

<b>Decision maker:</b>	<b>Cabinet</b>
<b>Decision date:</b>	<b>Thursday 12 April 2018</b>
<b>Title of report:</b>	<b>Revision of the Allocations Policy for Herefordshire</b>
<b>Report by:</b>	<b>Cabinet member finance, housing and corporate services</b>

## **Classification**

Open

## **Decision type**

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## **Wards affected**

All Wards

## **Purpose and summary**

To approve the revised Allocations Policy for Herefordshire.

The allocations policy for Herefordshire has been revised, in the light of the redesign of arrangements for allocation of social housing and the implementation of the Homelessness Reduction Act 2017 (HRA). The allocations process which appears elsewhere on the cabinet agenda today, determines which people in housing need should receive the social housing available locally. It is a key function within the council's role as strategic housing authority, bringing with it various statutory duties.

Under part 6 of the Housing Act 1996 (as amended) the council is obliged to operate an allocations policy, although it does not hold any stock, and to revise it from time to time. The

policy has two main functions; to indicate how national and local policy priorities will be met and to describe the practicalities of how housing allocations are organised locally.

The impact of the policy adopted in 2014 on housing register numbers and housing providers' ability to let their properties, led to a revised policy in 2016. This was intended to re-balance numbers and needs and ensure full statutory compliance. The 2016 policy has not been implemented because providers announced their intention to change the housing allocations arrangements. Those new arrangements have now been negotiated and agreed between the council and providers, for implementation by October 2018.

The allocations policy has been revised accordingly with a focus on the practical process, although some policy positions are also refined from 2016, along with requirements under the HRA. The new policy will be integral to implementing redesigned arrangements, along with new nominations agreements with providers and a recommissioned IT system, which are the subject of separate governance decisions.

## **Recommendation(s)**

**That:**

- (a) the Allocations Policy for Herefordshire at appendix 1 be approved for implementation by October 2018.**

## **Alternative options**

1. Not to revise the allocations policy, but implement the 2016 policy without amendment. This option is not recommended as it would not reflect agreed changes to operational arrangements for housing allocations and therefore would not comply with statutory requirements, generally or specifically, with regard to the new Homelessness Reduction Act 2017 (HRA).
2. Not to revise the allocations policy and continue to operate the 2014 policy. This option is not recommended as it would not allow the council to comply with allocations law, nor the HRA. Neither would it address some unmet housing need and increasing incidence of hard to let properties, which have arisen from the 2014 policy.

## **Key considerations**

3. The allocations policy for Herefordshire is one of a suite of statutory housing documents which the council, as strategic housing authority, is obliged to publish and revise from time to time. The policy sets out how social housing is to be allocated to local people in relation to housing need. Its shape and content is the subject of extensive statutory guidance which, along with its combined purpose, tends to make the policy a fairly complex document. The allocations policy sets out how national policy priorities are to be addressed locally, including provision for local connection and the five "reasonable preference" categories. It also identifies any supplementary local priorities and how they will be implemented, so as not to dilute or undermine the reasonable preference categories. Finally, the policy expresses in some detail the practical arrangements for managing social housing allocations in Herefordshire.
4. Social housing need is reflected primarily through numbers on the housing register and these currently total around 1,200 in Herefordshire. There is a complex inter-relationship

between housing register numbers and the allocations policy itself. The register does not currently encompass all groups of people with significant housing need, including those living in concealed families and also needs to be reviewed and updated to ensure that all those registered are actively seeking housing. The housing register is focused on general needs housing and so does not include particular groups of vulnerable people needing supported housing.

