



## Report of the Director of Environment and Neighbourhoods

### Executive Board

Date: 13 October 2010

Subject: Environment and Neighbourhoods Lettings Policy revision

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

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

Eligible for Call In

Not Eligible for Call In  
(Details contained in the re

## EXECUTIVE SUMMARY

In May 2010 the Executive Board agreed to a consultation exercise on proposed changes to the Council's lettings policy, which sets out how council properties are let by the Leeds Arms Length Management Organisations (ALMOs) and the Belle Isle Tenant Management Organisation (BITMO).

This report sets out the results of that consultation exercise and, based upon the results of the consultation, recommends Executive Board approve a revised version of the council's lettings policy,

The main changes being proposed are summarised below:

1. Renaming the housing needs bands on the Leeds Homes Register
2. Introducing a quota to let 25% of council properties based on the customer's date of registration on the housing register, regardless of their housing need band, with a local connection to the area
3. Introducing a penalty for people who deliberately worsen their housing circumstances
4. Giving greater preference for overcrowded households with dependent children
5. Giving preference for offers of houses and maisonettes to households with dependent children and households with a medical recommendation that can be met by adapting the property
6. Amending the procedure for assessing the needs of parents with access to children
7. Introducing two new direct let categories for victims of Hate Crime and Safeguarding referrals

8. Amending the sheltered housing criteria
9. Specifying the length of time customers have to request a review of an allocations decision.

It is recommended that Executive Board approves the revised lettings policy, to be implemented from Wednesday 5 January 2011.

## **1.0 Purpose Of This Report**

- 1.1 This report outlines the options for change and provides a summary of the consultation undertaken with customers. It also considers the potential equality impacts of the changes.
- 1.2 This report seeks Executive Board approval to implement a revised lettings policy. A full copy of the proposed lettings policy is available on request from the author of this report.

## **2.0 Background Information**

- 2.1 Section 167 Housing Act 1996, as amended requires every local housing authority to 'have a scheme (their "allocation scheme") for determining priorities, and as to the procedure to be followed, in allocating housing accommodation.' This covers lettings of council tenancies made by the Leeds ALMOs and the BITMO, and nominations to Registered Social Landlords.
- 2.2 The current Leeds City Council lettings policy was approved by Executive Board in October 2008 and was implemented on 22 October 2008.
- 2.3 In December 2009, Communities and Local Government (CLG) published new statutory guidance on allocations called 'Fair and Flexible'. The guidance re-affirmed that local authorities must continue to support those in greatest housing need by offering reasonable preference to certain groups such as homeless people.
- 2.4 The guidance also states that authorities could offer greater flexibility in lettings by considering other issues such as waiting time, local connection, local lettings policies and quotas. The current lettings policy already employs a number of these flexibilities but not quotas based on waiting time.
- 2.5 This year's review follows an Executive Board report in May 2010 which considered the perception that the current policy is unfair because customers who had been on the housing register for a long time felt they had little hope of being rehoused ahead of customers in housing need. Executive Board recommended the council consult on proposals to review the policy and carry out an equality impact assessment of the proposed changes.
- 2.6 The council has consulted on the proposed lettings policy changes with the Leeds Arms Length Management Organisations (ALMOs) and the Belle Isle Tenant Management Organisation (BITMO), Registered Social Landlords which operate in Leeds, Supporting People providers, Leeds Tenants' Federation, Leeds Housing Partnership members and customers on the Leeds Homes Register.

### **3.0 Consultation**

- 3.1 An online survey was available on the council's Talking Point portal between 2 June and 31 August 2010. Customers were directed to the survey from the Leeds Homes website and flyer, as well as having the option of emailing their response or replying by post.
- 3.2 Over 2100 responses to the consultation were received. A copy of the survey questions and a summary of the responses is attached in Appendix 1.
- Online – 2133 responses
  - Written (email and postal) – 23 responses
  - Organisational – 11 responses
- 3.3 The online survey asked respondents to give information about their gender, age, first part of their postcode, disability status, type of impairment (if applicable), sexual orientation, marital status and faith or religion. A summary of this information is attached in Appendix 2.

