

Report of Director of Environment and Housing
Report to Environment and Housing Scrutiny Board
Date: 13 October 2016
Subject: Lettings Policy Review Consultation Update

Are specific electoral Wards affected City wide	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, name(s) of Ward(s):		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In		<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: Appendix number:		

1. Summary of main issues

In February 2016, Executive Board agreed to commence consultation on the proposed changes to the current lettings framework with a view to approving a revised policy in December 2016.

The consultation commenced with two Elected Member sessions in March 2016. This has been followed by further consultation with Community Committees, local tenant and resident groups, statutory and voluntary sector partners and individual tenants and residents.

The consultation asked for feedback on the following proposals:

- The introduction of a tenant transfer policy;
- Review of the main lettings policy to mainstream some elements previously covered by local lettings policies;
- A new approach to community lettings policies to replace local lettings policies, with improved links to wider tenancy management issues.

The paper provides an update on progress with the consultation to date, and some feedback on the key themes to emerge.

2. Recommendations

Scrutiny Board is invited to note progress to date with the lettings policy review consultation.

1. Purpose of this report

- 1.1 To provide an update to Scrutiny Board on progress with the Lettings Policy Review consultation.

2. Background

- 2.1 The current lettings framework is based on the council's legal duties set out in the Housing Act 1996 of meeting housing needs as well as meeting the aspirations of tenants and residents. In order to balance the needs of households in housing need with those local communities, the council lets 75% of properties based on housing need and 25% to households who have been on the waiting list the longest with a local connection to the ward area.
- 2.2 Demand for council housing outstrips supply. The average citywide waiting time for households who were rehoused in 2015/16 was 57 weeks, across all property types and sizes.
- 2.3 Currently there are 23,922 (30/04/16) households on the housing register, approximately 25% (5,906) of customers have assessed housing needs (Band A & B) and 75% households have no identified housing need, but have expressed a preference to be rehoused by the council.
- 2.4 Around 1 in 6 of the council's 57,000 homes have a local lettings policy which gives preference to certain groups of applicants for some properties, e.g. local connection preference in some outer lying areas of the city or age restrictions intended to minimise lifestyle clashes in flats.
- 2.5 As part of the programme to harmonise former ALMO policies, Housing Leeds commenced a fundamental review of local lettings policies to ensure they are fit for purpose and consistently applied across the city. Following initial feedback from tenant and residents groups, officers, Housing Advisory Board and Scrutiny Board, the scope of the review was extended to include the main lettings policy.
- 2.6 In February 2016, Executive Board agreed to commence consultation on these proposed changes to the current lettings framework with a view to approving a revised policy in December 2016.

3. Overview of consultation

- 3.1 The consultation commenced with two Elected Member sessions in March 2016. This was followed by further consultation with Community Committees, local tenant and resident groups, statutory and voluntary sector partners and individual tenants and residents.
- 3.2 In addition to face to face consultation, we also published an online survey through the council's Talking Point portal, which was promoted through the

Leeds Homes flyer and website, Housing Leeds website, tenant newsletter and via social media.

- 3.3 The consultation focused on the overarching policy framework, and changes to individual blocks will be subject to further local consultation with tenants and residents prior to any changes being implemented.
- 3.4 The consultation asked for feedback on the following proposals:
- 3.5 **Introduction of a tenant transfer policy** to give greater preference to and reward existing council tenants who have successfully held a secure tenancy as part of our commitment to the social contract and enabling the council to make better use of its housing stock.
- 3.6 **Review of the main lettings policy** to mainstream some elements previously covered by local lettings policies – specifically:
- Use of local connection preference in outer lying areas of the city with low turnover and high demand
 - Giving preference to tenants with a good tenancy record
 - Conducting home visits to prospective applicants prior to making an offer
 - Introducing pre tenancy training for 16 and 17 year olds, and applicants who are unable to demonstrate a good tenancy record
 - Using our good neighbour criteria in areas with significant issues of anti-social and criminal behaviour
- 3.7 **New approach to community lettings policies** to replace local lettings policies, with improved links to wider tenancy management issues.