5. Likelihood of gaining social housing under the allocations policy arises in part from a combination of:
  - Alignment of housing needs with reasonable preference categories or local priorities
  - Local connection
  - Time, which is linked to urgency of housing need and time spent on the housing register.
6. The scope of allocations policies has diversified and become more precisely specified since the late 1990s, as statutory guidance has increased. Currently, the policy must focus on the five reasonable preference categories or national priorities:
  - Addressing homelessness, as defined under Part 7 of the Housing Act 1996
  - Addressing homelessness where a duty is owed to a household under other specific sections of the Housing Act 1996 or the Housing Act 1985
  - People living in overcrowded, insanitary or otherwise unsatisfactory housing conditions
  - People who need to move for specific medical or welfare reasons, including additional consideration for people fleeing domestic abuse.
  - People needing to live in a particular locality in order to take up employment, education, health or other services in order to avoid hardship.
7. The policy also identifies a number of local priorities which must not dilute the focus on reasonable preference categories:
  - Supporting sustainable communities in rural locations by the provision of housing for local residents through Section 106 agreements
  - Vacating housing where adaptations or facilities are not needed or utilised
  - Affordability for people with low incomes
  - Safeguarding.
8. The diverse scope of the allocations policy means that it will require revision if there are significant changes in national policy, local priorities or operational arrangements for allocations. In 2013, the council adopted a new policy designed to remove from the housing register significant numbers of people with low priority banding and little prospect of gaining a social housing tenancy. Its implementation in 2014 led to an unanticipated significant fall in numbers from over 5,000 to around 560. Although there has since been an incremental increase in numbers registered, there remains a concern that groups of people with tangible housing need are excluded from social housing and cannot be identified. The impact of the 2014 policy attracted considerable challenge from housing developers and providers for different reasons, but the growing incidence of hard to let properties was a particular concern.
9. In 2016, Cabinet approved a revised policy to address wide ranging concerns, re-balance numbers in relation to housing need and ensure statutory compliance. The revised policy was due for implementation in October 2016, but this did not progress once housing providers announced their intention to change operational arrangements for allocating social housing. This involved moving away from the current Home Point lettings system

and any single integrated allocations arrangement and so would require yet further major revision of the policy. The negotiations between the council and providers over future operational arrangements proved to be very protracted and only reached a consensus about the proposed redesign in November 2017. The allocations policy has now been revised again to reflect the new operational arrangements to take effect by October 2018.

10. The redesigned operating arrangements for allocations are subject to a separate decision for Cabinet. They do not involve a single integrated process and the council will no longer manage most of the arrangements. The council's role will be focused upon managing and maintaining the housing register, nominations to providers in different forms and monitoring allocations arrangements overall. Providers will advertise their own properties independently and manage the bidding and lettings process. For the great majority of housing stock, the data from the register and all its applicants will be transferred automatically to a website shared by three providers. This will enable housing register applicants to bid directly for properties alongside the wider public. Other providers will take manual nominations from the council when properties are available.
11. There will be nominations agreements with each provider detailing the proportion of properties which may need to be let to people on the housing register. The council is procuring a new IT system to support the new arrangements, into which the revised allocations policy will be embedded. A procurement process was approved by cabinet member in January 2018.
12. The revisions made in the proposed policy reflect the approach of the policy approved in 2016, but not implemented. All the policy changes adopted then will remain, with limited amendments. There are also some new policy changes, along with amendments to reflect statutory requirements under the Homelessness Reduction Act 2017. The main policy changes include;  
A move away from prioritising threat of homelessness and a return to the focus on people who are actually homeless and the statutorily defined homelessness criteria
  - A relaxation of limitations on capital assets for older people seeking sheltered housing
  - Detailed changes around overcrowding and sharing of accommodation to increase the number of people in concealed families with priority need on the register.
  - A tightening of local connection requirements to align with national policy, including a two year residential requirement
  - Introduction of an exclusion from the housing register for unacceptable behaviour and/or housing debt to promote alignment with provider's own exclusion policies
  - Extension of waiver of local connection for military personnel to ex-partners and ex-spouses
  - Broader application of reasonable preference categories to disabled people and those with mental health needs
  - More detailed banding criteria to reflect up to date statutory requirements around reasonable preferences and homelessness
  - Additional responses to further protect people fleeing from domestic abuse.
13. The benefits of the proposed changes to the policy include greater and more transparent fairness and a broader focus on the diversity of local people seeking social housing and their needs. There is also an expectation that the changes will ensure that Herefordshire's allocations practice is fully compliant with national policy and statutory guidance and that risk of legal challenge around the policy is substantially reduced. Wider implications of the policy include the interdependency with the HRA and its implementation. These are

difficult to predict and it will be important to review the impact of the HRA on a six monthly basis against benchmark expectations set by implementation in Wales and English pilot areas.

