

Meeting of the Environment Scrutiny Committee - 18th March 2013

Report of the Assistant Director of Housing Services - Directorate of Adult, Community & Housing Services

Review of Allocations and Tenancy Policy

Purpose of Report

1. To consider the outcome of consultation on issues arising from the Localism Act, the revised Code of Guidance on Allocations, and Welfare Reform.

Background

2. This report concerns Dudley's Allocations Scheme for council housing and nominations, and the types of tenancy we offer. Consultation began with a listening exercise that took place in summer 2012 and with debate at the annual Tenant Conference in September. The Housing Working Group then considered the issues at its meeting on 12th December 2012, since which time there has been formal consultation with
 - Dudley Federation of Tenants & Residents Associations
 - Private registered providers (housing associations), through Dudley Housing Partnership
 - The Homelessness Strategy Review Group
 - Area Housing Panels
 - Customers, through an on line and paper questionnaire.
3. The purpose of this report is to summarise the outcomes of the consultation and the intended way forward. The views of the Housing Working Group are that certain decisions could be made now, but others should be deferred. The main options still under consideration relate to
 - Whether to maintain an open waiting list or to exclude certain groups
 - Whether to introduce any new priority groups
 - Whether to make use of the new flexible (fixed term) tenancies
 - How best to address some of the imbalance in supply and demand for different age groups and household sizes through our designations policy on flats and maisonettes.

Waiting list

4. Subject to eligibility under Nationality and Immigration rules set by government, we currently allow anyone over 18 and a small number of 16/17 year olds to join our waiting list, providing they are not subject to specific exclusions related to their previous behaviour. However, we generally give a lower priority on the list to people from other boroughs, people with equity from the sale of owner occupied properties,

and people who owe us money. Our policy on debt will need to be reviewed in response to Welfare Reform, and it is suggested that we should allow tenants to transfer or exchange their homes for smaller accommodation where either

- The rent account is clear prior to 1st April 2013 and falls into arrears because the tenant is genuinely unable to pay the under occupation penalty
- There were arrears prior to 1st April 2013 which had been regularly reduced for a period of at least three months and the tenant will have an under occupation penalty which they are genuinely unable to pay.

5. The new flexibilities are designed to allow us to maintain a smaller, more manageable waiting list, and we could choose, for example
 - To exclude completely people who do not already live in the borough
 - To require people to have lived here for a certain period of time before joining the list (or for a certain amount of time over previous years)
 - To exclude all owner occupiers, or all except those to whom we have a statutory duty and/or those needing sheltered housing
 - To exclude people who in our view have no housing need.
6. The advantages of maintaining a smaller list are that we may expend less officer time on managing applications and may avoid raising unrealistic customer expectations. The disadvantages are that we may have to deal with more challenges and appeals, will have less real time data on housing demand, and may have fewer applicants available for properties that are difficult to let.
7. The outcome of our December meeting was that Members leaned towards an open list with less preference for some groups, but were concerned about the impact of neighbouring authorities introducing exclusions. So far, only Sandwell have decided to introduce a qualification around length of residence, but some others are still considering. We know that Sandwell is already our main source of migration into Dudley, and demand may well increase. It is therefore felt prudent at this stage to defer our decision until the position of neighbouring authorities is decided.

Preference on the waiting list

8. The existing bandings scheme is at Appendix A. It has been in place since June 2010 and has worked well to prioritise on a combination of housing need, benefit to the council, and waiting time, accepting of course that the excess of demand over supply means that many more are disappointed than are successful. Consultation has explored whether we should take up the new opportunity to prioritise on “community contribution”, and whether there are needs that are not currently recognised.
9. Some of our private registered providers are starting to build community contribution into their customer contract, and therefore support the principle. DFTRA Board also agreed with the principle, whilst recognising that it may be a challenge to implement and manage. Around half of customers felt that community contribution should be recognised, whilst one quarter disagreed and one quarter had no views either way. However, in considering what sort of community contribution may be relevant, 77% wanted to see Armed Forces personnel prioritised, and around 50% in each case supported foster/adoptive parents, people working or volunteering (especially those in low paid employment in the immediate area), and carers.
10. Recent changes in the law have extended the rights of Armed Forces personnel including reservists, and any who have a connection to Dudley would already be in

band 1 or 2. It has been suggested that we could give additional preference by backdating their band start date to the date of enlistment to give priority over the majority of others in the band. Foster/adoptive parents are currently dealt with through the exceptions process which if confirmed by Childrens Services would generate band 2. We could therefore make them a named category in this band, instead of dealing with them by exception. The Working Group supported both of these proposals, but felt that giving preference to people who are working, volunteering or caring should only be considered as part of a local lettings plan, either for a new build scheme, or to address specific issues in an area.

