

# Housing Allocation Scheme Review

## Housing Committee Thursday, 16 March 2023

Report of: James Devonshire -Head of Housing

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Purpose: For decision

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Publication status: Unrestricted

Wards affected: All

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### **Executive summary:**

The Housing Act 1996 requires every local housing authority to have a scheme for determining priorities, and the procedures to be followed when allocating housing accommodation.

The Council's Housing Allocation Scheme was last reviewed by Committee in 2016. As a result of the Future Tandridge programme, some minor updates need to be made to the Scheme. This report provides an opportunity for members to familiarise themselves with the provisions within the Scheme and to consider the need for some additional amendments, recommended by officers

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### **This report supports the Council's priority of:**

- Building a better Council
- Creating the homes, infrastructure and environment we need
- Supporting economic recovery in Tandridge
- Becoming a greener, more sustainable District

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### **Recommendation to Committee:**

That, in accordance with its delegated powers, the Committee agrees that the updated Housing Allocation Schemes should be approved for publication from 1 April 2023.

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## **Reason for recommendation:**

To enable the revised Housing Allocation Scheme at Appendix A to be adopted from 1 April 2023

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### **Introduction and background**

- 1 The Council is required, by virtue of Part 6 of the Housing Act 1996 to have a scheme for the allocation of social housing. This includes allocating to all vacancies within its own housing stock as well as all nominations to registered providers of housing (housing associations). The Council refers to this scheme as its Housing Allocation Scheme.
- 2 The Council's current Housing Allocation Scheme was last brought to Committee in March 2016 when the current scheme was adopted. Although a number of minor amendments have since been made to the scheme, under powers delegated to officers, it remains largely unchanged.
- 3 An allocation scheme must incorporate the Council's arrangements for determining priorities for social housing between applicants. Although each council is generally free to determine its own system of priorities, any scheme must be framed so as to secure that certain applicants are given a 'reasonable preference'. The classes of people to whom councils must award 'reasonable preference' within its allocation scheme are
  - (a) people who are homeless within the meaning of Part 7 of the Housing Act 1996;
  - (b) people who are owed a duty under various provisions of Part 7 of the Housing Act 1996, or who are occupying accommodation provided to them by a local housing authority under the same part;
  - (c) people who are occupying insanitary or overcrowded housing, or otherwise living in unsatisfactory housing conditions;
  - (d) people who need to move on medical or welfare grounds, including grounds relating to a disability; and
  - (e) people who need to move to a particular locality in the district of the local housing authority, where failure to meet that need would cause hardship to themselves or to others.
- 4 The Scheme is reviewed annually, taking into account any changes in legislation, caselaw and guidance. In this regard, there have been no recent changes that are considered to require any updates to the Allocation Scheme. While current Government guidance encourages councils to consider including a residence requirement as part of their qualification criteria, this Council has elected not to, preferring to use

local connection criteria to prioritise applications rather than as a means of exclusion.

- 5 When designing an effective allocation scheme it's vital to ensure that the scheme is balanced and addresses all the reasonable preference categories, recognising genuine housing need and helping to prevent and relieve homelessness, while ensuring that it doesn't provide a perverse incentive towards becoming homeless.
- 6 Officers consider that the current scheme continues to strike this balance effectively and do not recommend any significant changes. It is, however, recommended that some minor amendments are made to the Scheme, which are detailed in the following sections.

#### Local Connection

- 7 The main problem that officers have identified with the notion of a residence requirement for qualification is the conflict between this criterion and the various criteria that give rise to a local connection for the purposes of homelessness duties under Part 7 of the Housing Act 1996. These criteria are much less stringent and there are many applicants who would be considered to have a local connection under the homelessness provisions but would not meet a current residency criterion. Officers consider that this is likely to result in the Council having significant difficulties in ending its duties to many applicants that it owes a homelessness duty to.
- 8 Regrettably homelessness is, currently, on the increase nationally and this trend is particularly apparent across Surrey, with many authorities having large numbers of households in bed and breakfast accommodation, thereby incurring considerable expense. Currently this Council has more households in bed and breakfast accommodation than it has for a number of years. It is considered that the Council's Allocation Scheme has a vital role to play in ensuring that the vast majority of households that are owed a homelessness duty by the Council are able to move into permanent social housing within a reasonable period of time. This enables the temporary accommodation that they release to become available for use by new homelessness applicants, reducing the need for the provision of bed and breakfast accommodation.
- 9 The only alternative way for the Council to end its housing duty towards homeless households is via an offer of accommodation in the private sector. In recent times this has become increasingly problematic as access to the sector has become very difficult for households on low income reliant on Housing Benefit assistance with the rent.
- 10 All applicants who are deemed to be ineligible for an allocation of accommodation are entitled to request a review of this decision, which must be undertaken by a senior officer. It is inevitable that if access is

significantly restricted, many affected applicants will exercise this right, creating significant additional work for the service.

