

Reference from Strategic Housing Panel - Draft Allocations Scheme

Item 8

**EXECUTIVE MEMBER:** Councillor Clements  
**LEAD OFFICER:** Fergus Mc Morrow  
**REPORT AUTHOR:** Laurie Priebe

**Summary and Recommendation:**

**This report describes the Council's duty to determine and publish a housing allocations scheme and presents a draft scheme for public consultation.**

**That the Executive be recommended to approve the draft scheme as the basis for public consultation.**

**1 INTRODUCTION**

- 1.1 Under the Housing Act, 1996, as amended by the Homelessness Act, 2002, every local housing authority must have a housing allocations scheme. This applies to authorities that have transferred their stock to registered social landlords as well as to those who retained it. The scheme must by law include a statement of the authority's policy on offering service users a choice of housing or the opportunity to express their preferences about housing that might be offered to them.
- 1.2 The extent of choice that an authority can deliver is constrained by supply and demand across a range of vacant home types and sizes in all settlements within the authority's district. The balance fluctuates with variations in vacancy rates, changes in the composition of waiting lists and stock additions or deletions due to house building, acquisitions, conversions, demolitions and any sales. As long as the policy is clearly stated and does not commit unlimited choice or guarantee an allocation in a preferred area, the Council will be acting lawfully in this respect.
- 1.3 The Council is statutorily obliged to consult every registered social landlord with whom we have nomination arrangements before publishing the scheme.
- 1.4 For an authority like Copeland, which transferred its housing stock in 2004, an "allocation" effectively means the nomination of someone to be an assured tenant of housing held by a Registered Social Landlord (RSL), the technical name for housing associations.

1.5 Allocations are governed by Part 6 of the Housing Act, 1996, as amended. Published schemes must include a determination of priorities between applicants and for setting out clearly the procedures to be followed in allocations. There are two essential principles that must be embedded in a published scheme. It must demonstrate the method of assessing applicants' needs and must identify those in the greatest need.

1.6 To comply with the legislation there must be procedures to cover all aspects of the allocation process. This includes the people, or descriptions of people, by whom decisions are made and how they are made. Every aspect of how the scheme is administered must be transparently described, including how an authority allows discretion in allocating priority. Where discretion is applied, service users must be clear about how it will be applied so that there is no question of inconsistent application.

## **2 Eligibility**

2.1 The Housing Act, 1996, was amended by the Homelessness Act, 2002. Since 2002 all applications must be considered under the local authority's scheme unless they are a class of people subject to immigration control, which makes them ineligible in law.

2.2 The law also provides a local authority with the power to exclude applicants who, in the local authority's opinion, are guilty of unacceptable behaviour serious enough to make them unsuitable to be a tenant, as long as at the time of the application the circumstances are such that their behaviour would make them unsuitable to be a tenant of the Council at that time. The test of unsuitability is that their behaviour should have been so unacceptable that the Council would have been entitled to an outright possession order if they had been a Council tenant.

2.3 Blanket exclusions for life for a general class of people (for example, anyone with rent arrears) are therefore unlawful. The Council has powers, however, to "downgrade" the priority of applicants on the basis of their behaviour. In effect this means that, although the Council must still give them consideration, it can withhold priority from them until the Council is satisfied that their recent behaviour is no longer unacceptable.

## **3 Reasonable and Additional Preference**

3.1 As regards priorities, allocation schemes must be framed in such a way that, overall, "reasonable preference" is given to the following applicants:

- people who are homeless generally
- people who are owed specific duties under the homelessness legislation

- people living in insanitary, overcrowded or otherwise unsatisfactory housing
- people who need to move on medical or welfare grounds, including grounds relating to disability
- people who need to move to a particular locality in the district, where failure to meet that need would cause hardship to themselves or others.

Schemes may also give "additional preference" to people in the reasonable preference categories with more urgent assessed housing needs. This often includes people who fall within two or more of the above groups or have experienced domestic violence or severe harassment.

3.2 The Act also gives authorities a power to determine priorities between people who are already in the reasonable preference categories and it suggests certain factors that may be taken into account:

- financial circumstances
- behaviour which affects suitability to be a tenant (which may lead to a lower priority)
- a local connection which exists between an applicant and the Council's area).

Local authorities can add other factors they consider to be appropriate but these must pass the test of rationality if challenged in the courts.

#### **4 Draft Allocation Scheme**

4.1 Consultant Andy Gale was commissioned to work on the production of a draft housing allocations scheme. It does not take account of the Council's "in principle" decision to support a funding bid to DCLG for a Cumbria sub-regional choice based lettings system because that is still subject to development.

#### **5 FINANCIAL AND HUMAN RESOURCES IMPLICATIONS (INCLUDING SOURCES OF FINANCE)**

5.1 There are no financial and human resource implications arising from the consultation recommended in this report.

## 6. IMPACT ON CORPORATE PLAN

6.1 This report and recommendations are in accordance with the Council's action plan following the Audit Commission's inspection report of April 2008.

**List of Appendices – None**

**List of Background Documents: Housing Act, 1996, Part 6, as amended by Homelessness Act, 2002**

**List of Consultees: All Registered Social landlords with stock in the Borough**

### **CHECKLIST FOR DEALING WITH KEY ISSUES**

Please confirm against the issue if the key issues below have been addressed. This can be by either a short narrative or quoting the paragraph number in the report in which it has been covered.

Impact on Crime and Disorder	None
Impact on Sustainability	Will promote sustainable neighbourhoods
Impact on Rural Proofing	The scheme would include rural communities
Health and Safety Implications	None
Impact on Equality and Diversity Issues	Will be accessible to disadvantaged and minority groups
Children and Young Persons Implications	None specific
Human Rights Act Implications	Is consistent with civil & human rights legislation
Monitoring Officer comments	none
S. 151 Officer comments	none

Is this a Key Decision?      No