EPPING FOREST DISTRICT COUNCIL NOTES OF A MEETING OF HOUSING SCRUTINY PANEL HELD ON TUESDAY, 21 OCTOBER 2014 IN COMMITTEE ROOM 1, CIVIC OFFICES, HIGH STREET, EPPING AT 5.30 - 7.50 PM

Members S Murray (Chairman), Ms G Shiell (Vice-Chairman), K Chana, Mrs J Lea,

Present: Mrs T Thomas, Mrs J H Whitehouse and W Marshall (Tenants and

Leaseholders Federation)

Other members

present:

D Stallan

Apologies for

Absence:

Mrs R Gadsby, C Roberts, B Rolfe and H Ulkun

Officers Present A Hall (Director of Communities), R Wilson (Assistant Director (Housing

Operations)), R Wallace (Housing Options Manager), J Manning (Area Housing Manager), T Selley (Assistant Housing Options Manager (Allocations)) and M Jenkins (Democratic Services Assistant)

24. SUBSTITUTE MEMBERS (COUNCIL MINUTE 39 - 23.7.02)

There were no substitutions made at the meeting.

25. DECLARATION OF INTERESTS

The Assistant Director (Housing Operations) declared a disclosable pecuniary interest in the following items of the agenda by virtue of son and daughter being on the Council's Housing Register in priority Band C. He advised that he would leave the meeting for these two items confirming that he had no involvement with his son and daughter's case and had declared the interest under his own registration of interests form:

- Item 8 Review of the Housing Allocations Scheme; and
- Item 9 Review of the Tenancy Policy

26. TERMS OF REFERENCE / WORK PROGRAMME

The Terms of Reference and Work Programme were noted.

27. GOVERNMENT CONSULTATION PAPER "RIGHT TO MOVE"

The Chairman allowed this report to be heard first at the meeting. The Panel received a report regarding a Department for Communities and Local Government (DCLG) Consultation Paper entitled "Right to Move" from the Assistant Director (Housing Operations). The Consultation Paper was issued on 10 September 2014 with a closing date of 22 October 2014.

The Consultation Paper explained that the Government expected local authorities to ensure that their Housing Allocations Schemes, residency requirements enabling social tenants to move across local authority boundaries for work related reasons so as not to impede labour mobility. The proposed regulations would remove the

residency requirement for local authorities or housing association tenants who sought to transfer from another local authority district in England in order to be closer to their work or take up job offers, apprenticeships or work related training opportunities in order to avoid financial hardship.

The Government further proposed to ensure that authorities set aside a proportion of lets for tenants who needed to move for this purpose with a minimum expectation of 1% of lettings.

The Panel was asked to consider two questions:

(a) Should the contents of the paper be taken into account when framing the Council's revised Housing Allocations Scheme?

The Panel was advised that under the Council's current Housing Allocations Scheme, any Homeseeker needing to move, including existing tenants with a good tenancy record, to be nearer their place of work or related issue, were placed in Band C. This provision did not meet with the Government's expectations as a person would need to meet with the Council's 3 year Residency Criteria to be included.

Officers suggested a further exception to the Residency Criteria and paragraph be added at 14.3 (f) in the scheme as follows:

"Applicants who were seeking to move from a local authority district in England to take up a job or be closer to their work provided:

They are in or have secured either permanent employment comprising of a minimum of 24 hours each week, or an apprenticeship or full time work related training and they live either in excess of 50 miles from their current or intended place of work; and/or their return journey time on public transport is generally in excess of 3 hours. Journey times will be based upon Internet based Journey Planners."

It was suggested that the existing Band C (i) should be amended as follows, complying with the above:

"All Homeseekers (in accordance with paragraph 14.3 (g) of this Housing Allocations Scheme) who need to move to be nearer to their place of work or to take up an offer of permanent employment, an apprenticeship or full time work related training."

(b) Does the Council wish to respond to the consultation paper?

It was suggested that the Council respond to the consultation paper setting out the following:

- (i) The Council would welcome the Government's proposal to "spell out" in more detail the circumstances in which they would expect local authorities to apply the addition to the "hardship" reasonable preference category for those needing to move for work or work related training.
- (ii) The Council asked that it was clarified whether such preference would only apply to those in financial hardship and how such hardship was measured, particularly as there were no legal powers available to require applicants to declare their income.

