

Birmingham City Council

Report to Cabinet

22nd March 2022



Subject: Complete Review of the Housing Allocations Policy
Report of: Julie Griffin, Managing Director City Housing
Relevant Cabinet Member: Councillor Sharon Thompson, Cabinet Member Vulnerable Children and Families
Relevant O & S Chair(s): Councillor Kate Booth, Housing and Neighbourhoods
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Are specific wards affected?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No – All wards affected
If yes, name(s) of ward(s):		
Is this a key decision?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, add Forward Plan Reference: 009534/2022		
Is the decision eligible for call-in?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, provide exempt information paragraph number or reason if confidential :		

1 Executive Summary

- 1.1 To seek approval for a revised Council Housing Allocation Policy following an independent review of the current scheme that was completed in 2021.
- 1.2 The main changes proposed in the new Policy are as follows:
- Increase the qualification criteria for a Local Connection to the City from 12 months to 2 years.
 - Disqualify all Homeowners from an allocation of Social Housing except for some minor exemptions where there is an emergency need to secure alternative accommodation such as where a homeowner is subject to a

Compulsory Purchase Order or where the homeowner is a victim of Domestic Abuse.

- Disqualify any applicant where there is clear evidence and a conclusion can be properly drawn that applicants or a member of their household have contrived an overcrowding or under-occupation situation or worsened their housing conditions.
- Award a higher priority within the scheme to households who are Homeless and owed the main Homeless duty and those threatened with homelessness who are in Temporary Accommodations.
- Award a higher priority within the scheme to households where there is a Child in Need who would be at risk if they stayed in their current accommodation.
- Award a higher priority within the scheme to all households living in a regeneration area and subject to a Compulsory Purchase Order.
- Reduce the priority of applicants living in the Private Rented Sector where the property is unfit so that they awarded the same priority as other Tenure types to ensure fairness and consistency.
- Create a new Band (Band D) for applicants who have exhausted their right to refuse an allocation of Social Rented Housing or who have failed to bid on more than three occasions when a suitable property would have been available.

- 1.3 This report provides Cabinet with a summary of the review of the Housing Allocations Policy and the responses from a twelve-week Public Consultation on the proposed new scheme.

2 Recommendations

That Cabinet:

- 2.1 Approves the adoption of the new Housing Allocations Policy which will be implemented by the Managing Director City Housing in 2022.

3 Background

- 3.1 It is a requirement under Part VI of the Housing Act 1996 as amended by the Homelessness Act 2002 and the Localism Act 2011 that all Local Housing Authorities must have and publish an Allocation Scheme and ensure that properties are allocated according to that Scheme.

- 3.2 The following persons are required in law to be given reasonable preference:

- People who are homeless
- people who are owed a duty by any local housing authority under section 190(2), 193(2) or 195(2) (or under section 65(2) or 68(2) of the Housing

Act 1985) or who are occupying accommodation secured by any such authority under section 192(3)

- People occupying insanitary or overcrowded or otherwise living in unsatisfactory housing conditions
- People who need to move on medical or welfare grounds, including any grounds relating to a disability
- People who need to move to a particular locality in the area, where failure to meet that need would cause hardship to them

3.3 It is best practice to review Housing Allocation Schemes every few years to ensure compliance with the law and good practice and to ensure that the scheme is addressing housing need effectively.

3.4 Birmingham City Council commissioned an independent review on the current Housing Allocations Policy and how social rented housing is allocated via the Birmingham Choice scheme. The review was completed during 2020/2021. The review recommended revisions be made to the current rules for allocating social rented housing, to make them fully compatible with the law and accord with nationally recognised best practice.

3.5 In Birmingham the demand for Social Housing is far greater than the number of properties that become available each year. The Policy sets out how Social Housing in the City will be allocated ensuring allocations are done;

3.5.1 In a fair and equitable manner by providing a fair and transparent system to prioritise the allocation of social housing.

3.5.2 Assisting those households in the most housing need to access affordable housing.

3.5.3 Promoting choice

3.6 Birmingham City Council retains ownership of its social housing stock and manages circa 60,000 homes. In addition Birmingham City Council has a nomination agreement with Registered Providers that hold stock in the City, which allows people who have applied to the Council for an allocation of social rented housing, to be allocated an available property from a Registered Provider.

3.7 The Housing Allocations Policy requires updating to ensure it is compliant with all relevant Legislation, Statutory Guidance, and recent case law. Consideration has also been taken of recommendations made by the Ombudsman and the outcomes of recent Judicial Review and High Court hearings.

3.8 The Housing Allocations Policy requires updating to improve clarity and simplify processes to limit the number of Ombudsman queries and Judicial Review Hearings.

4 Options considered and Recommended Proposal

- 4.1 The option of doing nothing is not feasible as this could mean that the Housing Allocations Policy is not legally compliant with legislation.
- 4.2 It is recommended that Cabinet approve the revised Housing Allocations Policy for implementation in 2022.

5 Consultation

- 5.1 The Council, when making a major change to the Housing Allocation Scheme, has an obligation to forward the proposed alterations to all Registered Providers with whom a nominations arrangement is held and allow reasonable opportunity for comment.
- 5.2 A draft version of the proposed Policy was forwarded to all Registered Providers on 15th November 2021 with an allotted timeframe of 14 days to make comment (closing date 28th November 2021) in line with legal advice.
- 5.3 5 Responses from Registered Providers were received. One confirming they had no comments to add and were happy with the proposals and the others raising some operational queries – which will be considered as part of the Scheme's procedures – an issue regarding completing affordability assessments and also highlighting an issue with the priority afforded to applicants moving on from Supported Housing (Band 2).
- 5.4 In addition to the obligation to consult with Registered Providers, when an alteration is made to a scheme reflecting a major change of policy, the Council must ensure within a reasonable time that those likely to be affected by the change are consulted with by taking such steps as the Council considers reasonable. As such a twelve-week consultation between 29th November 2021 and 20th February 2022 took place with the following:
- Stakeholders and Partner Organisations
 - Service Users
 - Residents
 - West Midlands Combined Authorities
 - Councillors
 - Birmingham Children's Trust
 - Adult Social Care
 - Employees of Birmingham City Council
- 5.5 178 responses were received from the Consultation. The key findings from the consultation were that majority of responses were positive and in agreement with the proposed policy.

