

<b>Meeting:</b>	<b>Cabinet</b>
<b>Meeting date:</b>	<b>Thursday, 27 February 2020</b>
<b>Title of report:</b>	<b>Revised Housing Allocation Scheme for Herefordshire 2020</b>
<b>Report by:</b>	<b>Cabinet member housing, regulatory services, and community safety</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 Housing Allocation Scheme for Herefordshire 2020.

Under Part VI Housing Act 1996 (as amended) the council is required to have an allocation scheme for determining priorities and providing information on all aspects of the allocation process. This is required even though Herefordshire Council does not have its own social housing stock because it does have nomination rights to a proportion of the properties owned by registered providers (RPs) in the county that become vacant and available for letting.

A housing allocation policy was approved by Cabinet in April 2018 but this has not been implemented due to issues around the required IT support which are identified below. The delay has enabled review and revision of the 2018 policy in the light of further guidance, notably in respect of the Homelessness Reduction Act 2017, and the change in procedures arising from the reversion to a choice based lettings (CBL) scheme.

The amendments to the 2018 policy include some changes to the banding criteria, improved clarity on additional preference for armed forces personnel and a band for existing tenants and general applicants. The latter band will not be assessed by the council's housing register team but will provide a means by which the Registered Providers (RP) can let the percentage of their vacant properties which are not subject to the percentages detailed in the nomination agreements with the RPs. Exclusion and reduced preference has been replaced with suspension from bidding, in the light of recent legal advice. The majority of the amendments however relate to the revision of procedures to reflect the maintenance of a choice based lettings scheme rather than the proposed data transfer and manual nomination process envisaged in the 2018 policy.

In order to support the maintenance of a choice based lettings system and to enable implementation of the revised housing allocation scheme it is necessary to upgrade the IT system procured as part of the service redesign process, in particular to have an improved advertising module with better connectivity and more features to improve the information available to prospective tenants.

## **Recommendation(s)**

**That:**

- (a) The revised Housing Allocation Scheme at Appendix 1 is approved;**
- (b) Any minor amendments to the scheme necessary to enable implementation are delegated to the Cabinet member housing, regulatory services and community safety.**

## **Alternative options**

1. Not to approve the revised allocation policy and continue to operate the 2014 policy. This option is not recommended as it would not allow the council to comply with allocation law and would not address some of the issues around unmet housing need or low demand properties.
2. Not to approve the revised allocation policy but implement the 2018 policy without amendment. This option is not recommended as it would not reflect current guidance and would not fully support the statutory requirement to provide information on all aspects of the allocation process.

## **Key considerations**

3. The allocation of social housing is governed by Part 6 Housing Act 1996 (as amended). Although the council is not a social housing stock holder, it must adopt and operate an allocation scheme.
4. As the strategic housing authority, Herefordshire Council must publish an allocation scheme which is required to set out how social housing will be allocated to local people in

housing need. It sets out how national priorities are to be addressed locally, including qualification for the register and provision for the five statutory 'reasonable preference' categories. It identifies local priorities and how they will be implemented so as not to undermine the reasonable preference categories. The scheme also details the procedure by which people can apply for social housing. The scope of an allocation scheme means that it requires revision if there are significant changes in national policy, local priorities or operational arrangements.

5. An allocation policy was approved by Cabinet in April 2018. This policy addressed issues that had arisen from the operation of the Housing Allocation Policy for Herefordshire since 2014. Notably it increased the criteria used to identify housing need. The 2018 policy was linked to the intention to change the arrangements for the allocation of social housing and it therefore detailed procedures needed to use the data transfer and manual nominations processes.
6. The Revised Housing Allocation Scheme was amended primarily due to the identification of procedural and operational limitations in the emerging IT solution and generally it reflects the approach taken in the 2018 policy excepting the procedural and operational aspects. It has however provided the opportunity to review and update the policy in the light of published guidance and local experience of implementing the Homelessness Reduction Act. It has also benefited from further legal advice in other areas of housing allocation law, including in respect of the use of suspension in place of exclusion and reduced preference. The policy recognises local priorities to encourage the best use of existing stock, maintain sustainable communities and provide routes into social housing which should support the prevention of homelessness.
7. Consequently the following elements remain from the 2018 policy:
  - Changes around overcrowding and sharing of accommodation to increase the number of people in concealed households able to access the register
  - Extension of the waiver of local connection for military personnel to ex-partners and ex-spouses
  - Broader application of the reasonable preference categories including to disabled people and those with mental health needs
  - An affordability criteria for those struggling with rent payments
  - A relaxation of limitations on capital assets for older people needing sheltered accommodation
  - More detailed banding criteria to reflect up to date statutory requirements around reasonable preference

There are revisions to the policy notably:

- The change of banding positions for prevention of homelessness cases (from band C to band B) and the relief of homelessness (from band B to band C)
- The deletion of sharing siblings from the banding criteria
- The addition of Band E for existing tenants and general applicants who do not have a housing need identified in the council's banding criteria
- Amendments to the additional preference criteria for military personnel to improve clarity
- The introduction of a suspension process for unacceptable behaviour, breaches of tenancy or other agreements, and housing related debt
- Applicants will be able to bid on two properties at any one time
- Operational arrangements