- (iii) The Council has concerns about setting aside a proportion of lets for this purpose and the difficulties with publishing information on the demand and lettings on any right to move quota.
- (iv) There were a number of difficulties with giving priority to existing tenants for a "community contribution" in order to assist them to move within their own local authority area.

RESOLVED:

That the Panel's response to the DCLG Consultation Paper "Right to Move" be returned to the Government.

28. REVIEW OF THE HOUSING ALLOCATIONS SCHEME

The Chairman agreed that this report should be heard as the second item on the agenda. The Panel received a report regarding the Review of the Housing Allocations Scheme from the Director of Communities.

The Government required local authorities to have a Housing Allocations Scheme for determining priorities and the procedure for selecting a person for accommodation. Government guidance allowed for authorities to decide how accommodation should be allocated based upon local priorities, provided schemes were both legal and rational.

The Council's Cabinet asked that an item should be included in this Panel's Work Programme for 2014/15 to undertake a 12 month review of the scheme. The Panel received a copy of the Department for Communities and Local Government (DCLG) Guidance on Social Housing Allocations for Local Authorities, to which the Panel had regard in respect of all its deliberations on proposed changes to the Housing Allocations Scheme, the District Council's current Housing Allocations Scheme and Tenancy Policy.

Housing Portfolio Holder's Initial Views

It was noted that the Housing Portfolio Holder had held informal discussions with Cabinet Members to inform his initial views on the 12 month review. It was suggested that the Panel had regard to these initial views, in order to ensure that the Panel did not put forward any proposed changes which were unlikely to be agreed by the Cabinet, These were as follows:

- (1) That the residency Criteria be increased with new applicants who had lived in the district for less than <u>five</u> continuous years immediately prior to the date of registration, not qualifying for inclusion on the Housing Register.
- (2) That all existing homeseekers, on the Housing Register, who had lived within the district for less than <u>4 ½</u> continuous years immediately prior to the date the new Housing Allocations Scheme was introduced, should be removed from the Register.
- (3) That existing homeseekers who were removed from the Register due to not meeting the Local Eligibility Criteria should be allowed to re-

register if or when they meet the new criteria, but that their registration date would be the date of re-registration.

The Portfolio Holder advised that despite the local housebuilding programme there was still a shortage of social housing. He felt that local residents with the longest connection to the district ought to be prioritised.

Exceptions to the Residency Criteria

The current scheme already had some exceptions to the Residency Criteria. However the Government's Code of Guidance suggested that some other exceptions should be considered. It was officer's view, though, that the wording within the Code of Guidance was very open to interpretation, particular potential exceptions relating to applicants with a "strong association" to the District.

The Housing Portfolio Holder had therefore suggested that no exceptions should be made to the criteria for those with a "strong association" to the district as this could lead to inconsistent decision making. However, his view was that, in accordance with Government Guidance an exception should be made for existing social housing tenants who were seeking to move from another local authority in order to access work.

Officers suggested that an additional paragraph be added to the scheme regarding people who were in or had secured permanent employment comprising a minimum of 24 hours each week, an apprenticeship or full time work related training and lived in excess of 50 miles from their current or intended place of work, or their return journey time on public transport was generally in excess of 3 hours.

Officers further recommended that, should the Residency Criteria be increased to 5 years, the rules relating to those who had moved out of the district would need amending, it was suggested that those who had moved out of the district into settled accommodation for less than 3 years but had lived in the district for at least 5 years immediately before moving out should be treated as homeseekers who had lived in the district for more than 5 years.

It was noted that the Government Guidance referred to care leavers, officer felt that if the Residency Criteria was increased to 5 years, a lesser residential requirement of 3 years should be applied to those leaving care.

The Panel supported these proposals.

Financial Criteria aspect of the Local Eligibility Criteria

Under the current scheme, applicants who, in the opinion of the Council, had sufficient funds including annual income, residential property equity, savings, shares or other assets, enabling them to meet their housing costs, would be ineligible to join the Housing Register.

The Housing Portfolio Holder felt that the Financial Criteria aspect of the Local Eligibility Criteria should be substantially reduced to reflect income and assets that would be required in order for any applicant to secure accommodation in the private rented sector.