14. The HRA changes and those made in 2016 to focus more directly on actual homelessness, may lead to some increased demand for temporary accommodation and this will be reviewed closely during 2018/19. Current usage of temporary accommodation is relatively low and well controlled but opportunities for expansion are under review with providers.
15. The policy revisions include the introduction of an exclusion from the housing register for up to 12 months. This is a move to addressing an established tension between allocations policies and housing providers' own policies, which are used to manage risk to tenancies and income. Some of these policies enforce exclusions for periods of five years. The council has a responsibility to ensure alignment between the allocations policy and exclusions policies but can have no direct control over what providers do in this area. The council has been working to persuade providers to invest greater flexibility and discretion into their policies to ensure fairness and consistency. There remains a minority of providers with significant stockholdings whose exclusions are not at all aligned to the council's policy. The council is committed to continuing to work with providers to improve that alignment and so reduce the risk of legal challenge.
16. One of the challenges experienced in the current housing allocation system is the limited business intelligence that it generates for both the council and providers. The new arrangements and the re-procured IT system will provide sufficient data to monitor effectively both the housing need expressed through applications to the housing register and the capability of the policy and process to address those needs. The arrangements are designed to ensure that outcomes are measured and effectiveness analysed.

## **Community impact**

17. Fair and appropriate access to social housing is central to the council's commitment to enabling residents to lead safe, healthy and independent lives as in the corporate plan. As well as being essential for local people in building their lives, social housing contributes to the local economy. The new policy will give greater priority to people with a longer term local connection to Herefordshire. Fair access to social housing also contributes to the achievement of key objectives in the health and wellbeing strategy.
18. Understanding Herefordshire, the county's joint strategic needs assessment, identifies need for social housing and records the numbers on the housing register, currently around 1,200 people. It also identifies the significant numbers of local people living in poor quality or unsafe accommodation, predominantly in owner occupied and private rented housing and increased numbers of concealed households. These are households in which multiple or extended families are living in potentially overcrowded circumstances. Increased and fairer access to social housing will reduce the impact of poor quality housing for local people.
19. The impact of the new policy on the council's role as corporate parent is likely to be limited. Through the accommodation strategy for vulnerable young people, the council's intention is to meet the needs of looked after children (LAC) and care leavers increasingly through targeted and supported accommodation, by-passing the social housing allocations system. In tandem with the accommodation strategy for vulnerable young people it is expected that care leavers and LAC will not need to rely on the homelessness

route for accessing social housing. It remains possible for care leavers and looked after children to apply to the housing register.

20. There are no particular implications for health and safety arising from the revised policy. The council holds no housing stock and housing providers have comprehensive policies, standards and procedures in relation to health and safety of their stock. Housing standards are governed by the Housing Health and Safety Rating System (HHSRS) introduced in 2004. The council has a duty to deal with hazards identified under HHSRS. This role is undertaken by the council's housing enforcement team. There are no changes to staffing or operating arrangements for council staff arising from the policy revision.

## **Equality duty**

21. 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.
22. There are various specific and detailed policy changes adopted as part of the revised allocations policy and generally these will have no particular impact on groups of people with protected characteristics. However, there are minor changes which will benefit disabled people, including ensuring that housing with major adaptations, which is not used by the present occupants, is made available to disabled people. It will also be easier for disabled people requiring to move to be able to receive care or support more effectively to gain a priority banding on the register.
  23. No negative impact of the revised policy has been identified for any groups of people with protected characteristics. However, as the council does not have its own stock, specific decisions about offering tenancies to people are made by housing providers and whilst they are bound in principle by the allocations policy, they also apply their own exclusions policies. These may conflict with the allocations policy so that someone with a high priority on the housing register may be excluded from tenancies for up to five years owing to issues relating to debt, anti-social behaviour or offending. This may affect disabled people, including those with mental health needs, or other groups of people with protected characteristics.
  24. The council is committed to working with housing providers to ensure optimum alignment between the allocations policy and providers' own policies. In relation to allocation of social housing, independent providers are likely to be regarded as public bodies for the purposes of the Equality Act 2010, with the same duties and obligations as the council. An equality impact assessment has been prepared in relation to this decision and is included at appendix 2.