### **4.0.0 Main Issues**

This section outlines the key proposals and explains the reason for them, summarises the results of the consultation and discusses the equality and diversity and community cohesion issues which arise from the proposals.

#### **4.1.0 Rename the Housing Need Bands**

- 4.1.1 Feedback indicates that homeless customers find the current band names 'Priority Extra', 'Priority' and 'General Needs' confusing.
- 4.1.2 There will still be three bands on the Leeds Homes Register, according to the degree of urgency of the household. The band names would change so that:
- Priority Extra will become **A**, and Priority Extra Plus will become **A+**
  - Priority will become **B**
  - General Needs will become **C**
- 4.1.3 Renaming the housing needs band will simplify the process and lead to an improved understanding of the priority bands for customers.

#### **4.2.0 Introduce a Quota System**

- 4.2.1 The change being proposed is to allow up to 25% of properties to be advertised to give preference to customers on the Leeds Homes Register with the earliest date of registration with a local connection to the area.
- 4.2.2 Under the current system offers are made to the customer in the highest priority band. In 2009/10, the 10% of customers on the housing register in priority bands received 80% of allocations. The lettings made to General Needs customers tend to be of properties in lower demand areas or type (eg sheltered accommodation, bedsits or multistory flats).

- 4.2.3 The quota would apply across all areas and property types, with the exception of adapted homes. This exception is to ensure disabled people in housing need are prioritized for offers of adapted properties ahead of other customers.
- 4.2.4 Overall, the majority of properties (75%) will still be let to give preference based on the assessed housing need of the household. The 25% quota would help improve community cohesion by increasing opportunities for customers with a local connection and with a long standing housing application to be rehoused. Customers would still need to meet the general criteria for the property, for example, in terms of bedroom size etc. By limiting the quota to 25% the council can mitigate any potentially negative impacts on cohesion, by enabling more mixed communities and to help ensure communities do not become segregated.
- 4.2.5 For properties let through the 25% quota, the customer's housing need band would not be taken into consideration, to enable customers in all bands to bid on their date of registration. Some customers may have been registered in the General Needs band for many years, but only recently been awarded a priority. The key factors would be their date of registration and connection to the local area.
- 4.2.6 The reason for the quota proposal is that many customers think the current policy is unfair, because it fails to assist long standing applicants with a need to remain in or move to a particular area. This can result in 'band chasing' whereby customers try to obtain a higher band on the register.
- 4.2.7 Every fourth property by type and area would be included in the 25% quota by the ALMOs and BITMO. The properties would be recorded and monitored on a spreadsheet to ensure that, as far as possible, a representative selection of property types and areas are included in the quota.
- 4.2.8 The policy will state that 'up to' 25% of properties will be advertised under the quota, to allow the council to suspend the quota in order respond to emergency situations (for example, widespread flooding) which require a higher proportion of lettings to be made to customers in need. This will also enable the ALMOs and BITMO to adjust the number of properties advertised through the quota from month to month depending on the types of property becoming available to let.
- 4.2.9 The response to the consultation was overwhelmingly supportive of the introduction of a date of registration quota, with 86% of respondents agreeing or strongly agreeing with the proposal. Some of the respondents who disagreed felt the current system of giving preference solely on the basis of need should be retained, whereas others felt a higher proportion of lettings should be advertised through the quota.
- 4.2.10 The quota would also take into account the customer's connection to the area. The definition of local connection would be defined in accordance with section 199 Housing Act 1996, which states that 'a person has a local connection with the district of a housing authority if he or she has a connection with it:
- i) because he or she is, or was in the past, normally resident there, and that residence was of his or her own choice; or
  - ii) because he or she is employed there; or
  - iii) because of family associations there; or
  - iv) because of any special circumstances.'
- 4.2.11 This allows a wider definition than just residence to be used, meaning other factors can be taken into consideration. Customers will be expected to provide proof of their

connection. The ALMOs and BITMO also have the discretion to waive the local connection requirement in exceptional cases, for example, where a customer was fleeing domestic violence and needed to be rehoused in an area of the city they had no previous connection with.