8. The wider benefits of the revised scheme are difficult to predict due to the lack of data currently available and it will therefore be crucial to review the impact of its operation. It will however enable people with a greater range of housing needs to access the register and should enable the Registered Providers (RPs) to let their properties more efficiently. It will also ensure that Herefordshire is compliant with national policy and up to date guidance, and that the risk of legal challenge is reduced.
9. There are currently about 725 households on the housing register, with an average of about 60 households joining the register each month. In the last 12 months approximately 600 properties became available for letting. The size, type and location of properties available do not necessarily match the needs of those on the register. It is not possible to estimate the additional number of households who may apply if the new criteria are implemented but it is not anticipated that the number on the council assessed register will increase to more than 2500 over time within Bands A-D.
10. From 2002 Herefordshire Council was the lead partner in the integrated countywide choice based lettings partnership known as Home Point which managed the housing register and the council's role in the allocation of social housing. The majority of RP's participated in the partnership, including all the large providers in the county.
11. In August 2016 the major providers advised the council that they intended to withdraw from the scheme to allocate their housing stock using an alternative software provider. They expressed a reduced confidence in the ability of the model to ensure their properties were let expeditiously while meeting housing need. There was also an issue about the capacity of the model to advertise adequately the increased range of tenure types being introduced by the providers and concerns about the dated look and feel of the online system. The council accepted that some of these concerns were fair and indicated a willingness to work to improve or change arrangements but the providers affirmed their intention to leave the Home Point partnership while being committed to working with the council to ensure that a new process met all party's needs.
12. After a period of negotiation a solution was devised that would have provided the council with assurance that its statutory duties in respect of the homeless and those in housing need were being met. This proposed service redesign, which was predicated on the establishment of robust data transfer arrangements between the council's IT provider and the RP's provider, was approved by Cabinet in April 2018.
13. Following a protracted procurement process, the IT contract was awarded in September 2018 and detailed development work began in December 2018. This progressed to late March 2019 at which point the housing register IT system was ready for user acceptance testing the following month. However, the data transfer arrangements had not progressed, in part due to there having been a change in personnel at the RP's IT provider. At a meeting in late March, the RP's IT provider was not able to guarantee provision of the data transfer system within the agreed timescale. More significantly it was uncertain that the company could fulfil the requirements because of the impact on the other users of their platform. This was contrary to statements made at an earlier meetings with the company at which council officers were present. The RPs confirmed that it was contrary to their earlier discussions with their IT provider.
14. Further discussion with the RPs confirmed that they did not have confidence in taking forward the data transfer proposal. It was therefore not possible to continue to work

towards the implementation of the service redesign proposals and a review of options was required.

15. Without re-working the design of the service, which had taken considerable time and effort at this point, there were limited options and it was agreed in the early summer to maintain and update the choice based lettings scheme. However, the council's procurement process had not included an advertising module and consequently it had not addressed some of the shortcomings felt by the RPs in this area.
16. Discussions therefore took place with the RPs and the council's IT provider to identify features that were required to provide an updated and improved CBL process, including the addition of an advertising module that had a more modern look and feel, providing better information to potential tenants, and to ensure that it was available on mobile devices. In addition to this discussion took place about devising arrangements that would enable existing tenants and general applicants to have a presence in the system so that they could bid for properties which are outside the proportion of properties let to applicants from the council's housing register.
17. These discussions have been concluded and it has been confirmed that the advertising process can be implemented relatively straightforwardly while meeting most of the aspirations for improvements to the functionality of the system, including improvement of the customer experience including features to aid both customers and staff. There will be better access from mobile devices. It has been confirmed that the changes to the system could be implemented in April 2020, subject to the approval of the revised housing allocation scheme in January 2020.

## **Community impact**

18. The social housing allocation process contributes to the council's priority to build communities to ensure everyone lives well and safely together. It plays a significant role in addressing the housing needs of low income people, providing them with secure, safe and affordable housing.
19. The register currently holds applications from approximately 900 households requiring social housing. This reflects housing need including homelessness and other needs relating to quality, affordability and availability of suitable housing.
20. The impact of the proposed changes on the council's role as corporate parent is likely to be limited. The council's intention, as expressed in the accommodation strategy for vulnerable young people, is that the needs of looked after children and care leavers should increasingly be met by the provision of targeted and supported housing. Nevertheless, individuals from these groups may apply through the housing register and be housed through the scheme. The proposed changes are not likely to affect the options of this group of applicants.
21. There are no direct implications for health and safety arising from these proposals which do not involve significant changes to the council's operations of public facing services directly. The housing providers, as independent organisations, have responsibility to ensure that appropriate health and safety provisions are in place for their housing stock and for the operation of their services.

