	<p>Paragraph 2.5 – The Council welcomes the opportunity to have its own eligibility criteria for its waiting list and the proposal that an applicant can be treated as ineligible if they are guilty of serious unacceptable behaviour.</p> <p>Paragraph 2.6 – The Council considers it very unfortunate that the existing legislation allows for a right to a review on eligibility as this will be administratively cumbersome, when local authorities can adopt their own criteria which will probably result in significantly more reviews especially where the rules are absolutely clear e.g. no local connection. The Council would ask the Government to consider amending the legislation.</p>
Chapter Three	
<p>4. 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?</p>	<p>The Council supports the proposal that members of the Armed Forces and former service personnel should not be disqualified on residency grounds. However, we believe an appropriate time limit would be 3 years from the date of discharge because this is considered to be a more appropriate period within which they could have found settled accommodation. It would also be helpful if “members of the Armed Forces and Service personnel” was more clearly defined than is set out under Section 374 of the Armed Forces Act. Does it include clerical workers for example?</p>
<p>5. 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?</p>	<p>For the avoidance of doubt, it could be made clearer that if an applicant has “reasonable preference” but does not meet the eligibility criteria for joining the housing register, (e.g. non-local applicants), then they can still be excluded from the list.</p>

Consultation Questions	Proposed Response
Chapter Four	
<p>6. 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?</p>	<p>No. Bearing in mind the shortage of accommodation it is considered reasonable for same sex persons to share a bedroom irrespective of their age. Therefore, it is suggested that there should be the following two bullet points included in Paragraph 4.11</p> <ul style="list-style-type: none"> • Married or cohabiting couples • Two persons of opposite sex over the age of 5 years
<p>7. 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?</p>	<p>The Council considers that “overcrowding” should be determined based upon the current requirements of the Housing Act Part X.</p>
<p>8. 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.</p>	<p>“Where the permitted number, in accordance with the provisions of S.326 of the Housing Act 1985 is exceeded”. However, applicants lacking a bedroom are also given some (although less) priority.</p>
<p>9. The Government proposes to regulate to require housing authorities to frame their allocations 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?</p>	<p>The Council generally supports the proposal. It would be helpful if Paragraph 4.19 was clearer. Does this mean that former members of the Armed Forces will be given additional preference above those applicants (who are not former members of the Armed Forces), who are already in reasonable preference categories?</p>
<p>10. Does your allocations 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?</p>	<p>No</p>

Consultation Questions	Proposed Response
<p>11. If not how 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?</p>	<p>The Council does intend to provide greater priority for members of the Armed Forces for social housing. Members will be considering the matter on receipt of the final guidance. The Council welcomes the proposal to disregard any lump sums received by a member of the Armed Forces as compensation for injury of disability sustained on active service.</p>
<p>12. Does your allocations 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?</p>	<p>Our scheme gives some priority to applicants who are needing to move to be nearer to their place of work, or to take up a permanent offer of employment, or a long-term training opportunity which may lead to employment.</p>
<p>13. 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, how does your scheme provide for this?</p>	<p>Members will be considering whether or not they wish to give further priority to people who are in work, on receipt of the final guidance. It may be difficult to define what “contributing to the community” means.</p>
<p>14. Are there other ways in which housing authorities can frame their allocation scheme to meet the needs of prospective adopters and foster carers?</p>	<p>The Council considers that there is a marked difference between an adopter and a foster carer as adoption is a more long-term permanent arrangement. If the Council decides to use Flexible Tenancies in the future, these could be granted to adopters and foster carers for an appropriate fixed-term and be reviewed at the end of the period under the assessment criteria. The guidance may want to include this approach as a possible way of dealing with prospective adopters and foster carers. It is suggested that Children’s Services should notify the Council when an appropriate point has been reached in the adopting/fostering process where any person is likely to be accepted.</p>

Consultation Questions	Proposed Response
15. Does the draft guidance provide sufficient clarity on the extent of flexibilities available to housing authorities when framing their allocation schemes?	Yes, subject to the comments made under each consultation question.
<i>Comments on Chapter Four</i>	Under Paragraph 4.38. It is considered that providing an additional bedroom for carers who are not residing at the property could be open to abuse and the potential a waste of a bedroom. The Council would currently only consider granting an additional bedroom if a carer (an identified person) was living at the accommodation as their only or principle home and can demonstrate that they have given up permanent accommodation to enter into the arrangement.