

BIRMINGHAM CITY COUNCIL

PUBLIC

Report to: CABINET

Report of: Corporate Director of Place

Date of Decision: 17 April 2018

SUBJECT: HOUSING ALLOCATIONS SCHEME: HOMELESSNESS REDUCTION ACT AMENDMENTS

Key Decision: Yes **Relevant Forward Plan Ref:**

If not in the Forward Plan: **Chief Executive approved**
(please "X" box) **O&S Chair approved**

Relevant Cabinet Member(s) or Relevant Executive Member: **Cllr Peter Griffiths – Cabinet Member Housing and Homes**

Relevant O&S Chair: **Cllr Victoria Quinn – Housing and Homes**

Wards affected: **All**

1. Purpose of report:

- 1.1 To seek approval for a major change to the Council’s Housing Allocation Scheme arising as a result of the April 2018 enactment of the Homelessness Reduction Act 2017. The proposals extend priority within the scheme to households who are threatened with homelessness.
- 1.2 This report is not on the Forward Plan. Approval has been sought from the Chief Executive and the Chair of Housing and Homes Overview and Scrutiny Committee to consider this report at this meeting of Cabinet during the pre-election period. This is due to the risk of legal challenge arising from a lack of a policy to reflect the changes in duties towards homeless households introduced by the Homelessness Reduction Act which came into force on 3 April 2018.

2. Decision(s) recommended:

That Cabinet:

- 2.1. Approves the major changes as outlined in this report that will apply to all new housing register applications received on or after 3 April 2018.
- 2.2 Approves the retrospective effective date of 3rd April 2018 in order to align with the Homelessness Reduction Act 2017. Housing register applications pre-dating 3rd April 2018 will not be affected.

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3. Consultation:

3.1 Internal

Legal and Governance Department
Head of City Finance

3.2 External

- 3.2.1 The Council, when making a major change to the 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 comments.
- 3.2.2 The proposed change was forwarded to all Registered Providers on 8th March 2018 and 21 days were allotted for comment (closing date 3 April 2018) in line with legal advice.
- 3.2.3 Two responses from Registered Providers were received. One confirming they had no comments to add and the other raising some operational queries – which will be considered as part of the Scheme’s procedures - and also highlighting an issue with the phrasing used relating to Band 3 awards.
- 3.2.4 In addition to the obligation to consult with registered providers, the proposed change was shared with the Homelessness Partnership Board. One response of a clarification nature was received.
- 3.2.5 Changes to the proposed amendments relating to homelessness Band 3 awards have been made as a result of the consultation.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council’s policies, plans and strategies?

4.1.1 The amended Allocation Scheme is consistent with the Birmingham Homelessness Prevention Strategy 2017+ approved by Full Council on 9th January 2018 and is compliant with the Homelessness Reduction Act 2017. Taken together the recommended decision remains consistent across the four overall council priority policy themes:-

- Children – a great place to grow up in: Make the best of our diversity and create a safe and secure city for our children and young people to learn and grow.

- Housing – a great place to live in: Provide housing in a range of types and tenures to meet the housing needs of all the current and future citizens of Birmingham.
- Jobs and Skills – a great place to succeed in: Build on our assets, talents, and capacity for enterprise and innovation to shape the market and harness opportunity.
- Health – a great place to grow old in: Help people become healthier and more independent with measurable improvement in physical activity and mental wellbeing.

4.2 Financial Implications

(How will decisions be carried out within existing finances and Resources?)

- 4.2.1 The City Council has been awarded £1.76m funding from the New Burdens Fund over three years, together with a small one-off allocation of £9,000 for additional IT provision, in order to implement new duties arising from the Homelessness Reduction Act.
- 4.2.2 Financial implications arising from the proposed changes to the allocations scheme relate to changes to the housing allocations IT system and additional management of the Housing Register.
- 4.2.3 Now that the formal guidance has been published all additional costs relating to the implementation of the Act will now be assessed to determine any differences between the New Burdens Funding and planned expenditure. Additional costs will be managed as part of the approved Housing Options Service Budgets and any specific funding received that can be used for homeless prevention purposes.

4.3 Legal Implications

- 4.3.1 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). Those relating to homeless are:
- a) People who are homeless (within the meaning of Part 7 including those found to be intentionally homeless, or homeless but not in priority need)
 - b) 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).
- 4.3.2 The Homelessness Reduction Act 2017 places new duties on the Council in terms of the prevention and relief of homelessness.

4.3.3 Counsel's advice has indicated that the Allocation Scheme will need amending in order to reflect the new section 195 Prevention of Homelessness, and section 189B Relief of Homelessness duties.