- 4.2.12 The consultation asked respondents which of the following areas they would prefer to be used:
- City wide
  - ALMO / BITMO area
  - Neighbourhood Housing Office area
  - Ward
  - Estate
- 4.2.13 42% of respondents preferred the city wide connection, followed by 25% who chose Neighbourhood Housing Office area. In the briefing sessions held with elected members in early 2010, the overall feedback was it would be preferable to use a smaller geographical area. For this reason, it is recommended that housing office area is used. If no-one on the shortlist has a connection with the housing office area, the ALMO / BITMO would then consider customers with a connection to Leeds. This has the following benefits:
- it allows a relatively small geographical area to be used which could promote community cohesion, eg someone with a connection to Otley would be given preference over someone with a connection to another area of Leeds
  - at the same time, a housing office area is large enough to allow a greater degree of mobility than the use of ward or estate area would
  - it allows a defined area to be identified clearly in advance, ie in accordance with the current administrative housing management areas
  - it reduces the administrative burden on ALMOs and the BITMO which would be involved in defining an estate area
- 4.2.14 The use of the local connection criteria for the 25% quota seeks to assist people who live, work or have family in the area, regardless of their level of housing need. It is anticipated this will assist people to remain in or move to an area they have a connection with, and will improve community cohesion and sustainability of an area, for example, by allowing grown up children to remain near their family. The quota system offers another route into housing and will assist people before their housing situation becomes so urgent that they warrant a priority award.
- 4.2.15 The changes have been subject to an equality and community cohesion impact assessment to identify potential impacts and actions which can be taken to mitigate adverse impacts. The date of registration quota will allow the ALMOs and the BITMO to select customers with a local connection with the earliest date of registration, which will tend to favour applications from older people. An analysis of the Leeds Homes Register shows the majority of applications (63%) have been registered in the past 2 years.
- 4.2.16 However, the potential negative impact on younger customers is mitigated by the fact the vast majority (75%) of properties will still be let according to need, and younger customers can build up registration time following a move, which will increase their chances of being rehoused in the future without needing to demonstrate they are in housing need.

- 4.2.17 Younger people with a local connection will have a better chance of remaining or moving to an area they have a connection with (eg grown up children moving close to family).
- 4.2.18 The potential impact on customers from BME backgrounds is mixed. Newly arrived migrants are less likely to have built up time on the housing register, but if eligible for council housing and in housing need, they will be able to apply for the 75% of properties advertised based on housing need. Longer standing BME communities would benefit by being able to apply for properties based on their date of registration to areas they have build up a local connection with.
- 4.2.19 Fifty choice based lettings shortlists from early 2010 were selected and re-ordered to list applications in their date order rather than according to priority. The analysis showed that the number of BME customers likely to be allocated properties through the quota was not significantly different from the priority order.
- 4.2.20 The use of choice based lettings enables customers, including those from BME backgrounds, to express their preference for the area they wish to live in, either through the date of registration quota or through the housing needs route. Research undertaken has demonstrated that choice based lettings has resulted in 'more dispersed – not more concentrated – patterns of lettings involving minority ethnic households. Consequently, CBL contributes to relieving rather than exacerbating ethnic segregation.'<sup>1</sup>
- 4.2.21 For groups such as refugees, as well as being able to apply for properties based on housing need, there will be discretion for the ALMO / BITMO to waive the local connection criteria if undue hardship would otherwise arise.
- 4.2.22 Disabled customers seeking rehousing often require specific property types to meet their individual needs. If adapted properties were let through the 25% date of registration quota, this could result in disabled people in housing need having a reduced pool of properties to bid for, and having to wait longer to secure suitable accommodation. For this reason, it is recommended that adapted properties are not included in the 25% quota.