4. Progress to date

- 4.1 The consultation has now closed. Housing Leeds has held two member sessions and met with a number of groups, including VITAL, Cross City Chairs Group, Leeds Tenants Federation, VOLT, High Rise Group, Equal Access Group, Community Committees, Housing Advisory Panels and a number of staff groups.
- 4.2 **Consultation survey**
- 4.2.1 The online survey was live between April and August 2016.
- 4.2.2 Respondents who did not have access to a computer were able to complete a paper survey in the Leeds Homes Flyer which could be returned by post, or complete paper copies in One Stop Centres and sheltered schemes. In addition to the survey questions, online survey respondents were asked to provide information about themselves, including gender, age band, current tenure, disability status and current postcode.
- 4.2.3 The survey generated 719 responses, comprising of 614 online responses and 105 paper responses. Of those who answered the question on tenure:

- 286 were existing Housing Leeds tenants;
- 39 were housing association tenants;
- 114 were in private rented accommodation;
- 38 were home owners;
- 43 were living with friends or relatives, or lodging;
- 30 had no fixed address (homeless, no fixed address or care of address).

4.3 Feedback from consultation to date

- 4.3.1 From the consultation, there are a number of key themes to emerge which are summarised below:

4.4 Introduction of a tenant transfer policy

- 4.4.1 There is overwhelming support for the introduction of a tenant transfer policy. It is generally felt that the policy would be a sensible addition that would allow us to reward and incentivise good tenant behaviour, and would add flexibility to the lettings process. There is a consensus that the policy should be kept as simple as possible and clearly explained to both existing and prospective tenants so the policy is clearly understood. Some thought needs to be given to how it would work for people wanting to downsize and how we could incentivise people in 2 or 3 bedroom houses to take 1 or 2 bed flats. More detail is needed on which properties would be selected for a tenant transfer and how this would be promoted and managed.
- 4.4.2 70% of respondents were in favour of this proposal. However, there were significant differences between respondents in different housing situations. Council tenants were overwhelmingly likely to be in favour the proposal, with 90% in agreement. Other groups were less enthusiastic; 51% of housing association tenants agreed with the proposal, along with 49% of those living with friends or relatives and 46% of respondents privately renting. Homeless respondents were the only group where more respondents were against the policy than in favour, with only 40% in agreement.
- 4.4.3 Younger respondents were generally less enthusiastic about the transfer proposal, and were more likely to be in a homeless housing situation or living with friends, family or as a lodger.
- 4.4.4 In terms of what proportion of properties should be selected for a tenant transfer quota, there has been less clarity in responses. Members in particular felt that if we did have a quota, it should remain flexible, possibly with an annual review to ensure it was working as intended.
- 4.4.5 In the survey, the highest number of respondents (34%) felt that 25% was the correct level for the quota. 25% selected 'other', and many of these wanted a higher percentage of properties to be included in the quota.

- 4.4.6 There are a number of decisions to be made before final options are presented to Executive Board:
- Whether or not to introduce a tenant transfer quota;
 - What proportion of lettings should be allocated through the quota;
 - Where will tenant quota come from, i.e. reduce 75/25 housing need or from Date of Registration Quota;
 - How to prioritise allocations within the quota; through housing need, waiting time on housing register or tenancy commencement date.

4.5 Home visits and Pre-tenancy training

- 4.5.1 Again there has been strong support for introducing pre-tenancy training and/or home visits to give prospective tenants a clear message around what is expected of them in managing their tenancy and to identify certain types of property that may not be suitable for individual applicants.
- 4.5.2 81% of survey respondents agreed that prospective tenants should receive a home visit prior to an offer of a home. Of those that disagreed, there were concerns that home visits were intrusive and that problems with repairs could predate the tenancy or be outside the control of the tenant.
- 4.5.3 33% of respondents were in favour of pre-tenancy training for prospective tenants. It was felt that the training needed to be clear and consistent, and emphasise tenant responsibilities, but also be clear what Housing Leeds will offer as a landlord.
- 4.5.4 Several issues have been raised around the need to ensure that we have a flexible approach to pre-tenancy training/home visits, and that existing support needs etc should be taken into consideration particularly when undertaking the visits.
- 4.5.5 It was also felt that the timing of training/visits needed to be carefully managed to ensure that it was undertaken as close to the commencement of a tenancy as possible and to minimise any negative impact on void times.