- 11 Since guidance was first issued in 2012, there have been a number of successful legal challenges to housing allocation schemes that have an overriding residence requirement. Such requirements have been held to discriminate against particular groups with protected characteristics. There have also been changes to legislation exempting certain applicants from the residence requirement. The consequence of these issues is that policies that include an absolute residence requirement now also need to include multiple exceptions to this requirement in order to be lawful.
- 12 Therefore, officers believe that a policy that includes an absolute requirement for applicants to have been resident in the District for a specified period of time in order to be eligible, is undesirable.
- 13 Legislation and the guidance permit authorities to frame their allocation scheme to take into account factors in determining relative priorities between applicants in the reasonable (or additional) preference categories. Examples of such factors are given in the legislation: financial resources, behaviour and local connection. However, these examples are not exclusive and authorities may take into account other factors instead or as well as these.
- 14 Currently, we give extra priority to people who have a connection with Tandridge so we rehouse very few people without a local connection each year. Where we do offer a home to someone without a local connection, the property is normally for an older person (where someone may need to move for health reasons) and where there is low demand from local households in need. We may also help people move into or out of the area where there are special reasons to do so, through our partnership arrangements with neighbouring Councils. Under our current scheme, applicants get extra priority if they:
  - currently live in the District of Tandridge and have done so for at least one year; or
  - have previously resided in the District for 3 out of the last 5 years, or
  - are Tandridge key workers; or
  - have immediate family (i.e. mother, father, son, daughter) who have lived in the District for 5 or more years and who need to receive support from, or give support to, the applicant; or
  - have been accepted as having another special reason why they need to live in Tandridge.
- 15 It is recommended that, rather than an absolute residence requirement, the current provisions that ensure that priority for housing is only given

to applicants with a clear local connection to the District are largely retained. This would continue to ensure that all social housing available for allocation in the District continues to be offered to applicants with a local connection first.

- 16 The effectiveness of this approach is demonstrated by analysis of housing allocations during 2021-22 and 2022-23, to date, which show that every property with two or more bedrooms was allocated to an applicant in bands A-C. Applicants without an accepted local connection do not qualify for these bands.
- 17 It is, however, recommended that in order to qualify for local connection under the Tandridge key worker category, applicants will need to evidence that they have been employed in their role for more than 16 hours per week for the last two years. This amendment, to section 6.1 of the proposed scheme, should help ensure that the employment is of an enduring nature and local connection isn't acquired based, purely, on casual employment.

#### Awarding Urgent Housing Need for Additional Under-Occupying Tenants

- 18 Unfortunately, recent years have seen high levels of demand for affordable housing, combined with a relatively low supply of new affordable housing being built in the District. This has led to an increase in the numbers of households in urgent housing need on the Housing Register and a consequential increase in waiting times. This is particularly true for properties with three or more bedrooms.
- 19 The Council recently updated its Transfer Incentive Scheme with the aim of encouraging under-occupying social housing tenants to move to smaller accommodation, thus freeing their property for allocation to a family on the Housing Register. In addition to increasing the incentives for those moving to one-bedroom properties, one of the amendments within the revised policy was the introduction of an incentive of £2,000 to encourage tenants who are under-occupying properties with three or more bedrooms to move to two-bedroom properties, where they are eligible to do so.
- 20 Officers recommend that this policy amendment should be reflected within the Housing Allocation Scheme by introducing a new qualification criterion within Band B of the Housing Register for tenants of the Council or a Registered Social Landlord in the District who are under-occupying properties with three or more bedrooms and are eligible to move to two-bedroom properties. This amendment is shown in section 5.5 of the proposed scheme.

#### Future Tandridge

- 21 As a result of the changes to the Housing Services Department introduced by the Future Tandridge Programme, the job titles of officers involved within the housing allocation process have changed. Section 14

of the proposed Housing Allocation Scheme has been amended to reflect these changes.

## **Consultation**

As the proposed amendments to the Housing Allocation Scheme do not constitute a major change of policy, consultation is not statutorily required, nor considered necessary.

## **Key implications**

### **Comments of the Chief Finance Officer**

There are no direct financial revenue or capital implications from accepting this report.

### **Comments of the Head of Legal Services**

The allocation of housing accommodation by local authorities is regulated by Part 6 of the Housing Act 1996 (HA 1996). The Council is required to have a scheme for determining priorities and the procedure to be followed in allocating housing accommodation, including all aspects of the allocation process and the persons or description of persons by whom decisions are taken. Generally, a local authority must not allocate housing accommodation except in accordance with its allocation scheme. In formulating or amending their allocation scheme, a Council must have regard to:

- Its current homelessness strategy under section 1 of the Homelessness Act 2002.
- Its tenancy strategy under section 150 of the LA 2011.

The Council must also have regard to guidance issued by the Secretary of State. This is currently Department for Communities and Local Government: Allocation of accommodation: Guidance for local housing authorities in England 2012 (Allocation of Accommodation Guidance) as amended. The Council should also have regard to the Ministry of Housing, Communities and Local Government's Homelessness Code of Guidance for Local Authorities (February 2018).

The Localism Act 2011 restored the power local authorities had between 1997 and 2003 to exclude certain applicants they designate as "non qualifying persons." This allows scope to adopt some restrictive policies around the definition of qualifying persons and exclude or suspend people for unacceptable behaviour (ASB for example) or lack of local connection.

The Council can take account of additional factors when determining priority in reasonable preference categories such as financial resources, behaviour and local connection.

In addressing the issues identified above, the revisions to the existing Housing Allocation Scheme are intended to provide customers in the greatest need with as much choice as possible and to create an allocations scheme that can easily be understood by customers.

## **Equality**

The minor revisions to the existing Housing Allocation Scheme are not assessed as being likely to cause unforeseen negative impacts on any particular groups with protected characteristics in the community.

## **Climate change**

There are no significant environmental / sustainability implications associated with this report.

## **Appendices**

Appendix 'A' – Proposed Housing Allocation Scheme

## **Background papers**

None

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