

## CABINET

20 DECEMBER 2024

### REPORT OF THE PORTFOLIO HOLDER FOR HOUSING AND PLANNING

#### A.8 CONSIDERATION OF REVISIONS TO THE HOUSING ALLOCATIONS POLICY AND AGREEMENT TO UNDERTAKE CONSULTATION IN CONNECTION WITH THESE REVISIONS

##### PART 1 – KEY INFORMATION

###### **PURPOSE OF THE REPORT**

To present to Cabinet proposed revisions to the Council's Housing Allocations Policy for approval prior to consultation being carried out as required by the statutory Allocation of accommodation: guidance for local housing authorities in England 2012 (as updated in June 2024).

###### **EXECUTIVE SUMMARY**

This report presents a revised Housing Allocation Policy ("the Allocations Policy") for approval prior to wider consultation being undertaken.

Tendring is an area of acute housing shortage in the affordable rented sector and the demand for housing far outstrips the supply of accommodation becoming available for letting. In each given year, it is normally only possible to assist approximately 10% of all applicants on the Housing Register with accommodation.

The Allocations Policy is intended to reflect the Council's vision to put the needs of established Tendring residents first and to provide local housing for local people. The Council is also determined to ensure the creation of mixed and sustainable communities in the affordable rented housing sector and to provide realistic advice on housing options for those seeking accommodation.

The current Housing Allocations Policy was adopted in June 2013 to take into account amendments brought in by the Localism Act 2011. The Localism Act gave housing providers greater freedom to set their own rules on who can join the Housing Register and what priority can be awarded for housing, including a residency qualification. The Policy was subsequently revised in December 2019 to take into account the Homelessness Reduction Act 2017 as well as associated statutory guidance and regulations.

This revision of the Allocation Policy complies with the Regulator of Social Housing's revised Consumer Standards that came into effect from 1 April 2024 and takes into account revisions to statutory guidance as well as recent case law.

The objectives of the Allocations Policy are to.

- meet the legal requirements for the allocation of social housing as set out

in Part VI Housing Act 1996 as amended by the Homelessness Act (2002) and the Localism Act 2011

- provide a single system of allocating housing across the whole district
- increase the sustainability of local communities
- provide housing for local people
- assist in minimising homelessness and assist applicants in the highest assessed need
- ensure that the scheme allows the Council to make best use of homes and in particular adapted properties
- provide accommodation for homeless households.
- work with other providers and other agencies to make best use of affordable housing from all sources to meet housing need.

#### **RECOMMENDATION(S)**

**That Cabinet:**

- (a) approves the proposed revisions to the Council's Housing Allocations Policy, as set out in Appendix A, for consultation with current and prospective tenants, residents and other key stakeholders;**
- (b) delegates the format and design of the consultation to the Corporate Director (Operations and Delivery) in consultation with the Portfolio Holder for Housing;**
- (c) agrees, subject to there being no significant changes being required to the draft Policy as a result of the consultation, to delegate the approval of the revised Housing Allocations Policy to the Portfolio Holder with responsibility for Housing for adoption and implementation; and**
- (d) delegates authority to the Corporate Director for Operations and Delivery to make future updates or amendments to this Policy in consultation with the Portfolio Holder responsible for Housing.**

#### **REASON(S) FOR THE RECOMMENDATION(S)**

The recommendations are to ensure that the Allocations Policy is appropriately adopted, in accordance with the Council's Constitution and scheme of delegation and to evidence compliance with regulatory standards.

#### **ALTERNATIVE OPTIONS CONSIDERED**

The only alternative option considered was to not implement a revision of the Housing Allocation Policy.

Each local housing authority in England and Wales is required by the Housing Act 1996 (HA 1996), Pt 6 ('Allocation of Housing Accommodation'), to have a scheme for the allocation of social housing. A Housing Allocations Policy is a written statement on how a Local Authority allocates social housing within its District.

In accordance with the Localism Act 2011, each local authority has the right to determine their own Housing Allocations Policy. This allows local authorities to give "reasonable preference" to certain categories of applicants, ensure that properties are allocated in a fair and reasonable manner as well as being able to better manage our stock.