4.6 Local Connection Policy

- 4.6.1 The response has generally been positive towards having a local connection policy across the city, although feedback has suggested that there is a limited understanding about how the policy works, where it applies and how it is implemented (definition of 'local' etc). There have been a number of suggestions that clear guidance is needed, and further training for staff.
- 4.6.2 Around two thirds of respondents (64%) were in favour of giving preference to applicants with a local connection in areas of the city with a high demand and low turnover.
- 4.6.3 Some concerns have been expressed around people without a local connection being excluded from living in certain areas of the city and restricting aspiration,

for example, where customers with a longstanding application fail to meet the strict definition, for example, having friends or other support but not immediate family. This is particularly the case where customers may be estranged from their parents or family members and rely on friends to provide support, or where a customer lives very close to the ward boundary.

4.7 Community Lettings – proposals to replace existing age restrictions

- 4.7.1 There has been a general acceptance that the current policy of relying on age has not always worked, and leaves us open to challenge. Members and some of the strategic tenants groups in particular have been supportive of a move away from age related LLPs, emphasising that we should be more intelligent around lettings rather than using age as a management tool. Strong emphasis that this should be supported by robust management is needed to reassure tenants that removing age restrictions would not increase problems, particularly within high rise blocks.
- 4.7.2 The survey showed that there was support for alternatives to age LLPs, although there were concerns expressed about removing age LLPs and the impact on communities. Respondents could express support for more than one proposal.
- 58% wanted moves for under occupiers
 - 57% wanted tenancy checks/home visits
 - 44% wanted employment related LLPs
 - 33% wanted pre tenancy training
 - 13% didn't agree with any of the changes
 - 8% wanted alternative options
- 4.7.3 There is a high level of support across the board for giving preference to under occupiers to free up a house for another family and again for the introduction of home visits/ tenancy checks and pre-tenancy training.

5. Next Steps

- 5.1 Final proposals are being drawn up for consideration by Executive Board in December 2016. These proposals include the following:

5.2 Tenant Transfer Policy

- 5.2.1 The council is still awaiting government guidance on the implementation of the Housing and Planning Act which will introduce mandatory fixed term tenancies for existing secure tenants who transfer to another property.
- 5.2.2 We are awaiting final guidance on timescales and exemptions, but expect any exemptions to be limited to under occupiers and tenants having to move due to a major regeneration scheme, which could potentially mean tenants are reluctant to move if this means losing their security of tenure.

- 5.2.3 As the Housing and Planning Act may have significant implications on the viability of a tenant transfer process, we are awaiting further details on the guidance relating to the introduction of mandatory fixed term tenancies before finalising proposals on a Tenant Transfer Policy.

5.3 Home Visits / Pre-Tenancy Training

- 5.3.1 A programme for pre-tenancy training is being developed to help support and prepare targeted applicants for living in rented accommodation before they are offered a property. The programme will include sessions on how to maintain a tenancy successfully, rent payment and budgeting, community responsibilities, how to find a home and employment. Giving preference to people who have completed pre-tenancy training gives prospective tenants the opportunity to demonstrate their commitment to taking on the responsibility of becoming a council tenant.
- 5.3.2 The pre tenancy training offer will be inclusive, with the aim of supporting prospective tenants to hold a successful tenancy rather than to exclude people from being rehoused.
- 5.3.3 We have developed a pilot programme for pre-tenancy training which will be piloted with existing and prospective tenants in the Clydes and Wortleys blocks during the Autumn. The pilot will shape the offer with a view to it being rolled out to other high rise properties initially where there are specific issues that pre-tenancy training may help address.
- 5.3.4 This will provide the opportunity to evaluate the programme further before deciding whether to implement pre tenancy training across other lettings.
- 5.3.5 Housing Leeds proposes to extend the approach of the letting of homes delivered through the PFI and Council House Growth Programme, where all customers regardless of their current tenure type have a home visit to check the conduct of their tenancy prior to being offered a home.
- 5.3.6 The home visits have worked well in the new builds where we can schedule them ahead of handover date, but for relets there would be an impact on void times. To mitigate this Housing Leeds proposes to use the most recent Annual Home Visit (AHV) for tenants. At the end of the AHV tenants would be told that should they wish to move through the transfer quota they would be 'cleared for transfer'. This would reduce the impact on resources required to implement the home visit check during the void period.
- 5.3.7 For non-council tenants, home visits would be prioritised using a risk-based approach. This would either be for the individual applicant, if issues were apparent from their housing application or previous housing history, or on the property under offer, for example in certain blocks or estates where there are particular known issues.

