



Report of the Director of Environment and Neighbourhoods

Executive Board

Date: 19th May 2010

Subject: The Review of the Council's Lettings Policy

Electoral Wards Affected: All
<input type="checkbox"/> Ward Members consulted (referred to in report)

Specific Implications For:
Equality and Diversity <input type="checkbox"/>
Community Cohesion <input type="checkbox"/>
Narrowing the Gap <input type="checkbox"/>

Eligible for call In

Not eligible for call in
(details contained in the report)

Executive Summary

This report updates the Executive Board on the progress made in the review of the lettings policy following on from the report in July 2009. This report also sets out procedural changes to be introduced in relation to housing management issues.

The main policy change relating to the letting policy is a proposal to set aside up to 25% of all lets for applicants who can demonstrate a local connection to a defined geographical area who can demonstrate a history of good behaviour. This change will enable applicants not in the statutory reasonable preference categories to have a greater chance of securing housing.

The report sets out a number of procedural changes to be introduced to improve checks on applicants for housing and to ensure that offers of housing are made to the appropriate applicants. Proposals are also made to change tenancy management procedures to meet best practice and to give greater assurance that tenants are resident in their properties and observing their tenancy agreement.

The report also contains a set of principles to be applied to all lettings in new affordable housing schemes and sets out the timescale for full consultation and implementation of policy changes.

1.0 Purpose of this report

1.1 The purpose of this report is to update Executive Board on

- Progress made in reviewing the lettings policy
- Progress made in improving the management of lettings and tenancies
- The development of a framework for lettings to all new affordable housing schemes
- The timetable for full consultation and implementation

2.0 Background

2.1 In April 2009 elected members held a debate in full Council to raise concerns about the current lettings policy and its management. Members expressed concerns about

- the fairness to local people of the current policy
- the management of the application stage
- tenancy management procedures
- the sustainability of new affordable housing schemes

2.2 In July 2009 a report was presented to Executive Board setting out a number of proposals to tackle the concerns members expressed at the April 2009 Council meeting. These can be summarized as

- improving the initial application stage in terms of the verification of information on the housing application form
- improving the process of making offers of council accommodation
- tackling the perception that the current lettings policy is unfair
- improving the tenancy management process, and
- developing a new framework for lettings of new affordable housing schemes.

3.0 Government Initiatives

3.1 Since the July Executive Board, the Department of Communities and Local Government (CLG) published a consultation paper on potential flexibilities to lettings guidance. This resulted in new statutory guidance called "Fair and Flexible", issued in December 2009.

3.2 The new guidance re-affirmed that Local Authorities must support those in greatest housing need by offering reasonable preference to those in housing need, such as homeless individuals or families.

3.3 The guidance went on to state that Local Authorities could offer greater flexibility in lettings by considering other issues such as waiting time, reduced preference for unsuitable behaviour, local connections, local lettings policies and quotas and targets. Leeds' policy already operates a number of these flexibilities but quotas and targets were new options.

4.0 Main issues

4.1.0 Improving the initial application stage in terms of the verification of information on the housing application form

- 4.1.1 Improvements to the housing register computer system have been introduced which have improved the accuracy and completeness of the information gathered on every applicant to the Leeds Homes Register. The enhanced system, called ArchHouse+, ensures that every membership form is entered onto the computer system consistently through the use of mandatory fields.
- 4.1.2 The new system ensures that all applicants are checked for their eligibility for council housing with respect to their immigration status and their suitability in terms of their behaviour. Staff inputting application forms are able to cross reference the application form with details held on the council's antisocial behaviour system, which records previous incidents of antisocial behaviour.
- 4.1.3 In addition, the lettings procedures have been strengthened to require the ALMOs to obtain proof of identification and current address from applicants. An improved quality assurance system has also been introduced which requires the ALMOs to undertake checks on their own processes, which will be audited by Strategic Landlord.