The Allocations Policy sets out the rules that the Council must follow when letting our properties. This also allows us to manage the unrealistic expectations of those applicants who have little or no prospect of being allocated a property.

This revised Allocations Policy has also been designed to assist the Council in meeting the Regulator of Social Housing's revised Consumer Standards which came into effect on 1 April 2024.

Failure to meet the Consumer Standards could result in the Regulator using its enforcement powers, which include requiring a registered provider to submit a performance improvement plan or to take particular actions set out in an enforcement notice. The Regulator will also be able to authorise an appropriate person to enter a social housing premises to take emergency remedial action and issue penalties or require the housing provider to pay compensation.

The absence of suitable and published policies makes the day-to-day operation of the service more difficult with the potential for inconsistencies in approach and increases the likelihood of complaints and investigations by either the Housing Ombudsman or Local Government and Social Care Ombudsman services, as applicable.

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

This policy contributes to a number of Corporate Plan 2024-28 themes:

- Pride in our area and services to residents
- Raising aspirations and creating opportunities
- Working with partners to improve quality of life
- Financial sustainability and openness

### **OUTCOME OF CONSULTATION AND ENGAGEMENT**

The proposed consultation regarding the changes to the Housing Allocations Policy will involve a wide range of stakeholders, including current tenants, Housing Register applicants, other housing providers operating in the district and the broader public. The outcome of the consultation will be taken into account by the Portfolio Holder for Housing under the recommended delegation and detailed in the recorded decision.

**LEGAL REQUIREMENTS (including legislation & constitutional powers)**

<b>Is the recommendation a Key Decision (see the criteria stated here)</b>	<b>Yes</b>	<b>If Yes, indicate which by which criteria it is a Key Decision</b>	<b>X Significant effect on two or more wards</b> <input type="checkbox"/> <b>Involves £100,000 expenditure/income</b> <input type="checkbox"/> <b>Is otherwise significant for the service budget</b>
		<b>And when was the proposed decision published in the Notice of forthcoming decisions for the Council (must be 28 days at the latest prior to the meeting date)</b>	3 October 2024

Each local housing authority in England and Wales is required by the Housing Act 1996 (HA 1996), Pt 6 ('Allocation of Housing Accommodation'), to have a scheme in place for the allocation of social housing. A Housing Allocations Policy is a written statement on how a Local Authority allocates social housing within its District.

In accordance with the Localism Act 2011, each local authority has the right to determine their own Housing Allocations Policy. This allows local authorities to give "reasonable preference" to certain categories of applicants, ensure that properties are allocated in a fair and reasonable manner as well as being able to better manage our stock.

The Allocations Policy operates under the provisions of the Housing Act 1996, the Homelessness Act 2002, the Localism Act 2011, the Homelessness Reduction Act 2017 and the relevant Codes of Guidance including the Allocation of Accommodation: Guidance for Local Housing Authorities in England.

In accordance with the statutory Allocation of accommodation: guidance for local housing authorities in England 2012 (as updated in June 2024) when an alteration is made to a scheme reflecting a major change of policy, an authority must ensure within a reasonable time that those likely to be affected by the change have the effect brought to their attention, taking such steps as the housing authority considers reasonable (Housing Act 1996 s168 (3)).

A major policy change would include, for example, any amendment affecting the relative priority of a large number of applicants or a significant alteration to procedures.

The Social Housing Regulation Act 2023 builds upon the existing regulatory framework for housing and introduces revised Consumer Standards that came into force on 1 April 2024. These standards contain specific expectations registered providers of social housing must comply with and detail the outcomes

that providers are expected to achieve and they cover neighbourhood management and domestic abuse.

**x**    **The Monitoring Officer confirms they have been made aware of the above and any additional comments from them are below:**

The Council is under a duty to ensure that its policies and procedures have regard to the relevant statutory guidance and kept under review if such guidance is updated.

**FINANCE AND OTHER RESOURCE IMPLICATIONS**

There are no significant financial implications associated with the revision of this policy as it updates existing arrangements which are currently funded via existing budgets in the Housing Revenue Account.