### **4.3.0 Penalty for Customers**

- 4.3.1 The consultation considered whether to introduce a penalty for customers in General Needs (Band C) who refuse a reasonable offer of a property made under the date of registration quota. For example, a customer who registered for housing in 2007 who refused a suitable offer of a property would have their date of registration changed to the date of their refusal. Customers would have the right to request a review of the decision. This proposal would impact more on customers with earlier dates of registration. The results of the consultation indicate that the majority of respondents 58% disagreed or strongly disagreed with the proposal to introduce such a penalty.
- 4.3.2 Due to the concerns raised by customers as part of the consultation, it is recommended that this change is not introduced at this stage. It was clear from responses that customers were not aware of the relatively high rates of refusals in Leeds. It is recommended that refusals under the date of registration quota are monitored for 6 months and further consideration is given to this issue as part of an

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<sup>1</sup> Monitoring the Longer-Term Impact of Choice-based Lettings, Housing Research Summary, Communities and Local Government, 2006

ongoing council and ALMO / BITMO working group looking at refusal rates. The introduction of such a penalty would need to be subject further customer consultation.

#### **4.4.0 Tackling deliberately worsened housing circumstances**

- 4.4.1 The consultation also considered how to deal with applications from customers who deliberately worsen their housing circumstances to obtain a priority. The review proposes that customers would have their preference reduced and will be placed at the bottom of Band B along with other customers subject to reduced preference. Overcrowding resulting from the natural growth of the family (ie having children) would not be considered to be deliberately worsening circumstances, whereas the action of an adult moving to an overcrowded situation after leaving a suitable tenancy in which they were adequately housed could be. 78% of respondents agreed or strongly agreed with this proposal.
- 4.4.2 Cases will be considered on an individual basis, and full guidance will be provided to ALMO and BITMO staff. This guidance will require officers to take into account the potential impact on dependent children living in the property. This change will bring other housing awards in line with the homeless legislation relating to intentionality, where the council can consider whether the customer became homeless as a direct result of their own actions.
- 4.4.3 It is not anticipated that this clause would be used very often, and only in exceptional circumstances. In all events, customers will have the right to request a review of any decision to reduce their preference.

#### **4.5.0 Greater preference for overcrowded families**

- 4.5.1 It is proposed to increase the priority for overcrowded households. Families with dependent children who are one bedroom overcrowded according to the council's standard will be in Band B and those overcrowded by 2 or more bedrooms will be in Band A. A couple with a new born child living in a one bedroom flat would be considered to be overcrowded by 1 bedroom. Currently they would not be awarded a priority for overcrowding, but their welfare needs could warrant an award under the Additional Needs stream. The proposed change would increase consistency in awarding priority to overcrowded families. This change will not apply to overcrowded households made up solely of adults members.
- 4.5.2 68% respondents agreed or strongly agreed with increasing the priority for families living in overcrowded conditions.
- 4.5.3 This change will result in higher numbers of households being assessed in the priority bands of the housing register (Band A and Band B), estimated at approximately 200 in Band A, 1700 in Band B. In order to manage the high numbers of households, it is recommended that priority assessments for overcrowded families are implemented over a period of time. Where overcrowded households in Band A or Band B have the same date of priority award, the property will be let to the household with the longest date of registration, as per the current policy.
- 4.5.4 Customers will be awarded the relevant priority as part of a desktop assessment based on the information provided in their housing application. Customers in the most severely overcrowded circumstances (2 or more bedrooms short) would be assessed first, followed by those who are one bedroom short. They will be expected

to provide proof of the household's current composition prior to an offer of accommodation being made.

- 4.5.5 An analysis of the Leeds Homes Register indicates that overcrowded households are more likely to be from BME backgrounds compared to the proportion of BME households on the register.
- 4.5.6 The lettings policy consultation asked 'under the new proposals, households with children and disabled people needing adaptations would be offered houses ahead of other households.' 69% of respondents agreed or strongly agreed with this policy.

#### **4.6.0 Preference for offers of houses and maisonettes**

- 4.6.1 This means that preference would be given to the household with the highest priority (or for properties advertised through the quota, those with the earliest date of registration and local connection) where the household has either (i) dependent children or (ii) a disabled member whose needs would be met by adapting the property. An assessment would be made to ensure it was 'reasonable and practical' to adapt the property, in accordance with the council's Adaptations Framework.
- 4.6.2 Where a household is made up of dependent children and other adult members (eg adult children or unrelated people) the ALMO / BITMO will check how long the adult member has resided at the address. The offer would normally only be given where the adult members have lived with the household for a year, or if it was considered reasonable for them to live together.
- 4.6.3 This is to avoid cases where an adult is added to the application to increase the bedroom requirement, but subsequently fails to move in leading to under occupation. It is not intended to penalise households with extended families.
- 4.6.4 Cases will be considered individually to avoid undue hardship to households with adult members who need to move together, for example, relatives who are carers or who are supported by other family members.