Accordingly officers recommended that where gross annual household income including residential property equity, savings, shares or other assets, exceeded £76,000, they should not qualify to join the Council's Housing Register.

The Chairman was concerned that the long term effects of these proposals would change the social mix of the social housing sector.

However, the Panel supported the proposals.

Downsizing Incentive Payments

It was noted that currently, any tenant of the Council was offered a payment to encourage them to downsize accommodation, where both properties were owned by the Council. The maximum payment was £2,000. The budget for downsizing payments and removal expenses for 2013/14 was £44,000. During this period 41 tenants of the Council downsized to another property owned by the Council with less bedrooms. This resulted in 54 bedrooms being released, the total amount paid in downsizing payments and other expenses was £47,500.

The Housing Portfolio Holder felt that the downsizing incentive payments should be increased. Accordingly there were three options presented to the Panel by officers:

- (a) The amount paid for removal costs could remain the same, but the incentive payments for each bedroom released by moving, could be doubled to £1,000 to a maximum payment of £3,500.
- (b) The incentive payments for each bedroom released could be doubled to £1,000 to a maximum payment of £3,500, additionally, the amount paid for removal costs could remain the same, but a standard decoration allowance payment of £500 be paid using "Homebase" vouchers, making a total payment of £1,000 for removals and redecorations.
- (c) The incentive payments for each bedroom released could be doubled to £1,000 to a maximum payment of £3,500. The amount paid for removal costs should remain the same, but a standard decoration allowance payment of £500 could be paid by way of "Homebase" vouchers, making a total payments of £1,000 for both removals and redecorations. Furthermore, the tenant could be offered a rent-free period of 3 months in their new smaller property.

The Panel supported officer's recommendations and endorsed Option (b) above. However, the Panel was of the view that the enhanced payments over the current arrangements should only apply to tenants who were not subject to the removal of the single room subsidy (sometimes referred to as the "bedroom tax). It was noted that the increased incentives set out in Option Two could result in an estimated increase in budget provision of around £68,000 making a required total annual budget of £115,500.

Penalties for refusals of offers of accommodation

It was noted that under the current scheme, any homeseeker who refused two offers of suitable accommodation for which they had expressed an interest within any three month period would have their application deferred for 6 months.

The Housing Portfolio Holder suggested amending this policy to a period of 12 months deferral. He felt that any homeseeker who was an existing tenant of the Council who was under-occupying and wished to move to smaller Council accommodation who refused three offers of suitable accommodation for which they had expressed an interest should have their applications deferred for 12 months. The Panel endorsed these views.

The Panel noted and supported all of the detailed, more minor proposed changes to the Housing Allocations Scheme set out an Appendix 2 to the report.

Hillsden v Epping Forest District Council

It was noted that the Council was currently being challenged by way of Judicial Review in the High Court against the Council's decision to not allow a non-qualifying applicant to join the Council's Housing Register due what she considered to be her exceptional circumstances. The claimant's two main arguments were:

- (i) The scheme inferred that the discretion given to officers considering applicant's exceptional circumstances applied to both qualifying and non-qualifying persons; and
- (ii) That housing allocation schemes nationally should consider exceptional circumstances of all non-qualifying applicants following a request for a review.

It was noted that if the claimant was successful in her claim regarding (1) above, the Council would need to amend its Scheme as soon as possible. In addition, a review of the claimant's case would need to be undertaken by the Director of Communities to determine whether there were any exceptional circumstances for the claimant to be a qualifying person to join the Council's Housing Register.

It was noted that the second claim, if successful, could affect every local authority's scheme in the country as they would be required to consider any exceptional circumstances of any person not meeting with any aspect of their scheme, irrespective of how they were framed.

The Council was vigorously defending the claim and were currently awaiting the judgement.

Consultation and Cabinet Approval

The Panel was advised that the amended Housing Allocations Scheme would be considered by an external legal advisor prior to statutory consultation being undertaken and final Cabinet approval. In accordance with legal advice, the consultation period was required to be at least 12 weeks, however the Council could choose a shorter period if it had good reason. Officers recommended reducing this period to 10 weeks, due to the expiry of the contract for the administration of the Choice Based Lettings Scheme being in June 2015. Locata Housing Services had advised that if they were unsuccessful under the tendering process, any changes to the scheme including homeseekers having to update their information on-line would

need to be completed by the contract's end. By reducing the consultation period this would enable a report to be submitted by the Panel in March 2015 to the Cabinet.