4.2.0 Improving the process of making offers of council accommodation

- 4.2.1 Final checks are also made prior to the offer of a tenancy, to ensure the offer is made to the correct person, and that the information they provide on their identify matches that received at registration stage. Checks are also made at the offer stage to ensure the customer is still eligible and suitable to be made an offer of council accommodation.
- 4.2.2 The additional information gained at the application stage will also enable any support needs to be identified at an earlier stage and should ensure that they can be put in place to coincide with tenancy commencement.
- 4.2.3 A by product of these additional checks at application and offer stage will be increased confidence that the person or household obtaining a council house is entitled to the let and thus reduce the opportunities for fraudulent lets.

4.3.0 Tackling the perception that the current lettings policy is unfair

- 4.3.1 The lettings policy must meet the council's legal duties to give preference to the statutory 'reasonable preference' groups. The CLG guidance reaffirms the Government's commitment to giving preference for lettings to those in the greatest housing need.
- 4.3.2 The guidance does, however, allow authorities to develop local priorities alongside the reasonable preference groups. It suggests '...in some areas this will mean giving more priority to people who have been on waiting lists for a long time or more priority for people with strong local or family connections. Elsewhere, there may be a greater need to support people in low paid work.'

- 4.3.3 Reframing the lettings policy in this way will enable the council to engage with communities in setting local priorities, which in itself will help reduce the perception amongst some customers that the lettings policy is unfair. Improved engagement with local communities is also important in explaining the shortage of lettings available compared to the number of households on the housing register.
- 4.3.4 A variety of options are suggested, in the statutory guidance, by which Local Authorities might choose to reflect local need. The lettings policy in Leeds already reflects local priorities through the use of local lettings policies which give preference for offers of certain properties to customers, for example, on the basis of their age, connection to a local housing office area or employment status.
- 4.3.5 One proposal contained in the guidance which Leeds does not currently offer is to introduce a lettings quota, whereby a certain proportion of properties would be advertised to give preference to local households with long standing housing applications and a record of good behaviour. A proportion of properties could be advertised on this basis to allow households on the housing register with long waiting times to bid for properties. Offers would be prioritised to households with the longest waiting time who had a connection to the immediate locality and could demonstrate a record of good behaviour in their current tenancy.
- 4.3.6 Local connection would be defined in terms of residence, family associations, employment or other special reason, and the locality could be defined in terms of the ward area, housing management area (ie the old neighbourhood housing office area), estates or ALMO area. Preference could be given to households from the smaller geographical area (eg estates) but opened up to NHO area if no applicants from the estate level expressed an interest in the property.
- 4.3.7 It is proposed that up to 25% of all properties are advertised in this manner. This would enable the council to demonstrate that preference is still being given to households in the reasonable preference groups for the majority of lettings, whilst at the same time offering real opportunity to those who currently have no real opportunity for securing a council home. The council would need to work closely with the ALMOs and the BITMO to determine how the 25% of properties would be selected, and to ensure as far as possible that the quota applied across all areas and property types.
- 4.3.8 While the Government is keen to allow local authorities greater freedoms, the council also has a number of corporate priorities which the lettings policy can assist in meeting, including reducing the number of households living in temporary accommodation, reducing overcrowding, improving access to suitable housing for disabled people, rehousing care leavers where the council has a corporate parent duty, and ensuring regeneration schemes are not held up by a failure to rehouse residents from clearance areas. All these priorities require a degree of preference be given to households in housing need.

4.4.0 Improving the tenancy management process

- 4.4.1 The lettings policy sets out the policy for allocation of council accommodation. The process of managing the tenancies is a housing management responsibility function currently delegated to the three ALMOs and BITMO. The Council, though, can set the standards by which it expects the ALMOs and BITMO to operate in order to

ensure that there is best practice in tenancy management. In broad terms the Council will be exploring with the ALMOs and BITMO the means by which the adherence to the tenancy agreement can become the focal point of tenancy management.