- 5.3.8 There is a potential conflict between the council's duty to secure accommodation for homeless customers and to give preference for allocations to applicants in assessed housing need and the home visit process. For applicants in Band C, Housing Leeds would not proceed with an offer of accommodation unless the home visit and tenancy check is successful. If an applicant in Band A or B and B fails the tenancy checks, Housing Leeds would consider the individual issues and decide the appropriate course of action. This may include referring for support, or advising on a course of action to remedy the issue, such as clearing a messy garden, arranging repairs or attending pre tenancy training. However, in certain circumstances it may mean the customer would not be offered the particular property.

5.4 Age Related Local Lettings Policies (LLPs)

- 5.4.1 Proposals are being developed on the use of age related policies. There is clear evidence that age is not a determinant of behaviour, and that other letting requirements would provide a more accurate measurement of tenancy behaviour, such as good tenancy record. Also, in some areas age related local lettings policies limit housing options to younger applicants and leave the council open to legal challenge. However, there are some blocks where age related local lettings policies have successfully managed lifestyle clashes between different age groups, and over time some flat blocks have become established communities of older residents.
- 5.4.2 At the July meeting, Scrutiny Board asked for an updated legal opinion relating to the use of age related local lettings policies. Legal has confirmed the following:
- The Equality Act 2010 prohibits discrimination against persons with certain "protected characteristics", including age, sex and disability.
 - The Act introduces the "public sector equality duty", which means that local authorities must have due regard to the need to eliminate discrimination against persons with certain protected characteristics.
 - Such discrimination is unlawful unless it is justified as a proportionate means of achieving a legitimate aim. This is the objective justification provision.
 - The common legitimate aim stated in LLPs is to avoid differences in lifestyles between older and younger residents and to reduce incidents of antisocial behaviour.
 - The legitimate aim is evidenced when developing / reviewing LLPs, through use of a standard template to consider evidence in support of the LLP, e.g. reduction in ASB or lifestyle clashes.
 - Should the Council be challenged by someone unable to obtain accommodation because of the existence of age related LLPs, the Council would need to justify that the legitimate aim of the LLP. We would also have to prove that an age related LLP is the least intrusive way of achieving the legitimate aim, which could also be dealt with under tenancy management and use of ASB remedies.

5.4.3 Taking into consideration the consultation outcomes and legal position, proposals are being developed to include the following:

- Some blocks to be categorised as retirement housing which would retain an age related focus, primarily aimed at the 55 plus age group, and would offer a range of suitable accommodation from retirement flats, a 'retirement plus' model to full sheltered accommodation, with enhanced security, communal and social activities and additional support when needed.
- Harmonisation of age related policies into 3 age bands, where there is a clearly evidenced need for an age related local lettings policy.
- Development of alternative local lettings policies for some blocks where the age related local lettings policies can't be evidenced, e.g. replacing with a requirement for a good tenancy record or pre-tenancy training, or giving priority to applicants that who are under-occupying.

5.4.4 All age related LLP properties will be looked at individually within the context of the Ward profiling information, to ensure that there is a balance of housing options available for different household types in the area. From this proposals will be drawn up to either retain the current age restriction or amend and replace with an alternative lettings criteria such as home visits, pre-tenancy training, employment, under occupation preferences and so on.

5.4.5 Any age related LLPs within Ward Based Community Lettings Plans will be reviewed as part of the Community Lettings Plan on an annual basis to ensure that local policies remain justifiable, proportionate and can be clearly evidenced.

5.5 Ward based Community Lettings Plans

5.5.1 In terms of reviewing individual local lettings policies, Housing Leeds is developing a framework for Ward based community lettings plans.

5.5.2 This will be an annual plan that captures information in terms of council stock, lettings data and housing need in an area and identifies particular pressures which inform the need for local or community lettings policies. Examples could include use of local connection preference in areas of the city with low turnover of family homes, anti-social behaviour and crime hotspots where the police and LASBT wish to support a Good Neighbour LLP, major employers in the area or good transport links which would support the use of employment preferences, large estates of family housing with high numbers of under occupying tenants which would support under occupation moves to a retirement block and so on.