The target date for the revised scheme coming into force was 1 July 2014. It was suggested that the next review of the scheme should be considered by the Panel following 2 years of operation.

RECOMMENDED:

That the following amendments for incorporation in the Housing Allocations Scheme be recommended to the Cabinet:

- (1) That the Residency Criteria be increased to five years for new applicants;
- (2) That the Residency Criteria be increased to 4 ½ years for all existing homeseekers;
- (3) That despite having regard to the Code of Guidance no exceptions be made to the Residency Criteria regarding "strong association" with the district;
- (4) That an additional paragraph be added to the Residency Scheme for Homeseekers who wished to be nearer their place of work, take up an offer of permanent employment, an apprenticeship or full time work related training, regarding car journeys in excess of 3 hours;
- (5) That, should the residency Criteria be increased to 5 years, those who had moved out of the district into settled accommodation for less than 3 years, but had lived in the district for at least 5 years, be treated as Homeseekers who have lived in the district for more than 5 years;
- (6) That, should the Residency Criteria be increased to 5 years, a lesser residency requirement of 3 years be applied to those applicants leaving care;
- (7) That applicants for housing whose gross annual household income exceeds £76,000 be disqualified from joining the Council's Housing Register;
- (8) That the incentive payments paid to homeseekers downsizing accommodation, for each social housing bedroom released, be increased from £500 to £1,000 plus a redecoration allowance of £500;
- (9) That any homeseeker refusing two offers of suitable accommodation for which they had expressed an interest have their application deferred for a period of twelve months;
- (10) That any homeseeker who is an existing tenant of the Council who is under-occupying and wishing to move to smaller Council

accommodation who refused three offers of suitable accommodation will have their applications deferred for a period of 12 months;

- (11) That following the agreed amendments being incorporated into the draft Housing Allocations Scheme, the scheme be considered by an external Legal Advisor;
- (12) That any advice given by the external Legal Advisor be incorporated into the draft scheme and a consultation exercise be undertaken with the Tenants and Leaseholders Federation, Registered Providers of Housing operating in the district, local councils and partner agencies with an interest in the scheme;
- (13) That the consultation period referred to above be for 10 weeks due to the timing of the renewal of the contract concerning the administration of the Choice Based Lettings Scheme;
- (14) That, the target date for the revised scheme coming into force be 1 July 2014;
- (15) That the next review of the scheme be considered by the Panel in 2 years; and
- (16) That the Housing Scrutiny Panel submit a report on the proposed revised scheme to the April 2015 Cabinet meeting for consideration.

29. REVIEW OF THE TENANCY POLICY

The Panel received a report regarding a Review of the Tenancy Policy from the Director of Communities.

Under the Localism Act 2011 registered housing providers were granted additional powers allowing for local decisions on the management of social housing. This included enabling providers of social housing with the option to use flexible tenancies for a minimum period of 5 years. Flexible tenants generally enjoyed the same rights as secure tenants, including the Right to Buy, subject to the current qualifying criteria. On expiry of the fixed term, the tenant was assessed against an agreed Assessment Criteria to determine whether a further tenancy should be granted. If another tenancy was not offered, there was a requirement to provide the tenant with advice and assistance.

The Cabinet adopted the current Tenancy Policy with effect from 1 September 2013 further agreeing that the Housing Scrutiny Panel review the success of the Pilot Scheme to grant Flexible (fixed-term) tenancies on all properties of 3 bedrooms or more, after 12 months of commencement.

Extending Flexible (fixed-term) Tenancies

The Housing Portfolio Holder had held informal discussions with Cabinet Members on the 12 month review. As a result, the Portfolio Holder made a formal decision that he was minded that Flexible (fixed-term) Tenancies should continue for a fixed term

of ten years, but that the Council's Tenancy Policy should be amended with Flexible (fixed-term) Tenancies being extended to include all Council re-let properties, except sheltered accommodation.