**X**    **The Section 151 Officer confirms they have been made aware of the above and any additional comments from them are below:**

As highlighted within earlier reports relating to the HRA budgets and business plan, the new era of social housing regulation emerging from the Social Housing (Regulation) Act 2023 will have a major impact on the overall financial position of the HRA in future years. It is recognised that the impact will likely be due to the aggregation of a number of emerging requirements such as those set out in this report, rather than perhaps any single item. Although the importance of such regulation is acknowledged and reflects the Council's stated commitment and priority to provide good quality housing, the resulting costs involved either directly or through demand for the necessary additional capacity, were not reflected within the self-financing reforms implemented by the Government in 2012. Such costs therefore represent additional financial pressures that will have to be balanced against the broader challenge of delivering a long term financially sustainable HRA in future years.

**USE OF RESOURCES AND VALUE FOR MONEY**

The following are submitted in respect of the indicated use of resources and value for money indicators:

A) Financial sustainability: how the body plans and manages its resources to ensure it can continue to deliver its services;	The Council has an adopted Financial Strategy.
B) Governance: how the body ensures that it makes informed decisions and properly manages its risks,	The Council has a mature constitutional structure and framework of policy for decision-making. It is intended that the appended policies will augment that framework.
C) Improving economy, efficiency and effectiveness: how the body uses information about its costs and performance to improve the way it manages and delivers its services.	The Council has an adopted Financial Strategy.

**MILESTONES AND DELIVERY**

If Cabinet agrees to the proposed revisions of the Housing Allocations Policy, it will be subject to consultation in accordance with the statutory Allocation of accommodation: guidance for local housing authorities in England.

This consultation will be commenced in January 2025.

Subject to there not being any significant amendments made as a result of the consultation responses received, the final version of the Housing Allocations Policy will be presented to the Portfolio Holder with responsibility for Housing for adoption in March 2025.

Future reviews of this policy will then be carried out with a delegation to the Corporate Director – Operations and Delivery to make future changes and updates to the policy in consultation with the Portfolio Holder responsible for Housing

### **ASSOCIATED RISKS AND MITIGATION**

The revised Housing Allocations Policy has been designed to assist the Council in meeting the Regulator of Social Housing's revised Consumer Standards with came into effect on 1 April 2024.

Failure to meet these standards could result in the Regulator using its enforcement powers, which include requiring a registered provider to submit a performance improvement plan or to take particular actions as set out in an enforcement notice. The Regulator will also be able to authorise an appropriate person to enter a social housing premises to take emergency remedial action and issue penalties or require the housing provider to pay compensation.

The adoption and implementation of this policy is aimed at minimising the risks of non-compliance and in ensuring that the Council makes the best use of its housing stock.

### **EQUALITY IMPLICATIONS**

In line with the Public Sector Equality Duty, within these policies the Council has due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

An Equality Impact Assessment has been carried out in connection with this policy prior to approval being sought for its implementation.

### **SOCIAL VALUE CONSIDERATIONS**

Creates healthier, safer and more resilient communities: To build stronger and deeper partnership working arrangements whilst continuing to engage and empower tenants.

### **IMPLICATIONS FOR THE COUNCIL'S AIM TO BE NET ZERO BY 2030**

The review of this policy does not present a direct impact on the Council's target for net zero greenhouse gas emissions from its business operations by 2030. The Council will be mindful of energy efficiency measures, wherever relevant, in the implementation of its policies.