## Resource implications

25. There are no specific implications for resources arising from the proposed new allocations policy. The policy helps shape how the resources of housing providers are utilised but the council has no direct control over those resources. The new policy has no direct impact on the council's staffing, which supports the allocation process. Proposed changes to the arrangements for allocating housing under the policy are the subject of a separate report, which examines the implications for resources of those changes.

## Legal implications

26. Housing authorities are required by section 166A(1) to have an allocation scheme for determining priorities and for defining procedures to be followed in allocating housing accommodation and they must allocate in accordance with the scheme. This duty applies whether or not the council holds any housing stock. All aspects of the allocation process must be covered in the scheme. Whilst the council, as the housing authority does not have its own housing stock, it must continue to have its own allocation scheme.
27. If, as part of any proposed changes to its allocation scheme, a major change of policy is proposed, the council is required to send a copy of the draft scheme, or proposed alteration, to every private registered provider of social housing and registered social landlords with whom the council holds a nomination arrangement with and afford them a reasonable opportunity to comment on the proposals.
28. Section 166A(3) of the Act imposes a mandatory requirement on councils in forming the allocation scheme to ensure that reasonable preference is given to the following categories of people:
  - a. People who are homeless
  - b. People who are owed a re-housing duty by the council
  - c. People occupying insanitary or overcrowded housing or otherwise living in unsatisfactorily housing conditions
  - d. People who need to move on medical or welfare grounds, including grounds relating to disability
  - e. People who need to move to a particular locality in the district of the council, where failure to meet that need would cause hardship.

## Risk management

29. The key risks arising from the proposed changes to the allocations policy are to be managed by the council's strategic housing service and entered on the risk register for the adults and wellbeing prevention division. The risks include:
  - Specific policy changes within the allocations policy may have the effect of increasing numbers on the register overall without any corresponding immediate increase in social housing availability, extending any effect of demand exceeding supply. The risk is not high and is likely to be mitigated by the current availability of properties which providers find difficult to let. The proposed changes to allocations arrangements, providing multiple routes for people to seek social housing, may also assist in this respect.
  - Potential conflict between the exclusion of some applicants from the housing register for up to one year and some providers' policies which may exclude people for much

longer periods. Whilst not arising directly from the new policy, this potential conflict could lead to legal challenge to the council and providers alike. The council seeks to mitigate this risk by working with providers to introduce more flexibility and discretion into some policy positions and so optimise alignment with the allocations policy.

- Possible increase in demand for temporary accommodation. This would not arise directly from the new policy but potentially from the implementation of the HRA or implementation of changes adopted in the allocations policy approved in 2016, but not so far implemented. In order to mitigate this risk, the council is reviewing current provision for temporary accommodation with its providers, with a view to increasing supply incrementally to meet any rising demand.

30. The risks arising from the recommendations in this report not being approved, include:

- Once the proposed new allocations arrangements are implemented, the allocations policy would reflect the operational arrangements for allocating social housing locally. The council would therefore be in breach of its statutory duties concerning allocations policies under Part 6 of the Housing Act 1996 and there would be potential for confusion among providers and applicants to the housing register.
- The allocations policy would reflect policy changes since the 2016 policy was adopted. This may lead to the policy being non-compliant with current statutory guidance relating to local connection, victims fleeing domestic abuse and other key issues. This could lead to poor outcomes for some families and regulatory or reputational risk to the council.

## Consultees

31. Consultation has taken place with all regular stockholding providers of social housing in Herefordshire. They have been able to review the draft policy and several meetings have been held where the potential content of the revised policy was discussed. Providers have not proposed any major changes to the proposed policy, but have offered advice on a number of specific and detailed aspects of policy and procedural content. This advice has been responded to in each case and, where appropriate, has been incorporated into the policy.
32. The adults and wellbeing scrutiny committee has determined that the proposed changes to allocations arrangements will be reviewed early in 2019 and it is likely that the committee would also review the new revised allocations policy at that time.
33. Political groups have been consulted in relation to this proposed decision. No comments or suggestions were received.

## Appendices

Appendix 1 Draft allocations policy for Herefordshire 2018

Appendix 2 Equality impact assessment

## Background papers

None