

**EPPING FOREST DISTRICT COUNCIL
NOTES OF A MEETING OF HOUSING SCRUTINY STANDING PANEL
HELD ON MONDAY, 17 DECEMBER 2012
IN COUNCIL CHAMBER, CIVIC OFFICES, HIGH STREET, EPPING
AT 5.31 - 8.20 PM**

Members Present: S Murray (Chairman), A Mitchell MBE (Vice-Chairman), K Chana, Ms J Hart, Mrs S Jones, Ms H Kane, L Leonard, Ms G Shiell, Mrs J H Whitehouse and Marshall (Tenants and Leaseholders Federation)

Other members present: R Bassett, D Stallan, G Waller and D Wixley

Apologies for Absence: K Avey

Officers Present A Hall (Director of Housing), R Wilson (Assistant Director (Operations)), R Wallace (Housing Options Manager), Selley (Assistant Housing Options Manager (Allocations)) and M Jenkins (Democratic Services Assistant)

40. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

There were no substitutions made at the meeting.

41. NOTES OF THE LAST MEETING

RESOLVED:

That the notes of the last meeting of the Panel, held on 23 October 2012, be agreed subject to the following amendment:

That "Marshall" under "Members Present" be amended to W Marshall, Tenants and Leaseholders Federation.

42. DECLARATION OF INTERESTS

Pursuant to the Council's Code of Officer Conduct, the Assistant Director of Housing, R Wilson declared the following interest:

- Item 6 Review of the Housing Allocations Scheme, the officer's son and daughter were both on the Housing Register and changes in policy may result in their priority category changing to their advantage. Therefore the officer advised that he would leave the meeting for consideration of the sections of the report dealing with priority categories (pages 44 - 46 and 61 - 63 of the agenda document), these would be presented by the Director of Housing.

The officer indicated that he would present the rest of the report as the other changes proposed would affect all waiting list applicants equally and were not specific to his own children. He added that he would not be involved in his children's cases in any way after the policy changes and he had already declared this interest on his own registration form.

43. TERMS OF REFERENCE / WORK PROGRAMME

The Panel's Terms of Reference and Work Programme were noted.

44. TENANCY POLICY

The Panel received a report from the Assistant Director of Housing (Operations) regarding the Tenancy Policy.

Under the Localism Act 2011, housing providers were granted additional powers enabling them to make decisions locally about the management of social housing. Providers had the options of using Flexible Tenancies, which in most cases must be for a minimum period of 5 years or a minimum of between 2 and 5 years in exceptional circumstances. Flexible tenants had the same rights generally as secure tenants, with some exceptions.

On expiry of the fixed term, the tenant would be assessed against an agreed Assessment Criteria determining whether a further tenancy would be granted. On a tenancy not being offered, there was a requirement to provide the tenant with housing advice and assistance.

The Localism Act 2011 required local authorities to publish a Tenancy Strategy which must set out the matters to which registered providers were to have regard in formulating their policies. The Cabinet had adopted the Council's Tenancy Strategy in October 2012. Additionally, all registered providers were required to publish and be responsible for their own individual Tenancy Policy, which set out:

- (a) The kinds of tenancies granted
- (b) Circumstances where a tenancy of a particular type would be granted and the length of the term
- (c) Circumstances where a term of less than 5 years would be granted
- (d) Circumstances where another tenancy would be granted on expiry on the same or another property
- (e) How applicants/tenants could appeal against the length of the Flexible Tenancy or the decision not to grant a further tenancy
- (f) Taking account of the needs of vulnerable people
- (g) Provision of housing advice and assistance if another tenancy was not granted at the end of the term
- (h) Discretionary succession rights

It was advised that the Housing Portfolio Holder recently held informal discussions with Cabinet Members about the way forward on Tenure Reform. This was considered essential as it gave guidance on how Cabinet Members felt the scheme should be drafted potentially saving a great deal of officer time. As a result the Portfolio Holder made a formal decision based on the Cabinet's initial views on the general approach to be adopted, and that the tenancy policy should be drafted on the basis of the following principle subject to the views of the Panel:

- (i) That a Pilot Scheme for Flexible Tenancies be introduced as soon as possible, with these being granted to all new tenants who signed up to a tenancy of a property of three bedrooms or more for a fixed term of 9 years.
- (ii) Flexible Tenancies should include in their term an introductory period of 12 months.
- (iii) The Localism Act removed the “Right to Improve” for flexible tenants, but gave councils powers to continue granting this right if it wished, it was felt this right should be granted through the Tenancy Agreement, but the “Right to Compensation for Improvements” should not be considered after the 12 month review.
- (iv) Financial incentives under the Housing Allocations Scheme for Council tenants to transfer to smaller accommodation should apply to Flexible Tenants during the term, but only within the first 5 years.
- (v) The draft Assessment Criteria used at the end of the Flexible Tenancy term assessing eligibility for a further Flexible or Secure Tenancy of the same or another property, should include that a further tenancy would not be granted if the tenant had committed serious acts of Anti-Social Behaviour, or other serious breaches of tenancy conditions including significant rent arrears. Furthermore, if the tenant was under-occupying or statutorily overcrowded at the accommodation, then a further Flexible or Secure Tenancy as appropriate, should be offered on alternative suitable accommodation, provided all of the other requirements of the agreed Assessment Criteria were met.
- (vi) If an empty property had been extensively adapted and there was an applicant on the Housing Register who was in need of the adapted accommodation, then a further Flexible or Secure Tenancy of an alternative suitable property should be offered, provided all of the other requirements of the agreed Assessment Criteria were met.
- (vii) At the end of the Flexible Tenancy term, where there were special circumstances including, active foster carers or where a tenant or members of their household had a terminal illness or a disability, a further Flexible Tenancy term of between 2 years and 9 years should be granted, in order for the special circumstances to be monitored and re-assessed.

Members requested recommending to the Cabinet that Section 7 of the Draft Tenancy Policy, “Circumstances where a tenancy of a particular type will be granted and the length of the term,” (paragraph 7.3) Flexible Tenancies should include the Right to Compensation in the Tenancy Agreement for making improvements.

It was advised that the report recommending adoption would be submitted to the Cabinet in April 2013.

The Housing Portfolio Holder had already agreed that this Panel should be asked to review the success of the Pilot Scheme after 12 months of commencement and submit a report to the Cabinet on its review particularly considering:

- Whether to discontinue, continue or extend the scheme to include 2 bedroom properties.
- Whether in future to means test tenants as part of the Assessment Criteria at the end of the Flexible Tenancy period.

RECOMMENDED:

That the draft Tenancy Policy be recommended to the Cabinet for adoption, subject to the views received from the Consultation Exercise.

45. REVIEW OF THE HOUSING ALLOCATIONS SCHEME

The Panel received a report from the Assistant Director of Housing (Operations) regarding the Review of the Housing Allocations Scheme.

The Council was legally required to have a Housing Allocations Scheme for determining priorities and the procedure followed in selecting a person for accommodation, or nominating a person to be a tenant for accommodation held by another Registered Provider of social housing. In the past, the Cabinet had considered the Council's Housing Allocations Scheme annually and reviewed any changes. However, the current Scheme had not been reviewed since its introduction in December 2010, this was because the Government guidance "The Allocation of Accommodation: Guidance for local housing authorities in England" was not received until July 2012.

Under the guidance, authorities were given powers to decide locally how accommodation should be allocated based upon local priorities. Authorities were therefore empowered to allocate their accommodation in any way they saw fit, provided schemes were legal and rational.

Due to these additional powers resulting in potentially the most comprehensive review ever undertaken of the scheme, the Portfolio Holder had informal discussions with Cabinet colleagues seeking initial views which gave guidance on how Cabinet members felt the scheme should be drafted officer time. As a result, the Portfolio Holder made a formal decision based on the Cabinet's initial view that, and subject to the views of the Panel for the next review of the Housing Allocations Scheme, officers draft a scheme on the basis of the proposed principles:

Property Sizes

The Assistant Director drew attention to property sizes. The current property sizes allocated to households under the Council's current Housing Allocations Scheme were as follows:

- (1) Studio – Single persons
- (2) 1 Bedroom – single persons or 2 people without children
- (3) 2 Bedrooms – homeseekers with 1 child or homeseekers with 2 children of the same sex
- (4) 3 Bedrooms – homeseekers with 2 children of opposite sex or homeseekers with 3 or 4 children
- (5) 4 Bedrooms – homeseekers with 4 or more children
- (6) 5 Bedrooms – homeseekers with 5 or more children

The changes to Housing Benefit under the Welfare Reform Act 2012 for persons under occupying accommodation in the social rented sector was explained in a leaflet produced by the National Housing Federation which was sent to the Panel and accorded with the LHA criteria for under occupation. Under the changes if a person had more bedrooms than the Government said it needed housing benefit would be reduced. The Welfare Reform Act 2012 specified the criteria, which was that a separate bedroom should be occupied by:

- (a) Each adult couple
- (b) Any other person aged 16 or over
- (c) Two children of the same sex under the age of 16
- (d) Two children under the age of 10 regardless of their sex
- (e) Any other child
- (f) A carer (who did not normally live with the person) if the person or their partner needed overnight care

Under this standard and the bedrooms standard under the overcrowding provisions of the Housing Act 1985 two children aged under 10 years regardless of sex would be expected to share a bedroom, whereas the Council's current Housing Allocations Scheme allowed an applicant to be allocated a separate bedroom for a child from birth who was of a different sex from its sibling. Furthermore, the Council's current Housing Allocations Scheme did not allow an applicant to be allocated a separate bedroom for an adult over a certain age, who was sharing with a sibling of the same sex.

It was proposed that the criteria used for property sizes should be amended as follows:

- Children of different sex, where one was 5 years of age or over, should not be expected to share a bedroom
- Generally, two children of the same sex, regardless of age, would be expected to share a bedroom

The Panel's attention was drawn to the fact that should neither of the bedroom standards be adopted within the scheme, all homeseekers who had two family members of opposite sex under the age of 10 years, would have their housing benefit reduced due to under-occupation at the commencement of their new tenancy.

The Panel therefore agreed to recommend to the Cabinet that the properties allocated in accordance with the new scheme be in line with the LHA standards in order to avoid any new tenant fully having their housing benefit reduced at their tenancy commencement.

The draft Housing Allocations Scheme had been considered and endorsed by an external Legal Advisor.

Applicant's Right to a Review

Every applicant had the statutory right to request a review of a decision on allocations and informed of the decision on review and the grounds for it. Currently, the Housing Appeals and Review Panel considered cases where applicants have been excluded from the Housing Register. If the Local Eligibility Criteria was agreed by the Cabinet, it was expected that a high number of applicants were likely to request their statutory right to a review. The Constitution and Member Services Scrutiny Standing Panel was therefore being requested to review the Terms of Reference of the Housing Appeals and Reviews Panel to suggest that appeals by applicants be excluded from the Housing Register and be dealt with by officers.

RECOMMENDED:

- (1) That the draft Housing Allocations Scheme be recommended to the Cabinet for approval at its April 2013 meeting;

(2) That in cases where housing applicants have been excluded from the Housing Register, the Right of Appeal to the Housing Appeals and Review Panel be revoked, with all such statutory reviews dealt with by officers, be recommended to the Cabinet;

(3) That the Cabinet request the Constitution and Member Services Scrutiny Standing Panel review the Terms of Reference of the Housing Appeals and Review Panel to ensure compliance with Recommendation 2 above;

(4) That it be recommended to the Cabinet that the "Right to compensation for Improvements" be granted to Flexible Tenancies and that Flexible Tenants be eligible for incentives to downsize for the first seven years of their fixed term including the introductory period; and

(5) That the new Housing Allocations Scheme be reviewed by this Panel after 12 months' operation, reporting required changes to the Cabinet.

46. REPORTS TO BE MADE TO THE NEXT MEETING OF THE OVERVIEW AND SCRUTINY COMMITTEE

The Chairman advised that he would provide a verbal report to the Overview and Scrutiny Committee on the two reports discussed this evening.

47. FUTURE MEETINGS

A new date for the next meeting of the Panel was agreed, it was 28 January 2013 at 6.00p.m.