### **OTHER RELEVANT CONSIDERATIONS OR IMPLICATIONS**

<b>Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.</b>	
<b>Crime and Disorder</b>	<p>An effective Housing Allocations Policy can increase the sustainability of local communities. The Policy also supports the Housing Anti-Social Behaviour Policy, approved in April 2024.</p> <p>Where there has been evidence of an applicant's unacceptable or poor behaviour including all forms of social housing related fraud, this behaviour will be taken into account as part of the assessment process. Unacceptable behaviour is defined as behaviour that would constitute sufficient grounds for them to be evicted if they were secure tenants under the Housing Act 1985.</p>
<b>Health Inequalities</b>	<p>The Housing Allocations Policy assists in minimising homelessness and assists applicants in the highest assessed need. Both welfare and medical needs are considered as part of the assessment process.</p> <p>The Council will also work with other providers and agencies to make best use of affordable housing from all sources to meet housing need.</p>
<b>Subsidy Control (the requirements of the Subsidy Control Act 2022 and the related Statutory Guidance).</b>	<p>The Council will follow subsidy control legislation and regulations, where applicable, in relation to the content and implementation of these policies.</p>
<b>Area or Ward affected</b>	All
<b>PART 3 – SUPPORTING INFORMATION</b>	
<b>BACKGROUND</b>	
<p>The Council has retained its housing stock and currently manages over 3,000 homes.</p> <p>The Social Housing (Regulation) Act 2023 includes revised Consumer Standards which contain specific expectations registered providers of social housing must comply with and details the outcomes that providers are expected to achieve. These standards came into force on 1 April 2024.</p> <p>One of these Consumer Standards – the Tenancy Standard sets out the following required outcomes and specific expectations in relation to allocations:</p>	

- Registered providers must allocate and let their homes in a fair and transparent way that takes the needs of tenants and prospective tenants into account.
- Registered providers must co-operate with the local authorities strategic housing functions and assist local authorities to fulfil their duties to meet identified local housing need. This includes assistance with local authorities homelessness duties and through meeting obligations in nominations agreements.
- Registered providers must seek to allocate homes that are designated, designed, or adapted to meet specific needs in a way that is compatible with the purpose of the housing.
- Registered providers must develop and deliver services that seek to address under-occupation and overcrowding in their homes. These services should be focused on the needs of the tenant
- Registered providers must develop and deliver services that seek to address under-occupation and overcrowding in their homes. These services should be focused on the needs of the tenant.
- Registered providers must take action and tackle tenancy fraud.
- Registered providers must have a fair, reasonable, simple and accessible appeals process for allocation decisions

All of these requirements have been taken into account in the revised Housing Allocations Policy

As at 31 March 2024, there were 2260 households on the Council's Housing Register and their housing needs were as follows:

<b>Property needs</b>	<b>Number of households</b>
One bed or studio accommodation	993
Two bed accommodation	606
Three bed accommodation	409
Four or more bed accommodation	252

During the financial year 2023/24, the Council allocated 202 properties as set out below:

<b>Type of allocation</b>	<b>Number of lettings</b>
Lettings to existing social housing tenants	40
Lettings to new social housing tenants	144
Mutual exchanges	18

Of the total 202 lettings, 168 properties were properties in the Council's general housing stock and 34 were in sheltered housing. 174 nominations were also made to other registered housing providers in the District with whom the Council has a nomination agreement in place.



As the above figures illustrate, the demand for social housing by far outstrips the supply and that any amendments made that will benefit one cohort of households, will result in another cohort being disadvantaged by decreasing their prospect of securing social housing.

Set out below is a summary of the changes being proposed: All changes are highlighted in red in the attached Allocations Policy, with a summary below:

- Those seeking to foster/adopt will be assessed on welfare grounds and will be expected to provide verification of their approval and registration from Social Services
- EEA nationals that move to the United Kingdom from 1<sup>st</sup> January 2021 will generally have no recourse to public funds and will not generally be eligible for social housing, unless they:
  1. Fall under a government exemption as set out in government Eligibility Rules (eg; having a refugee status), or
  2. Are eligible and have been granted indefinite leave to remain by the UK government
- Joint tenancies will only be granted to couples who are married or in a registered civil partnership. For cohabiting couples or those related (like brother or sister) joint tenancies will be considered on a case-by-case basis and only if all parties have lived together for at least 12 months.

Those not eligible to join the housing register now include:

- An applicant or a member of their household, who have been responsible for unacceptable behaviour.
- Those applicants who were successfully housed via a mutual exchange within 12 months from the start of their tenancy
- Applicants who are not considered ready to sustain a tenancy because of age or need for specialist support or who are currently residing in supported housing and not ready to move on.
- Applicants who lack capacity to hold a tenancy.
- Former social housing tenants who have been evicted for anti-social behaviour, rent arrears or other breaches of their tenancy agreement.
- Applications exempt from the 3-year residency criteria now include those fleeing domestic abuse as defined in the Domestic Abuse Act 2021 and Care Leavers aged 18-25 years
- Applications from those accepted for a homeless prevention or relief duty and who do not meet the 3-year residency criteria are to be placed in one band lower than the band they would have been placed in had they met the 3-year residency criteria.

