

Brighton & Hove City Council

Housing & New Homes Committee

Agenda Item 49

Subject: Housing Allocations Policy Review: Consultation

Date of meeting: 24 January 2024

Report of: Rachel Sharpe – Executive Director for Housing,
Neighbourhoods & Communities

Contact Officer: Name: Luke Harris, Project Manager
Email: luke.harris@brighton-hove.gov.uk

Ward(s) affected: All

For general release

1. Purpose of the report and policy context

- 1.1 In January 2023, Committee agreed for a review of the Council's Housing Allocations Policy to begin. A review of the Council's Allocations Policy is in progress and changes are proposed to the policy. This report sets out the proposed changes to the Council's Allocations Policy in Appendix 1.
- 1.2 This report provides more information and seeks approval to start consultation on the proposed changes to the Council's Allocations Policy. The consultation plan and timetable are set out in Appendix 2.

2. Recommendations

- 2.1 That Committee agrees for consultation to begin on the proposed changes to the Council's Allocations Policy (set out in Appendix 1).

3. Context and background information

- 3.1 Section 166A of the Housing Act 1996 places a duty on local authorities to have an allocation policy for determining priorities, and for defining the procedures to be followed, in allocating social housing accommodation. All allocations of social housing by the local authority must be made in accordance with a publicly published Allocations Policy. The Allocations Policy must include all aspects of the allocation process, including the people by whom decisions are taken.
- 3.2 This authority's current Allocations Policy was adopted in 2016. Minor amendments to the Allocations Policy were made in 2018 and 2023. Substantial changes to the Allocations Policy are now necessary.
- 3.3 The Homelessness Reduction Act 2017 has come into force since the Allocations Policy was last substantially updated. The Homelessness Reduction Act places duties on local authorities to take steps prevent their

residents from becoming homeless. It is proposed to consult on changing the Allocations Policy to award priority to households who have worked with the Council to prevent homelessness. Such a change would meet the objective in our Homelessness Strategy of developing our preventative work to reduce the number households experiencing homelessness and would reflect that preventing the homelessness of vulnerable households is a strategic priority.

- 3.4 Changes to the Allocations Policy will simplify processes and improve outcomes for existing council and housing association tenants in the city who need to transfer homes. The changes proposed will help to achieve the goal in the Tenancy Strategy to promote stable communities where residents can develop a stake in their neighbourhood to help our city thrive.
- 3.5 The Council's existing policy only awards priority to homeless households if they are owed the main housing duty by Brighton & Hove City Council. In July 2023, the Local Government Ombudsman noted that section 166A (3) of the Housing Act 1996 states that a reasonable level of priority must be awarded to all people who are homeless and all people who are owed a local authority homelessness duty, such as the duty to prevent a household from becoming homeless. The Local Government Ombudsman has determined that the Council needs to change its policy to reflect legal requirements. Approval of a revised policy by the Housing & New Homes Committee is needed by December 2024. The Council risks financial and reputational harm if this substantial change is not made to the Allocations Policy.
- 3.6 Section 166A (13) of the Housing Act 1996 states that, before changing an Allocations Policy reflecting a major change of policy, a local authority must send a copy of any proposed changes to every social housing provider with which they have a nomination agreement, and ensure they have a reasonable opportunity to comment on the proposed changes. In January 2023, Committee were informed that consultation on proposed changes to the Allocations Policy would go above and beyond this duty, by undertaking community engagement and consultation before making a substantial change to our Allocations Policy. The proposed policy changes for consultation are set out in Appendix 1.
- 3.7 The changes proposed in Appendix 1 are at a formative stage. An open mind is being kept about the full extent of the changes which will be made to the Allocations Policy. Accordingly, any changes sought to the Allocations Policy will be subject to change based on the feedback received if consultation is approved by Committee. If consultation is approved, permission will be sought from Committee before making any final changes to the Allocations Policy.

4. Analysis and consideration of alternative options

- 4.1 The option to keep the existing Allocations Policy the same and therefore avoid the need for consultation on any changes is **not recommended**. A

failure to begin consultation on the proposed changes considered in Appendix 1 would risk the Council failing to comply with the determination by the Local Government Ombudsman and would miss an opportunity for the Council to achieve the wider strategic objectives set out in section 3 of this report.

- 4.2 The proposals set out in the Appendix are not fixed and there may be changes in accordance with a review of the consultation results.