- 5.6 Feedback from Birmingham Children's Trust concerned the priority awarded to a Child in Need. In response to this concern it has been proposed to increase the proposed priority from Band B to Band A.
- 5.7 For those who disagreed with the proposals the main concerns were regarding the priorities awarded for overcrowding and bedroom need. Comments suggested all applicants who are overcrowded should have the same priority. Some respondents thought that all children should have their own bedroom. Whilst these comments have been taken into consideration, the proposed priorities will remain the same to ensure the allocation of properties is done to those in the greatest housing need.
- 5.8 There was some concern regarding the proposed priority award to homeless applicants owed the Main Duty and households in Temporary Accommodation. Feedback received commented that this could lead to an increase in homeless presentations. All comments were taken into consideration; however, the proposed priorities will remain unchanged as this will assist with the Council's strategy to reduce the number of households in Bed and Breakfast accommodation.
- 5.9 The full consultation report is attached at Appendix 3.

6 Risk Management

- 6.1 The main risk would be around having a scheme that is not legally compliant with legislation. This would be managed by reviewing the Scheme at regular intervals taking consideration of any relevant case law or changes to statutory guidance.
- 6.2 There is a risk that the implementation date could not be met if the IT providers (Civica) were unable to deliver to schedule. This would be managed by effective Project Management and regular update meetings.

7 Compliance Issues:

7.1 How are the recommended decisions consistent with the City Council's priorities, plans and strategies?

7.1.1 The proposed Allocation Policy is consistent with the Birmingham Homelessness Prevention Strategy 2017 approved by Full Council on 9th February 2018 and is compliant with the Homeless Reduction Act 2017. The recommended decision supports the delivery of the following Council Priorities:

- Birmingham is an aspirational City to grow up in: We will improve the wellbeing of vulnerable children and young people.
- Birmingham is a great, clean, and green City to live in: We will have the appropriate housing to meet the needs of our citizens. We will work with our partners to tackle homelessness.

7.2 Legal Implication

- 7.2.1 There is a legal requirement placed upon the Council to give reasonable preference for housing to certain categories of households. The statutory reasonable preferences categories are set out in section 166A (3) of the Housing Act 1996 (as amended by the Localism Act 2011).
- 7.2.2 Failure to have an Allocations Scheme which is legally compliant as set out above leaves the Council subject to legal action resulting in Judicial Reviews and High Court Judgements.

7.3 Financial Implications

- 7.3.1 Financial implications arising from the adoption of the Housing Allocations Scheme relate to changes to the Housing Allocations IT systems and additional resources to effectively deliver the Policy and the additional management of the Housing Register.

- 7.3.2 An initial quote has been received from the current IT provider, Civica, to update the current IT system with the changes required to implement the Policy as follows:

- Complete System upgrade to latest version £44,000 Ex VAT
- Allocation Policy changes £47,000 Ex VAT

An extra 10% (£9,100) has been added onto the above costs for contingencies, as such a total amount of £100,100 Ex VAT, should be allocated for the IT enhancements required for this project.

- 7.3.3 The current contract with Civica has an expiration date of 31st December 2023. The annual Support & Maintenance and Hosting costs of the contract is £25,929 per annum with an annual price increase equivalent to RPI to be applied. Based on an RPI of 7.5%, which was the rate at December 2021, this would increase the annual cost for years 2022 and 2023 to £27,940. To pay the contract out if we procured an alternative system would cost circa £56,000.

- 7.3.4 The Housing Allocations policy is administered by staff within Housing Solutions and Support Services. The revised policy is not expected to require significantly more work or require any additional resources once fully implemented. However, it is considered that there will be a requirement for additional resource during the mobilisation period. There will be a requirement to bring in one Grade 5 Manager to and two Grade 4 Officer posts at the earliest opportunity to assist with the mobilisation.

- 7.3.5 The cost for additional resources based on all posts being full time and at the bottom of the relevant pay scale, would be as follows:

- Grade 5 - £46,468 (£35,745 plus on costs) for 12 months.
- Grade 4 - £36,063 (£27,741 plus on costs) for 12 months.

The total cost for all posts would be £118,594 for 12 months.

7.3.6 As the management of the Housing Register is a Housing function, all relevant costs will be met through the Housing Revenue Account.

7.4 Procurement Implications (if required)

7.4.1 There are no Procurement implications.

7.5 Human Resources Implications (if required)

7.5.1 There are no HR implications.

7.6 Public Sector Equality Duty

7.6.1 An Initial Impact Assessment has been taken to inform this decision (Appendix 2). This did not identify any adverse impacts, as such there is no requirement for a full Impact Assessment.

8 Background Documents

8.1 Birmingham City Council Housing Allocations Scheme November 2021.

8.2 Interim Consultation Report December 2021.

List of appendices accompanying this report:

8.3 Appendix 1 - Birmingham City Council Housing Allocations Scheme November 2021

Appendix 2 – Equality Impact Assessment

Appendix 3 – Consultation Report February 2022