

Decision maker:	Director of Adults and Communities
Decision date:	Tuesday 11 December 2018
Title of report:	New nomination agreements with multiple housing providers
Report by:	Housing strategy officer

Classification

Open

Decision type

Non-key

Wards affected

(All Wards);

Purpose and summary

To approve nomination arrangements for the allocation of social and affordable rented housing ensuring that the council's statutory duties are met by the housing providers.

Approval is sought for the Nomination Agreement to serve as the standard agreement detailing how the housing associations (referred to in the Nomination Agreement as registered providers) work with the council to house nominees from the council's housing register. The standard document will be individualised for each provider to reflect the percentage of properties negotiated and minor variations in process. Providers agree to let a proportion of their vacant properties to people nominated from the housing register. The agreed percentage will not fall below the range of between 60% and 75%, with rates of 50% for small numbers of homes which are shown to be difficult to let.

Government guidance indicates that council's should have nomination agreements with each housing association working in their area, covering a range of topics including the percentage of vacant properties available to the council, the grounds for rejecting council nominees and how disputes will be resolved.

The Nominations Agreement has been drafted with regard to the guidance and input from the housing associations through the Housing Allocations Redesign project. It reflects what will happen in practice when the new arrangements are implemented.

The council will need to sign separate individualised agreements with each of the housing associations who have properties within the county. The associations have agreed the percentages of vacancies to be made available and the process to be used in respect of their association, including review arrangements.

Recommendation(s)

That:

- (a) The proposed draft Nomination Agreement at appendix 1 be approved as the standard agreement regulating the relationship between the council and the housing associations in the allocation of social housing.**

Alternative options

1. To manage nominations the council has relied on the Choice Based Lettings (CBL) system and the Housing Allocation policy to provide assurance that applicants from the council's housing register would be able to access housing association properties. This partnership is coming to an end, to be replaced new arrangements for allocating properties. The formalised arrangements detailed in the nomination agreement will provide assurance that there is a coherent and workable process to enable applicants on the council's housing register to access social housing and alleviate the potential risk that a confused system could have a significant impact on homeless households and those in housing need.

Key considerations

2. The statutory responsibility for ensuring that suitable accommodation is available for vulnerable and homeless households rests with council. The council is reliant on housing associations' support and cooperation to discharge these duties.
3. All housing authorities should operate a nominations process in accordance with the Housing Act 1996, as amended. Government guidance indicates these agreements should cover a range of topics including the percentage of vacant properties available to the council, the grounds for rejecting council nominees and how disputes will be resolved.
4. Housing associations have a duty under s.170 Housing Act 1996 to cooperate with housing authorities, where the authority requests it, to such extent as is reasonable in the circumstances in offering accommodation to people with priority under the authority's allocation scheme. Similarly s.213 provides that where a housing association has been requested by the council to assist them in discharge of their homelessness functions under Part 7, it must also cooperate to the same extent.
5. The council has relied on the Choice Based Lettings (CBL) partnership and the Housing Allocation policy as the means of nominating applicants for housing and ensuring cooperation from the housing associations to provide housing to those in need on the register.

6. Since October 2016 discussions have taken place with the housing associations to redesign the housing allocation system in Herefordshire. In April 2018 Cabinet approved new arrangements for housing allocation within Herefordshire to replace the current choice based lettings system. These new arrangements involve each association making their own provisions for managing lettings. Most of the larger associations will advertise properties independently. They will be able to receive bids directly from the public, as well as from people on the housing register. The associations will let the proportion of properties specified in the individualised nomination agreements to council register applicants. Applicants from the register will be shortlisted in compliance with the council's assessment of housing need, and applicants housed in this way will be classed as council nominees. For the remaining associations, a manual nomination process will be used. In this case the housing association will request nominations for each vacancy for which the council has nomination rights, in accordance with the proportion specified in the nomination agreement.
7. The council will operate the register in compliance with the housing allocation policy approved in April 2018. This policy includes information on the registration, the assessment of housing need and the nomination process. The council will nominate and transfer data on applicants to associations and monitor the letting of properties and performance of the system overall. The proposed nomination agreement at appendix 1 supports and complements the process outlined in the housing allocation policy.
8. In many instances, particularly with traditional as opposed to large scale voluntary transfer (LSVT) associations, the relevant council has nomination rights to 50% of relets. However, because Herefordshire Council does not own stock, the percentage agreement is higher for all the associations, irrespective of how they were established. This may vary over time. The agreement allows for regular review of how it is working. The agreements will be reviewed initially every six months with each housing association until such time as it can be shown to be working effectively in achieving its aims and objectives and thereafter at least every 2 years.
9. The agreement expects 100% nomination rights for new build properties which have been developed or acquired with council assistance and/or public funding. Nomination rights overall vary from 60% to 100%. In addition, with two providers, there is recognition that some properties have been difficult to let from the housing register and in the case of these specified properties the nomination percentage is a minimum of 50% to nominees. The overall percentages appear to be higher than has been achieved normally elsewhere in the West Midlands area.
10. Housing associations are expected to ensure that the properties available for council housing register nominees reflect the mix of the property type, stock and location that become vacant in their stock.
11. The agreement details the nomination procedure and sets out the circumstances in which a failure to nominate will be accepted and the process for rejected nominations. It links to the data sharing schedule being developed within the New Arrangements project to ensure the council has outcome data on all lettings. The schedule details the monitoring information required and the data to support the council's strategic housing function. An information sharing protocol, of which the data sharing schedule is an element, is under development.
12. Registered Providers using the manual nominations process will complete Monthly Monitoring Returns to reflect all vacancies and lettings activity. Reporting activity from the Registered Providers using the data transfer arrangements must update their systems daily to meet the data sharing schedule requirements. Initially there will be a quarterly review of