- 4.4.2 All new tenants are granted an Introductory Tenancy which runs for a year before they automatically become a secure tenant. The Council will be setting out guidelines on the management of these tenancies to ensure that there is effective monitoring during the introductory tenancy period so that actions such as extensions and possession can be considered where appropriate.
- 4.4.3 The Council will be asking the ALMOs and BITMO to ensure that all secure tenancies receive a formal tenancy visit at least once a year.
- 4.4.4 The Council is seeking to expand its Family Intervention project (FIP). The FIP allows the Council to provide intensive support to the most difficult and chaotic of families thereby reducing their negative impact upon the community within which the families live.
- 4.5.0 Developing a new framework for lettings of new affordable housing schemes**
- 4.5.1 In July 2009, Executive Board approved the development of a new framework for lettings in the new affordable housing schemes. The framework allows the flexibility to vary the local policy dependant upon the locality and the needs and aspirations of each new site.
- 4.5.2 The first local lettings plan, drawn from the framework, is for 20 new build properties managed by East North East Leeds Homes in the Gipton and Seacroft areas. This was approved in September 2009. The local plan gives preference to key workers, including those who are on training or apprenticeships, and those who are in employment who have been living in the EASEL area for twelve months or more or have close family living in the EASEL area. The local plan supports the overarching ethos of EASEL, which is to develop sustainable mixed income and mixed tenure communities.
- 4.5.3 Other plans will be developed as part of the delivery of the new sites. Each plan will be drawn up following consultation, which will include local ward members. The plans will enable those decanted from the site, people with a local connection, current tenants with an excellent tenancy history, customers in the General Needs category, as well as those in employment/ training to be considered. The next development due to be online is the Chaucer Gardens development in Pudsey, which will be managed by Accent Housing.
- 4.5.4 In addition, RSLs managing new build properties will be expected to use Starter Tenancies, the RSL equivalent of an Introductory Tenancy, for the first year of a new tenancy, to enable the RSL to monitor the tenancies intensively and take appropriate action against tenants who breach the terms of their Starter Tenancy.
- 4.5.5 The Council will enter in to nomination agreements with RSLs managing the new developments which will ensure that in the first instance the Council gets 100% nomination rights followed by 75% on subsequent lettings.

5.0 Other Initiatives

- 5.1 The Council is working closely with CLG on two major initiatives in tackling housing fraud. Firstly, the Council has been chosen to act as a pilot in the government's campaign to reduce illegal sub letting. Funding has been secured to open specialist telephone lines which residents can use to anonymously report any concerns they may have with the occupation of council houses. Secondly, the Council is participating in a government initiative to match our housing database with others within the country. The Audit Commission is overseeing this work and will publish data matches to allow further investigations to be carried out.
- 5.2 The Department is carrying out a major review in to the delivery of the service provided by the Anti Social Behaviour Unit. The review, which is being conducted across the housing sector, will consider a range of issues, including links with the Police, processes and procedures, outcomes for residents and victim support. The Director of Environment and Neighbourhoods is chairing the review project board with an Assistant Chief Constable.
- 5.3 In 2009 Leeds was selected as an overcrowding pathfinder authority by CLG. The council has been able to allocate resources to understand the extent of over crowding in Leeds and to examine the impact of the lettings policy on overcrowded households.
- 5.4 Leeds' current letting policy is more generous than the statutory definition, which dates back to 1935, but would only award Priority where the household is 2 bedrooms short. Depending on the age and gender of the children, this could mean a family living in a 1 bed property with 2 children under 16 would not be awarded any priority for overcrowding.
- 5.5 There are currently 1,839 families with dependent children that are classified as over crowded by 1 bedroom. These families receive no priority under the current policy. There are 911 families with dependent children that are classified as over crowded by 2 bedrooms. These families are allocated priority.
- 5.6 It is proposed to change the policy so that families with dependent children under the age of 16 that are 1 bedroom over crowded would receive priority and those families with dependent children under the age of 16 that are 2 bedrooms over crowded will receive priority extra.
- 5.7 A summary of all of the proposed changes, which includes those referred to in the main body of the report and other more minor changes, to the policy is attached at appendix 1.