It was noted that if Flexible (fixed-term) Tenancies were extended to include all properties, this may discourage some tenants from transferring or down sizing accommodation as they would have to enter into a new Flexible (fixed-term) Tenancy and would no longer have a Secure (Lifetime) Tenancy. Therefore, it was suggested that, in addition to Pre-Localism Act tenant protection, whereby they were granted Secure (Lifetime) Tenancies for one move only when transferring, all existing Post-Act Secure (Lifetime) Tenants should also be protected in the same way.

Following discussion on this particular issue by the Panel there was mixed feeling regarding the effects of extending flexible tenancies, the Chairman was concerned about the need to preserve mixed social housing with different income groups living next to each other. However the Panel supported extending flexible tenancies.

Means Testing tenants as part of the Assessment Criteria

Under the review of the Housing Allocations Scheme, officers were recommending that where any lead applicant/s whose gross annual household income exceeded £76,000 they would not qualify to join the Council's Housing Register.

It was recommended that for consistency, there should be an additional requirement under the Assessment Criteria which determined whether at the end of the fixed-term, if a further tenancy should be granted. The additional requirement would be that, generally, a further tenancy would not be granted if the tenant/s annual household income exceeded any financial criteria adopted for admission to the Housing Register (currently proposed at £76,000) at that time. The Panel supported this recommendation.

RECOMMENDED:

- (1) That the 12 month Review of the Tenancy Policy be recommended to the Cabinet for approval with the following amendments:
- (a) That the Council's Tenancy Policy be amended with Flexible (fixed-term) Tenancies being extended to include all re-let Council properties;
- (b) That the Assessment Criteria used to determine whether or not a further flexible tenancy should be granted at the end of the fixed term included:
- (c) That following the agreed amendments being incorporated, a consultation exercise be undertaken with the Tenants and Leaseholders Federation, Registered Social Landlords operating in the District, Local Councils and partner agencies with an interest in the policy:
- (d) That following the consultation exercise, the Housing Scrutiny Panel submit a report on the amendments to the Cabinet for consideration; and

(e) That the revised Tenancy Policy comes into force on the same date as the revised Housing Allocations Scheme.

30. HOME OPTION CHOICE BASED LETTINGS SCHEME - PROGRESS REPORT

The Panel received a progress report regarding the HomeOption Choice Based Lettings Scheme from the Assistant Director (Housing Operations).

The Choice Based Lettings Scheme introduced in November 2007 was administered externally by Locata Housing Services (LHS). Under the scheme, all vacant social rented properties were advertised to applicants on the website and a two weekly Property List giving details of location, type, rent, service charge, council tax band and landlord of the available accommodation. Applicants applying for a property by expressing an interest in up to a maximum of three properties for which they had an assessed need.

At the end of the two weekly cycle, the Council analysed the expressions of interest received and allocated each property following a process in accordance with its own Housing Allocations Scheme. Generally, the property was offered to the applicant in the highest band, who was registered the longest and had expressed an interest for the specific vacancy. The results on properties advertised was published on the Council's website which helped applicants see how long the successful applicant had been waiting and gave greater transparency in the allocation of accommodation.

Between 1 September 2013 and 31 August 2014 345 properties had been allocated to homeseekers on the Housing Register. A further 49 properties were allocated direct to homeless applicants and an additional 11 to applicants leaving supported housing.

Some of the 345 properties allocated from the Housing Register had been advertised on more than one occasion, as they were difficult to let, this had resulted in 427 advertisements being placed on the website and in the Property Lists. With 24,307 expressions of interest being made, this was an average of around 70 expressions of interest from homeseekers each time a property was advertised. Most properties attracted in excess of 200 expressions of interest. Almost 97% of homeseekers expressed an interest in properties over the Internet.

Around 71% of all applicants registered on the Housing Register had participated in the scheme during the last year.

Housing Register Activity Report

The Housing Register Activity Report for the same period showed the number of lets and number of homeseekers in each of the three priority bands. It should be noted that there were 82 (23%) properties refused during the period.

As a result of the introduction of the Local Eligibility Criteria under the current Housing Allocations Scheme, the numbers of homeseekers on the Housing Register on 1 September 2013 had substantially reduced. As at 31 August 2014 there were 1,563 homeseekers on the Housing Register compared to 6,219 in June 2011. Under the revised scheme, a new Supplementary Waiting List was created enabling applicants over 60 years of age who had not met the residency criteria, or had a housing need, to bid on properties in sheltered accommodation. As at 31 August 2014 there were 210 applicants on this list.