the effect of the nomination agreement to ensure that the process is working effectively and that the objectives of the agreement are achieved. In addition the Council will undertake an annual review or audit with the individual providers.

Community impact

13. The housing allocation process, which this agreement supports, contributes to the council's corporate objective to ensure that people can live safe, healthy and active lives. Social housing contributes to the economy of Herefordshire and ensuring that housing is fully and appropriately occupied enables housing associations to build more housing and contribute further to local infrastructure and employment.
14. The register currently shows around 1,300 households require social housing. It reflects housing need, including homelessness. The demand from the register indicates the need to manage social housing provision effectively, which this agreement will support.
15. The impact of the proposed changes on the council's role as corporate parent is likely to be limited. The council's intention is to meet the needs of looked after children (LAC) and care leavers through targeted and supported accommodation, by-passing the social housing allocation system. LAC and care leavers are found on the housing register and sometimes gain accommodation through the allocations system. The nomination process will have little effect on the experience of these groups.
16. There are no implications of this proposed decision for health and safety.

Equality duty

17. The council is committed to equality and diversity using the Public Sector Equality duty (Equality Act 2010) to eliminate unlawful discrimination, advance equality of opportunity and foster good relations.

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
18. An Equality Impact Assessment was carried out as part of redesign proposal and is attached at Appendix 3. This showed the need to collect better diversity data which will be supported by the monitoring arrangements detailed in the draft Nomination Agreement.
 19. Overall the changes to the arrangements for housing allocations will have some impact on people seeking social housing. This population includes some representation of people sharing each of the protected characteristics. There is no specific indication that the

changes will affect any group with protected characteristics more than people with social housing need in general. So, overall no specific negative impact is identified for people with protected characteristics.

20. Housing associations are aware of the requirements with regard to equality legislation deriving from their relationship with the council. In the allocation of social housing, providers are regarded as public bodies in their own right and so governed directly by the same duty as the council. The housing associations will participate in monitoring equality outcomes from the nomination arrangements.

Resource implications

21. There is no cost implication associated with the Nomination Agreement, as it only concerns the allocation of social rented housing. Therefore it has no bearing on individual arrangements with providers on supported accommodation.

Legal implications

22. Part 6 of the Housing Act 1996 (as amended) governs the allocation of local authority housing in England. It was substantially amended by the Homelessness Act 2002 and Localism Act 2011. Section 166A Housing Act 1996 requires councils to have an allocation scheme for determining priorities between applicants for housing which sets out the procedure to be followed when allocating housing accommodation.
23. There is no legal requirement to have a nomination agreement. However, as the Council is the strategic housing authority, despite not owning its own housing stock, the council has a number of statutory requirements to meet and manage. Given the duties under Part 6 and 7 of the Housing Act 1996 to provide housing advice and assistance, and prevention duties regarding homelessness, the council must work with all registered providers to meet these duties. Working closely with local providers is assisted by having a clear process agreed. By entering into a nomination agreement, this outlines the basis and percentage of properties that each provider agrees to make available.
24. The agreement at Appendix One provides clarity for all parties regarding respective expectations and defines the relevant nomination processes that will be undertaken. Without such an agreement in place there is no basis to challenge providers and/or to address and manage any issues.

Risk management

25. Some providers sought a very limited agreement on the basis that the organisations had worked together on strategic issues for a considerable length of time. However, the nomination agreement is the only formal document in respect of the new working arrangements and a more comprehensive document allows for the effective management of potential issues.
26. There is potential for the new arrangements for allocations to engender inconsistency, confusion and additional work unless there are appropriate formal agreements in place. A standard document mitigates this risk

Consultees

27. The nine housing associations have been consulted on the development of the Nomination Agreement and have agreed the major aspects of the document. Negotiations have also been completed on percentages of vacancies and while there are some clarifications to be added to individual agreements.
28. During consultation with the housing associations amendments were made to the standard nomination agreement, including the reduction in the number of general statements about working together. Sections which repeated parts of the housing allocation policy were replaced with references to the policy.

Appendices

29. Appendix 1 – Draft Nomination Agreement
30. Appendix 2 – Draft Data Sharing Schedule
31. Appendix 3 – EIA

Background papers

None.