- LGBTQ+ couples are now included with civil partners and co-habiting couples who will be treated in the same way as married applicants.
- The definition of those with sufficient finances or means to be able to meet their own housing need and will not qualify to join the housing register have been expanded to include
  1. Owning properties in the UK and/or abroad
  2. Own a residential caravan or mobile home, or a caravan or mobile home on a seasonal holiday park
  3. Ownership of a property under a shared ownership scheme, or they own or have an interest in a residential property but choose to rent it out.
  4. Sufficient capital to buy or sufficient income to raise a mortgage to buy:
    - Single person household with earnings of £30,000 or more, savings of £16,000 or more in bank accounts, ISA's, capital or equity in a property
    - Households of more than one person with earnings of £50,000 or more, savings of £16,000 or more.
- The 'living in unaffordable' priority has been removed and those on benefits are treated the same as those in employment. The Council believe it is acceptable to spend up to 40% of a household's total income on rent or mortgage
- Unacceptable or poor behaviour has been expanded to include
  1. All forms of housing related fraud,
  2. Being a perpetrator of domestic abuse because this is a ground for possession
  3. Causing nuisance to neighbours including substantiated noise complaints and the impact on the existing community and not just those considered to be sensitive.

These are examples of unacceptable behaviour that will be considered even if a Notice Seeking Possession has not been served on the applicant and/or their household, or a conviction obtained. These grounds define the types of behaviour that the Council will consider when deciding whether an applicant should be disqualified from joining the Housing Register.

- Allocation of ground floor flats  
Priority for ground floor flats will usually be given to applicants who have a medical condition, which means that ground floor accommodation is required.
- Allocation of adapted properties  
Where the Council considers (on the advice of an Occupational Therapist and through a Housing Needs Report) that an applicant has a requirement for a significantly adapted property, the application will be 'flagged' to show this.

- Applicants in supported housing schemes that are ready to move onto permanent accommodation will be nominated by their support provider under a quota arrangement with the council. These applicants will still need to meet the 3-year residency criteria before being accepted onto the housing register.
- Tenants of other registered providers in the Tendring area who, through downsizing, will be releasing a home larger than they need will be assessed as follows:
  1. Releasing one bedroom will be placed in Band B provided the registered provider agrees in writing to offer the vacant property to the Council for nomination.
  2. Those who will be releasing a home and the registered provider does not agree to offer the vacant property to the Council, will be assessed purely on their housing need.
- The Employment criteria has had the addition of an applicant having their place of work within the Tendring district (not just the company being registered in the district)
- Changes to Band A, B and C. There are a number of changes which are highlighted in red in the policy.
- Band E is used as an administrative 'pending assessment' whilst the Housing Allocations team await additional information before being able to make a full assessment. It is updated to the relevant Band A to D once the verification process has been completed.

#### **CURRENT POSTION**

The revised draft Housing Allocations Policy 2025 is attached at Appendix A.

The objectives of this policy are to.

- meet the legal requirements for the allocation of social housing as set out in Part VI Housing Act 1996 as amended by the Homelessness Act (2002) and the Localism Bill 2011
- provide a single system of allocating housing across the whole District
- increase the sustainability of local communities
- provide housing for local people
- assist in minimising homelessness and assist applicants in the highest assessed need
- ensure that the scheme allows the Council to make best use of homes and in particular adapted properties
- provide accommodation for homeless households.

- work with other housing providers and other agencies to make best use of affordable housing from all sources to meet housing need.

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**BACKGROUND PAPERS AND PUBLISHED REFERENCE MATERIAL**

None.

**APPENDICES**

**Appendix A – draft Housing Allocations Policy 2025**

**REPORT CONTACT OFFICER(S)**

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