5.5.3 The Ward CLPs will also identify areas of the city with high proportions of stock allocated to customers based on age, and blocks with high age bands where there is insufficient demand.

5.5.4 The framework would ensure a consistent overview across the city while remaining flexible to local issues and provide an evidence base to justify the use of LLPs. The Ward CLPs would be subject to annual review to ensure that policies remained relevant and could be amended regularly to reflect changes in housing need.

5.6 Implementation

- 5.6.1 The council is considering the impact of a major allocations case taken against Ealing Borough Council which found the council's tenant transfer policy unlawfully discriminated against particular customer groups. Prior to finalising proposals Housing Leeds will seek a legal opinion on proposals and will undertake a full equality impact assessment.
- 5.6.2 The council also needs to assess the potential impact of the Housing and Planning Act on tenants who will lose their security of tenure if they transfer to another council property. Housing Leeds will have to contact all tenants regarding Pay to Stay and undertake a review of the Tenancy Agreement to introduce fixed term tenancies and amend existing succession rights. This will need to be done in tandem with Lettings Policy implementation, and will have major resource implications.
- 5.6.3 Housing Leeds will also have to make some changes to the ICT systems and Leeds Homes website and flyer, train officers in the new procedures and ensure a comprehensive communications plan is in place to notify tenants and applicants of the lettings policy changes.
- 5.6.4 Housing Leeds will seek to implement the new lettings policy alongside the new Leeds Homes website. The current website has been in operation since Choice Based Lettings was launched in 2003. A new website is due to be delivered in early 2017 which will have greatly enhanced functionality, including the ability to include a warning message if a customer places a bid on a property which doesn't match their bedroom requirements and for customers to see their live position on the property shortlist. There is greater potential for making savings in terms of customers being able to self-serve and manage their own application rather than the council writing by post to applicants as part of the annual review of their application and reminders of when their priority award is due to expire.

6.0 Corporate Considerations

7.0 Equality and Diversity / Cohesion and Integration

- 7.1 Scrutiny Board members are asked to note the progress being made with the Lettings Policy review consultation, and as such, a decision is not being made. An Equality Impact screening assessment has been completed and the council will conduct a full equality and diversity impact assessment as part of the review to identify potential positive and negative impacts, and will develop an action plan to address any negative impacts identified. A full EIA on the final proposals will be included in the final Executive Board report in December 2016 for approval.

8.0 Council policies and Best Council Plan

- 8.1 The development of community lettings policies supports the council's ambition of being the best city in the UK, which is fair, open and welcoming to all. This links to the best council outcomes of improving the quality of life for residents, particularly those who are vulnerable or in poverty.
- 8.2 Existing local lettings policies are perceived by some existing tenants as positive in establishing stable communities, but also restrict the choice of rehousing for other customer groups.
- 8.3 The proposals will help achieve the savings and efficiencies required to continue to deliver frontline services by rewarding tenants who abide by their tenancy agreement.

9.0 Resources and value for money

- 9.1 The Council aims to ensure its housing stock is managed efficiently and best use is made of the limited resource, for example, by reducing homelessness and the associated social and financial costs such as temporary accommodation placements.
- 9.2 The Council aims to operate an efficient lettings process, to reduce the length of time properties remain empty to ensure the needs of customers in housing need are met, and to increase tenant and resident satisfaction with their homes and neighbourhoods.
- 9.3 The move to develop community lettings policies will improve lettings outcomes and reward tenants who abide by their tenancy agreement and care for their property, and reallocate resources to support proactive tenancy sustainment through home visits and pre-tenancy training.

10. Legal Implications, Access to Information and Call In

- 10.1 None at this stage. The report is an update paper and is not subject to call in.

11. Risk Management

- 11.1 The report is an update paper. A full risk assessment has been undertaken for the Lettings Policy Review.

12.0 Conclusions

- 12.1 This report highlights the progress that has been made to date with the consultation on the lettings policy review, and provides some feedback on the key messages emerging from the consultation. A full report on the outcome of the consultation and next steps will be presented to the December meeting of Executive Board for approval.

13.0 Recommendations

- 13.1 Scrutiny Board is invited to note progress to date with the lettings policy review consultation.

Background documents¹

February 2016 Executive Board paper 'Effective Housing Management and Lettings Framework.'

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.