Support currently Provided to Vulnerable Applicants

The Housing Allocations Team within the Housing Options Section offered a great deal of support to vulnerable applicants including the following:

- (1) A list of all vulnerable applicants was maintained.
- (2) The Relocation Support Officer provided assistance to vulnerable people to join the Housing Register.
- (3) Scheme Managers were given lists of older tenants they visited who were on the Housing Register. When visiting, they ensured the residents understood how to participate in the Choice Based Lettings Scheme.
- (4) New applicants joining the Housing Register were given an Information Pack which gave details of the scheme and how assistance could be obtained.
- (5) Articles had been included in "Housing News" on the scheme explaining that applicants could seek assistance from staff.
- (6) A letter was sent to all those not participating in the scheme for more than 6 months asking if they wished to remain on the Housing Register and if they required any assistance in the scheme.
- (7) Access to the scheme was provided electronically by way of a kiosk and a computer terminal currently provided in receptions at the Civic Offices, Area Housing Office(South) at The Broadway, Loughton and at the Limes Centre, Chiqwell.
- (8) Staff were able to refer applicants to Essex County Council's floating support provider, Family Mosaic, for assistance with a range of housing related support matters.

The Panel supported the progress made with the scheme.

RESOLVED:

That the progress made with the HomeOption Choice Based Lettings Scheme for the period 1 September 2013 to 31 August 2014 be noted.

31. ANNUAL REVIEW OF PROTECTED CHARACTERISTICS - HOUSING APPLICANTS AND LETTINGS

The Panel received a report regarding the Annual Review of Protected Characteristics – Housing Applicants and Lettings from the Assistant Director (Housing Operations).

In previous years, the Panel had undertaken an annual review of the ethnicity of applicants on the Housing Register and compared this with the ethnicity of those

allocated accommodation, considering any disparities and whether there should be any resultant changes to the Housing Allocations Scheme. No such disparities had yet been identified.

Following the introduction of the Equality Act 2010 and the Public Sector Equality Duty in 2011, public bodies had to consider all individuals when carrying out their day to day work. There were nine "Protected Characteristics" which had considerations as follows:

- Age
- Disability
- Gender reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion and Belief
- Sex
- Sexual Orientation

Due to the requirements of the Act the Panel was asked to include within the annual review, a review of the Protected Characteristics of homeseekers on the Housing Register compared to those allocated accommodation. Generally, it was found that the statistics confirmed that the Protected Characteristics of homeseekers housed in Council accommodation were similar to those on the Housing Register. Therefore, it was recommended that no amendments be made to the Council's Housing Allocations Scheme.

One member of the Panel suggested that a potentially isolated group was widowers and requested that they be added to the list above. However it was noted that they were not one of the Protected Characteristics. It was agreed that housing management staff would be alert in identifying such persons and offer to signpost them to support groups.

RECOMMENDED:

That no further recommendations be made regarding amendments to the Council's Housing Allocations Scheme as there is no evidence of a significant disparity between the Protected Characteristics of applicants on the Housing Register and those allocated accommodation.

32. HOUSING SERVICE STRATEGY ON RENT ARREARS

The Panel received a report regarding the Housing Service Strategy on Rent Arrears from the Assistant Director (Housing Operations).

The concept of Housing Service Strategies was originally introduced around 15 years ago. The strategies gave more detail than the Council's main Housing Strategy on the various housing services provided. In total 16 Housing Services Strategies had been produced to date.

The strategies were produced to a common format that set out how individual housing services would be delivered. They have assisted the Housing Service in achieving the Customer Service Excellence award and had been important in

meeting the minimum requirement for housing related support funding under the conditions of the contract.

RECOMMENDED:

That the Housing Service Strategy on Rent Arrears be recommended to the Housing Portfolio Holder for adoption.

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

The Chairman advised that he would make verbal reports on Items 8 and 9 of the agenda at the next Overview and Scrutiny Committee.

34. FUTURE MEETINGS

The next meeting of the Panel was scheduled for Tuesday 20 January 2015 at 5.30p.m. in Committee Room 1.