#### **4.7.0 Access to children is shared**

- 4.7.1 The lettings policy consultation asked 'where by two parents, normally only the main carer would be considered for a house. The other parent could be considered for a flat with an extra bedroom.'
- 4.7.2 This means that where parents are living apart, normally only one would be considered for an offer of a house or maisonette. The parent who had shared access will be awarded an additional bedroom but would normally be expected to bid for flats. The council will take a more flexible approach in exceptional cases, for example, if a customer has specific needs and is referred for housing Children's Services. 54% of respondents agreed or strongly agreed with this proposal.
- 4.7.3 Applications to the housing register are sometimes made by a parent who has shared access to children following a relationship breakdown. For example, the children live with their mother but spend weekends with their father. A recent House of Lords case<sup>2</sup> has established that the local authority can decide which parent to treat as the main or primary carer for the purposes of rehousing.

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<sup>2</sup> Homes-Moorhouse v LB Richmond [2009] UKHL 7

4.7.4 The council will make the decision who has primary case based on the individual merits of each case and taking into account:

- receipt of child benefit;
- any court orders or agreements between parents;
- percentage of time spent caring for the children; and
- the regularity and permanence of the arrangement.

4.7.5 This policy can be seen as indirectly impacting more negatively on men who are more likely to have access to children rather than primary care. However, the policy is aiming at achieving a legitimate policy aim of making best use of limited stock. The potential negative impact is mitigated by the fact that an additional bedroom would be awarded to allow the parent with access to bid for flats, and this approach is more generous than many other authorities, where the parent sharing care would not be awarded additional bedrooms.

#### **4.8.0 New direct letting categories**

4.8.1 Two conditions are required to be met to enable offers to be made:

- In cases involving hate crime where a customer is assessed by a Leeds Area Hate Crime Focus Group as requiring urgent rehousing.
- In cases involving safeguarding issues, where a referral is made by Adult Social Care or Children's Services on behalf of a customer who needs to move immediately to protect a vulnerable adult or child in the household.

4.8.2 These changes will impact positively on customers who need urgent rehousing, and will allow offers to be made in urgent cases where it is not appropriate for the individual to seek rehousing through bidding.

#### **4.9.0 Sheltered housing**

4.9.1 The changes being proposed seek to clarify current practice. In the past, applicants for sheltered housing tended not to have dependent children or be in employment. More recently the ALMOs and BITMO have dealt with cases where the main applicant is over 60 years old but has dependent children under 16 years old where the applicant requires sheltered accommodation on the grounds of their age but are in full time employment. The traditional communal sheltered scheme is not suitable for young children.

4.9.2 Applicants for sheltered housing will qualify for certain types of sheltered properties depending on their personal circumstances. In all cases, customers' care and support needs will be assessed individually.

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 with a medical recommendation and working less than 15 hours per week.

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 (should the main applicant die, and their spouse etc does not require sheltered accommodation, they would be assisted to find alternative accommodation)
- applicants with other 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

4.9.3 The proposed changes to the sheltered housing criteria are intended to benefit customers who require the warden service. A number of customers who bid for sheltered accommodation do so because of the shortage of mainstream (non-sheltered) housing in their area of choice, who do not require the warden service, and who often sign a disclaimer to this effect once they have moved in. This can jeopardise the sheltered scheme, and prevents those in need from accessing the warden service.

#### **4.10.0 Right to request a review**

4.10.1 Customers have the right to request a review of any decision about their housing application, for example, a decision not to award any priority. Currently the lettings policy states that customers must request a review of a decision made about their housing application within a 'reasonable period of time'. The precise timescale for requesting review about allocations is not set out in legislation, although there is a statutory 21 day timescale for homeless reviews.