5. Community engagement and consultation

- 5.1 Before making a major change to our Allocations Policy, there is a statutory duty to consult every registered provider of social housing with which the Council has nomination agreements - under section 166A(13) of the Housing Act 1996. Consultation with the registered providers of social housing with which the Council has nomination agreements will use email marketing with a link to an online consultation survey. The survey on our public online consultation portal will give the option to confirm where replies are made on behalf of a registered provider of social housing. Registered providers of social housing will be emailed a copy of the changes proposed to be made to the Allocations Policy (set out in Appendix 1.) A reasonable opportunity will be given to comment on the proposed changes.
- 5.2 After making a change to our Allocations Policy, section 168(3) of the Housing Act 1996 places a duty on us to take reasonable steps to bring those changes to the attention of those likely to be affected by it. Those most likely to be affected by changes to the Allocations Policy are those applicant households who are currently qualifying persons on the Council's Housing Register.
- 5.3 There is no statutory duty to consult wider than is outlined in paragraphs 5.1 and 5.2. However, engagement with communities and stakeholders in the city will occur before changes to the Allocations Policy. Engagement will include, but not be limited to, a survey on our online consultation portal, which any member of the public can respond to. The changes proposed to the Allocations Policy will accompany the survey, to enable intelligent consideration of the proposals. All households on the Housing Register will be written to, electronically and/or by letter, asking them to respond to the survey. Community engagement groups will be held with tenants of Brighton & Hove City Council. A press release will publicise the consultation survey. All responses to the consultation will be taken into account. When formulating the policy in response to the consultation, more weight will be given to the responses of statutory stakeholders than non-statutory stakeholders.
- 5.4 The 12-week consultation period will include (but not be limited to):
- Direct communication by email and letter to applicants on the Housing Register, homeless applicants and existing council tenants.
 - Wider publicity for all interested parties, such as posters, website, links in email signatures.

- An online portal for all interested parties to respond.
- Consultation events targeted at council tenants, homeless applicants, housing register applicants and other interested stakeholders.
- Wider consultation event for all interested parties.

5.5 Events will be a combination of in-person, online, hybrid, bespoke events and presentations to existing services, groups and partnerships.

6. Conclusion

6.1 The proposed changes to the Allocations Policy set out in Appendix 1 are necessary to improve the operation of the Allocations Policy and will provide a better service for the city's residents. Consultation is required before enacting any changes. The consultation plan is outlined in Appendix 2.

6.2 Removing the queue divisions for applicants will allow applicants to bid on a larger pool of properties, increasing the choice and availability of properties to applicants. Removing the queue divisions is also necessary to reduce the likelihood of unintended indirect discrimination by simplifying the scheme.

6.3 Removing management transfers from the Housing Register banding system - except where required by law - will mean that Brighton & Hove City Council secure tenants with an urgent need to move who do not fall into the reasonable preference categories defined under Part 6 of the Housing Act 1996, will not have to complete an application form for the Housing Register. This change will enable these households to be moved internally by Tenancy Services. This will reduce the bureaucracy currently faced by this limited group of transfer applicants. An example of a household likely to benefit from this change is a sheltered housing resident who needs to move within the same block of flats.

6.4 Implementing a direct offer policy operated on a discretionary basis will allow the Council to meet the needs of applicants where choice-based lettings have not occurred or would not meet need efficiently. Direct offers can be used to sensitively meet the needs of households, such as former rough sleepers, households with health or social care needs, council tenants transferring or households who need a specialist type of housing such as disability adapted housing.

6.5 Making changes to the priority band reasons in the Allocations Policy will enable us to provide an incentive to those households who work with us to prevent their homelessness and avoid going into our temporary accommodation under a homelessness duty, while recognising that these households are vulnerable in the private rented sector.

6.6 Changing the residency criteria so that applicants must have lived in Brighton & Hove for 5 out of the last 7 years to qualify to join the housing register provide greater flexibility for applicants, as it would give them the choice to temporarily move out of the city, without being penalised for that choice. This reflects the reality that personal circumstances may mean that

applicants who are close to bidding successfully on social housing may move out of Brighton & Hove for a short while.

- 6.7 Awarding priority Band C to all households who are homeless and/or owed a local authority homelessness duty will bring the Council's Allocation Policy in line with the statutory requirements of section 166A (3) of the Housing Act 1996.
- 6.8 Agreeing for consultation to begin on the proposed changes to the Allocations Policy in Appendix 1 will enable the Council to comply with the order by the Local Government Ombudsman and to achieve the wider strategic objectives set out in section 3 of this report.

7. Financial implications

- 7.1 This report recommends that the council commences consultation on the proposed changes to the allocation policy. The costs of the consultation process will be met from the Homelessness Transformation budget for 2023/24 and 2024/25.

Name of finance officer consulted: Monica Brooks Date consulted
(19/12/23):

8. Legal implications

- 8.1 The law is set out above. There is a requirement to keep the allocations policy under review and the proposals in this report are part of that process. The duty to consult is important when significant changes are being indicated. The results of the consultation work will need to be considered.

Name of lawyers consulted: Simon Court and Liz Woodley Date consulted
(11/12/2023 and 08/01/2024):

9. Equalities implications

- 9.1 An Equality Impact Assessment on the policy proposals is set out in Appendix 3. The Equality Impact Assessment considers whether the proposed policy changes are likely to have an adverse impact on any groups who share a protected characteristic. Where a possible adverse impact is identified, the Equality Impact Assessment considers whether the policy proposal is the proportionate means of meeting a legitimate aim. This is necessary to ensure that the proposed policy changes will not cause unintended indirect discrimination. A further Equality Impact Assessment will be undertaken once the policy proposals are finalised, following the outcome of the consultation.

Supporting Documentation

1. Appendices

1. Indicative Proposed Changes to the Allocations Policy
2. Consultation Plan
3. Equality Impact Assessment