4.3.4 The proposed changes to the Scheme reflect the new duties and have been reviewed and approved by external Counsel.

4.4 Public Sector Equality Duty (see separate guidance note)

4.4.1 An impact assessment (Appendix 2) has been undertaken to inform this decision. This did not identify any adverse impacts. Consequently there is no requirement for a full impact assessment.

5. Relevant background/chronology of key events:

5.1 The current Allocation Scheme was approved by Cabinet of 28th July 2014 and has been operative since 17th April 2017.

5.2 The current scheme awards a Band 2 priority to unintentionally homeless households in priority need and Band 3 if the household is non-priority or intentionally homeless.

5.3 The Homelessness Reduction Act 2017 places new homelessness prevention and relief duties on the Council. The Council is now required to award priority within its Allocation Scheme to households to whom it owes those prevention and relief duties regardless of priority need or intentionality.

5.4 The Act amends the Housing Act 1996 to omit s192.

6. Evaluation of alternative option(s):

6.1 Six options including an option of doing nothing, regarding the degree of priority awarded within the allocations scheme have all been considered (see Appendix 1: Options Appraisal) with regards to legislative compliance with the Homelessness Reduction Act 2017 alongside operational fit and strategic alignment. The proposed change (Option 1) represents the best strategic and operational fit in terms of (1) incentivising early prevention as per the Homelessness Prevention Strategy 2017+ and (2) administrative complexity for both customers and staff.

6.2 The option of doing nothing is not feasible as it would deem the existing Allocation Scheme as not being compliant with the legislative changes introduced as a result of the Homelessness Reduction Act 2017

6.3 It is proposed to amend Section 6.6.4 of the Housing Allocation Scheme as per the intentions of Option 1 (Appendix 1) as follows (Figures 1 & 2).

6.4 It should be noted that the proposed text differs from Option 1 in respect of Band 3 awards. This reflects consultation feedback (para 3.2.3).

Figure1: Existing Housing Allocation Scheme Section 6.6.4 (Extract)

<p>The following applicants will receive an initial Band 2 award:</p> <ul style="list-style-type: none">• s193(2) Housing Act 1996. Applicants accepted as being owed a full duty by the Council as eligible, homeless, in priority need and unintentionally homeless• s195(2) Housing Act 1996. Applicants accepted as being owed a full duty as being threatened with homelessness, eligible, in priority need and not intentionally threatened with homelessness. <p>The following applicants will receive an initial Band 3 award:</p> <ul style="list-style-type: none">• Applicants owed a duty for being intentionally homeless 190(2) – note the Council duty to assist remains for 28 days after which the application will be reassessed and the award may be removed.• Applicants who are homeless within the meaning of Housing Act 1996 Part 7 which are the non-priority homeless• Applicants where the Council has exercised its power to a non-priority unintentionally homeless person to accommodate under section 192(3).

Figure 2: Proposed new section 6.6.4 (Extract - replacement text shown in bold font. The final bullet point in figure 1 has been deleted as per para 5.4.)

<p>The following applicants will receive an initial Band 2 award:</p> <ul style="list-style-type: none">• Applicants who are homeless and are owed the s193(2) Main Duty when the 189B Relief Duty comes to an end because they have been assessed as being in priority need and unintentionally homeless• Applicants owed the s195 Prevention Duty, or s189B Relief Duty for as long as that duty is owed to the applicant regardless of priority or intentionality <p>The following applicants, where a s193(2) Main Duty is not owed, will receive an initial Band 3 award when the relief duty has been ended by a s184 decision:</p> <ul style="list-style-type: none">• Applicants owed a duty for being intentionally homeless 190(2) – note the Council duty to assist remains for 28 days after which the application will be reassessed and the award may be removed.• Applicants who are homeless within the meaning of Housing Act 1996 Part 7, but who are owed no housing duties, including the non-priority homeless.

7. Reasons for Decision(s):

- 7.1 To ensure that the Housing Allocation scheme remains compliant with legislation and guidance.

Signatures

Date

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Cllr Peter Griffiths
Cabinet Member for Housing and Homes

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Jacqui Kennedy
Corporate Director - Place

List of Background Documents used to compile this Report:

- 1. Birmingham Housing Allocation Scheme Document April 2017
- 2. Homelessness Reduction Act 2017 Implementation Plan – Report to Cabinet 6 March 2018

List of Appendices accompanying this Report (if any):

- 1. Appendix 1: Options Appraisal
- 2. Appendix 2: Equalities Analysis

Report Version:

Dated: 04/04/2018