## Equality duty

22. 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.
23. The various specific policy changes with the revised allocation scheme are not expected to have a particular impact on groups of people with protected characteristics. However there are minor changes which may benefit disabled people such as improving access for disabled people requiring a move to receive care of support to gain a priority banding on the register. The provision of a more modern customer housing portal designed to improve accessibility should also improve the experience for some people with the protected characteristics.
24. No negative impact of the revised scheme 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 allocation scheme, they also apply their own lettings policies, which may include exclusion criteria. This may affect disabled people, including those with mental health needs who may have a greater propensity to exclusion due to and-social behaviour or be more susceptible to falling into debt, or other groups of people with protected characteristics.
25. The upgrade of the IT software, and in particular, the customer housing portal will improve the customer experience for all applicants. The Customer Housing Portal has been designed and developed with accessibility as a primary focus, combined with the aim of providing the best possible functionality for customers. The site conforms to the Web Accessibility Guidelines.

## Resource implications

26. There are no specific implications for staffing resources arising from the proposed new allocations scheme. The scheme helps shape how the resources of the housing providers are utilised but the council has no direct control over those resources. The new scheme has no direct impact on the council's staff who support the allocation process.
27. A budget of up to £200,000 was allocated for the procurement of an IT system to develop, host, maintain and support the housing allocations system for a five year period. To date £51,214 has been spent and the project is expected to remain within the budget.
28. Discussions are taking place with the housing providers for contributions towards the cost of advertising, including any day advertising, the development of the process for Band E

applicants and ongoing maintenance and support. Any additional cost to the council, assuming a contribution in the region of 50%, can be funded from existing budgets.

## Legal implications

29. The allocation of housing by local housing authorities is regulated by Part 6 of the Housing Act 1996. Section 159(1) of the 1996 Act provides that a local housing authority must comply with the provisions of Part 6 when allocating housing accommodation. However, subject to this compliance, councils may otherwise allocate housing in any manner they consider appropriate ( section 159(7) Housing Act 1996).
30. Section 166A(1) of the 1996 Act provides that every local housing authority must have an allocation scheme for determining priorities between qualifying persons. In formulating or amending its allocation scheme, a local housing authority must have regard to its current homelessness strategy under section 1 Homelessness Act 2002. An allocation scheme may be framed to give additional preference to particular descriptions of people ( section 166A(5) Housing Act 1996). However, a local housing authority must not allocate housing accommodation except in accordance with its allocation scheme
31. As a result of changes made by the Localism Act 2011, with effect from 18 June 2012, local housing authorities have been able to decide who “qualifies” for an allocation. Accommodation can therefore only be allocated to someone who qualifies under those local criteria (secion 160ZA Housing Act 1996). Who qualifies is largely a matter for the local housing authority. The Secretary of State has power to prescribe classes of persons who are, or are not, to be treated as qualifying persons.
32. The proposed changes are in accordance with the current legal position and incorporating the changes minimises the risk of any potential legal challenge to the council.

## Risk management

33. The key risks arising from the proposed changes to the allocations policy are to be reviewed by the council’s strategic housing service on a scheduled and systematic basis. The risks include:
  - a Specific policy changes within the allocations policy is likely to have the effect of increasing numbers on the register overall without any corresponding increase in social housing availability. However, this is likely to be mitigated by the current availability of some properties which providers find difficult to let.
  - b Although the policy allows for suspension for unacceptable behaviour there is potential conflict between the inclusion on the council’s housing register and some providers’ policies which may exclude people for longer. Whilst not arising directly from the 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 their access to housing policies.
  - c Possible increase in demand for temporary accommodation. In order to mitigate this risk, the council is reviewing current provision for temporary accommodation with a view to increasing supply to meet any rising demand.

- d Possible increase in demand on the operational team due to issues and queries arising from the introduction of Band E. Although the process will direct these applicants to the housing providers, there is a risk that applicants will 'band hunt' i.e. make a series of applications to try to achieve a higher banding which would impact on the team.
- 34. The policy will be reviewed in 12 months or earlier if there are significant issues arising from it operationally.
- 35. The key risk of not implementing the proposed changes to the scheme is that the council's allocation policy does not adequately reflect the requirements of the HRA and could be viewed as being in breach of its statutory duties in respect of some potential applicants whose housing need relates to the reasonable preference categories. It could therefore be open to challenge.
- 36. The delicate agreement in place with the RPs is unlikely to be maintained if the IT solution does not support improvement in areas of the system, such as the quality of adverts that led in part to the initial decision by the larger RPs to withdraw from the Home Point partnership. This would have a detrimental effect on the working relationships and potentially adversely affect applicants on the housing register.

## **Consultees**

- 37. Consultation has taken place with the RP's with stock in Herefordshire, as required by statute. The revised draft scheme has been circulated recently in addition to the meetings held where the potential content of the revised scheme and its foundation on the 2018 policy was discussed.
- 38. Consultation with political groups has taken place with no comments received. Members will be given the opportunity to receive a demonstration/overview of the improved Home Point customer interface nearer to go-live date.

## **Appendices**

Appendix 1: Revised Housing Allocation Scheme

Appendix 2: Equality Impact Assessment

## **Background papers**

None