4.10.2 Under the new proposals the timescale for requesting a review will be 28 days from the date of the decision letter. There will still be discretion to accept review requests received after this time. The timescale for requesting a review of homeless decisions will remain at 21 days.

### **5.0 Implications For Council Policy And Governance**

5.1 The policy will contribute to corporate objectives outlined in the council Business Plan around creating communities that people want to live in and will assist with community cohesion issues. The local connection element of the quota would improve cohesion and give customers with a connection a greater opportunity of obtaining rehousing.

5.2 Giving greater preference for overcrowded households with dependent children would have a positive impact on overcrowded families and would contribute to the council's overcrowding strategy and NHS Leeds' Infant Mortality Action Plan by reducing the number of households living in overcrowded situations.

5.3 The new direct let categories for victims of Hate Crime and Safeguarding referrals is consistent with other direct let categories for people needing to move urgently as a result of domestic violence under the current Multi Agency Risk Assessment process. The new categories will help improve joint working with other agencies such as police and Adult Social Care to protect vulnerable adults

5.4 The lettings policy is monitored through a Quality Assurance Framework whereby the ALMOs and BITMO are expected to self-assure by sampling a proportion of

housing applications and lettings to ensure compliance with the policy. Leeds Homes undertakes further checks under the assurance framework and feedback the results to senior managers. The changes proposed in this review will be included in future audits.

## **6.0 Legal And Resource Implications**

- 6.1 The lettings policy must comply with the Housing Act 1996 as amended by the Homelessness Act 2002, and take account of statutory guidance issues by Communities and Local Government. The revised Lettings Policy has been checked for compliance by a representative of the Council's Legal Services Division and by counsel.
- 6.2 The introduction of the date of registration quota is likely to result in an increase in the number of households registering on the Leeds Homes Register, particularly from households who are not in housing need, if they believe they would have a better chance of being rehoused. There is also likely to be an increase in the number of households bidding for properties advertised through the quota.

## **7.0 Conclusions**

- 7.1 The proposals set out in this report will not increase the number of council properties available to let. The proposals will improve the balance between the needs of customers in assessed housing need with the needs of people with a local connection to an area who have been waiting a long time to be rehoused.
- 7.2 The introduction of a 25% quota will offer customers with the earliest registration with a local connection a better chance of being rehoused.
- 7.3 The remaining proposals seek to clarify the lettings policy and to make best use of the limited stock available. They also have wider aims such as improving the living conditions of children living in overcrowded homes by increasing the degree of priority offered.
- 7.4 The proposed changes will involve additional resources, including:
- Staff time preparing detailed procedures and briefing ALMO, BITMO and One Stop Centre staff
  - Production of materials, eg customer information leaflets, members' handbook etc
  - ICT changes, eg amendments to the Leeds Homes property flyer and website, amendments to the Orchard housing register system
- 7.5 In view of the additional resources required, to allow the ICT changes, to award overcrowding priority awards and to set up systems to allow the 25% quota to be set up in the choice based lettings module, it is recommended that the revised policy is implemented from Wednesday 5 January 2011.
- 7.6 Stakeholders will be informed of the changes, with briefing sessions being delivered to ALMO and BITMO staff who manage the lettings process on behalf of the council. Leeds Homes will also update the Members' Handbook. Customers will be notified of changes in advance of implementation through the Leeds Homes

property flyer and website. A detailed communication plan will be developed to ensure all stakeholders are informed of the new policy.

- 7.7 Following the implementation of the revised policy, the effect of changes will be monitored to inform future revision of the policy, for example, the impact of introducing the 25% quota. Future reviews will take into account any changes to legislation and government guidance.

## **8.0 Recommendations**

- 8.1 The Executive Board is asked to note the results of the consultation exercise and approve the revised Lettings Policy.
- 8.2 The Executive Board is recommended to agree to the implementation of the proposals contained in section 4 above with effect from 5<sup>th</sup> January 2011.

## **Background papers**

- Fair and Flexible: Statutory Guidance on Social Housing Allocations for Local Authorities in England, Communities and Local Government, December 2009