6.0 Implications for Council policy and governance

- 6.1 In light of this report, further work is required to revise elements of the lettings policy. This will involve drafting a formal set of proposals and consulting with key stakeholders including elected members, the Leeds ALMOs and BITMO, RSLs operating in Leeds, other council sections, Leeds Tenants Federation, customers on the housing register and voluntary sector organisations.

7.0 Legal and Resource implications

- 7.1 The Council have obtained external legal advice on the proposed “up to 25” quota concerning the lettings policy from Counsel. Counsel has advised that potential challenges to allocations policies in the future will increasingly be brought on the basis of failure to comply with equality duties. The advice received however, is that in light of the new guidance and the Ahmad case, subject to a full and proper equality impact assessment (EIA) being undertaken, the policy appears to be legitimate and proportionate to the objectives of reducing band-chasing and maintaining community cohesion and balance. Without a full and proper EIA being undertaken, there is a real prospect of the lawfulness of this part of the policy being challenged, perhaps successfully.

Counsel has advised that it is likely that the policy particularly so far as the time on the waiting is concerned, will lead to significant differences between members of previously settled communities and new arrivals. However, these groups may be more likely to be awarded a priority band and be able to bid for properties on the basis of their housing need band.

Any discrimination arising from the introduction of the proposal would need to be justified in terms of the aims of the policy, namely to assist in creating balanced communities, moving from a system based entirely on rehousing customers in high housing need, and to enhance sustainability by giving preference for a proportion of lettings to local people, for example to assist young people to move or remain near their families or their employment.

The EIA would be undertaken in line with council guidance, incorporating requirements of Commission for Racial Equality’s Guidance which states that initial screening should be based on the best available data on the city population on its staff’s knowledge and experience.

- 7.2 The case of *R (on application of Ahmad) v. London Borough of Newham* was heard by the House of Lords in March 2009. The case was brought by an applicant who was living in overcrowded accommodation and who challenged the authority’s lettings policy, arguing it did not afford him sufficient preference.
- 7.3 On the facts of the House of Lords found in favour of Newham. In addition the House of Lords stated that allocation schemes may allow for a small percentage (5% was considered acceptable in this case) of lets to be made to existing social housing tenants who do not fall within any of the reasonable preference categories.
- 7.4 The facts of the case are not directly applicable to the quota proposal in Leeds, but the court stated that provided the allocation scheme complies with the requirements of section 167 and any other statutory requirements, the courts should be very slow to interfere on the ground that it is irrational.
- 7.5 The House of Lords also recognised the complexity of allocation policy and the need for local decision-making.
- 7.6 Initial discussions about the proposed changes have taken place at a series of member briefings in February and March. Prior to a new lettings policy being taken to Executive Board for approval, consultation would be undertaken with stakeholders to seek feedback on the proposed changes. This would involve

consulting further with Members, and with the Leeds ALMOs and BITMO, Registered Social Landlords, other partners and customers and tenants.

8.0. Conclusions

- 8.1 This report updates Executive Board on developments to the lettings policy and proposals for the management of tenancies since July 2009.
- 8.2 The proposed changes attempt to offer a fairer policy to applicants. They seek to improve the management of both the application and letting stage as well as offer improved tenancy management procedures.
- 8.3 The aim of the revised lettings policy is to be more flexible and combined with management changes offer all stakeholders greater confidence in the process.

9.0. Recommendations

- 9.1 The Executive Board requests that the Director of Environment and Neighbourhoods, together with the Council's Assistant Chief Executive (Corporate Governance) develop the proposals within this report into recommendations for change incorporated into a revised lettings policy and guidance.
- 9.2 The Executive Board requests an equality impact assessment is undertaken on the potential impact of the proposed letting policy changes.
- 9.3 The Executive Board requests that the proposals are consulted upon with a view to a revised lettings policy being prepared and submitted to October's Executive Board.

Background Papers

- Leeds City Council's Lettings Policy, approved October 2008
- Fair and Flexible: Statutory Guidance on Social Housing Allocations for Local Authorities in England, Communities and Local Government, December 2009

Appendix 1

1. **Quota system:** a proportion of properties (up to 25%) would be let on the basis of date of registration and a local connection to the housing office area.
2. **Penalties for refusing a property:** under the quota proposals, if a customer in General Need (Band C) refuses an offer of a property unreasonably, their date of registration would be changed to the date of their refusal. Customers in priority bands would lose their priority.
3. **Renaming the housing needs bands:** to make it easier for customers to understand their level of priority:
 - Priority Extra will become **Band A**, and Priority Extra Plus will become **Band A+**
 - Priority will become **Band B**
 - General Needs will become **Band C**
4. **Greater preference for overcrowded families:** households with dependent children who are one bedroom overcrowded according to the council's standard will be in Band B and those overcrowded by 2 bedrooms will be in Band A. Where overcrowding relates to adults in the household, the existing priority will apply.
5. **Sheltered housing criteria:** applicants for sheltered housing will qualify for certain types of sheltered properties depending on their personal circumstances.

Category 1 sheltered accommodation has emergency alarm call equipment installed but does not have a resident or visiting warden and will be for customers who are over 60 years old or have a medical recommendation.

Category 2 sheltered accommodation has alarm call equipment and a warden. Category 2 sheltered housing will be for customers who are over 60 years old or have a medical recommendation and working 15 hours or less.

In all cases, customers must have demonstrable care and support needs such as:

- age related frailty
- physical and mental health issues
- multiple health problems that mean the individual needs support
- sensory impairment
- loneliness and isolation or safety and security
- current and future ability to utilise the warden support

Rehousing other household members:

- where the spouse, civil partner or partner of an applicant who meets the above criteria is under 60 themselves, they can be rehoused with the main applicant but not as a joint tenant
- applicants with family members between 16 and 59 years old will only be considered for category 1 accommodation
- applicants with dependent children under 16 years old will not be eligible for sheltered accommodation, and will be expected to apply for family accommodation

5. Preference for houses and maisonettes to:

- (i) households with dependent children and households with a medical recommendation that can be met by adapting the property, followed by
- (ii) households made up solely of adults.

Where a household consists of a mixture of adults and children, preference will only be given where the adult members have lived with the household for a year.

- 6. Access to dependent children:** normally, the council will decide which parent or guardian is deemed to have the primary care of a dependent child, meaning that where parents are living apart only one would be considered for an offer of a house. These decisions will take into account exceptional circumstances for example a referral about specific needs from Childrens Services
- 7. Deliberately worsening circumstances:** a customer who deliberately worsens their circumstances in order to be placed in a higher band on the Leeds Homes Register (for example by leaving a tenancy in which they were adequately housed) will be placed in they band they would have qualified for, had they not worsened their circumstances. This will apply for a period of 12 months.
- 8. New direct let categories: under the new proposals there will be two new direct let reasons:**
- Hate crime: used where a customer is assessed by a Leeds Area Hate Crime Focus Group as requiring rehousing.
 - Safeguarding: used on referral from Adult Social Care or Children’s Services where a customer needs to move immediately under safeguarding procedures to protect a vulnerable adult or child in the household.
- 9. Right to review:** currently customers must request a review of a decision made about their housing application within a ‘reasonable period of time’. Under the new proposals the timescale for requesting a review will be 28 days from the date of the decision letter. The timescale for requesting a review of homeless decisions will remain at 21 days.