11. In addition to “community contribution”, we have also consulted around other factors that may or may not be regarded as housing needs. There was widespread support for both social and private tenants to be given some preference where their present home has become unaffordable through Welfare Reform or other factors, and the Working Group felt that this should be identified as a need. They also agreed that the the existing rule for tenants wishing to transfer within two years of taking up a tenancy should be strengthened, so that such a transfer can only take place where the tenant has exceptional, unforeseen circumstances, and the move is of some benefit to the council.
12. The position on our waiting list of private tenants and lodgers is that they are generally in band 6 unless they are also overcrowded or have other needs. The Working Group felt that this should be reviewed at a later date in conjunction with the matter of exclusions from our waiting list, and that we can also consider at that time whether to simplify the scheme by reducing the number of bands. It is recognised that in the present housing and benefit climate, it is preferable for most young adults to remain at home unless either they are working or there is some genuine reason that they need to move out. It would support this if we adopt 16 instead of 18 as the age at which a young person needs their own room at home, which will allow some families a better chance to upsize and is in line with the bedroom standard.
13. Earlier consultation had questioned the level of priority given to people leaving tied tenancies, but the wider consultation indicated majority satisfaction with these having some preference.

Best use of stock

14. Our exercise to identify and talk to tenants who will be affected by the “bedroom tax” has revealed that many tenants under-occupying houses are hoping to be able to “pay to stay”, although some will be looking to downsize if the accommodation on offer is acceptable. Conversely, more tenants in flats and maisonettes are saying that they want to move or will have to do so. These are mainly single people in two bed flats, and couples and small families in three bed maisonettes. Accepting as suggested in paragraph 15 that we will give some priority to these, we will be adding to the challenges that we already face. The bedroom standard allows one bedroom each for
 - Each couple or adult
 - Each pair of children of the same sex under 16
 - Each pair of children of opposite sexes under 10
 - Any other child
15. We need to make more of our one and two bedroom accommodation available to younger people (under 30) and small families respectively. We need to ensure that

flatted accommodation is attractive, carefully let and well-managed if it is to be attractive to households who are currently living in or bidding for houses. We also need to ensure that changing the mix of tenants does not drive out any existing residents. The current designations are out of step with demand, because 44% of single people on our waiting list are under 30 and only 7% of our stock is open to this group, whereas 33% of single applicants are 40-59 and 92% of stock is open to this group. Allowing for some variation in rules, the general mix of accommodation is:

Designation	No. of Bedrooms	No. of Bedrooms	No. of Bedrooms	No. of Bedrooms
	0	1	2	3
ANY AGE OVER 30 (CHILDLESS)	8	242	313	1
ANY AGE (CHILDLESS)	165	148	0	0
YOUNG SINGLES (UNDER 30)	1	129	108	14
OVER 30s & FAMILIES	55	984	1326	647
SINGLES & COUPLES 40+	23	2527	1194	26
OLDER PEOPLE	101	298	10	7

16. Private registered providers understood the issues but recognised that they need to be addressed by the council and its tenants and residents. The DFTRA Board accepted that “no change is not an option” and asked for wide consultation with affected residents. All tenants and leaseholders in flats and maisonettes were written to and invited to express their views, and there was a consultation meeting with the High Rise Living Forum on 26th February. A final analysis of the feedback is still being collated, but on the results to date
- 26.5% felt that different age groups and household types should continue to be segregated, by allocating them to different floors within a block
 - 20.6% felt that high rise blocks should continue to be designated by age, but two bed mature flats could be let to people with adult children
 - 18% felt that most low rise flats should be for younger people and families, so that most high rise could remain as they are
 - 16.5% felt that all designations should be abolished
 - 9.2% preferred an area by area solution, even if this meant families in high rise blocks
 - 3.3% said we should allow small families (one child) in high rise blocks.
17. A number of residents have also written in, mostly to express their views that their particular block is best suited to older people. Some of these are from very small, settled communities, some of which have particular facilities such as Homecall, and it should be possible to reassure them at an early stage. The demographics are such that any accommodation currently reserved for and suited to people of pensionable age should be able to be preserved, and that we will be looking to add to it.
18. The whole issue of designations has to be addressed, but it will be critical that whatever approach is agreed, the implementation must be carried out sensitively and we must be accountable to existing residents. A useful discussion was held with the

High Rise Living Forum along these lines, and began to consider what additional safeguards may be required.

19. The Working Group agreed that a major exercise needs to be undertaken over coming months to explore the future use of our high and low rise blocks, and that they would wish the issue to remain part of their work programme.

Tenancy conditions

20. The Localism Act has introduced the option of flexible (ie fixed term) tenancies. The rights of existing tenants to a lifetime tenancy are protected, but new tenants could be offered fixed term tenancies which comply with our Tenancy Strategy. These would generally need to be tenancies of five years with the option to renew, and could be used across the board or selectively.
21. The advantages of applying these new flexibilities are that they improve our ability to make the best use of our housing stock, albeit only in respect of new and future tenancies. For example, we might choose to use fixed term tenancies for particular stock (eg adapted properties & larger family homes) or for particular customers (eg foster parents & others with short term needs). The use of fixed term tenancies might provide reassurance to existing residents if we are changing the designation of a block of flats.
22. The view of DFTRA was that as existing tenants are protected, it would be acceptable to consider fixed term tenancies for new customers, in response to short term needs and high demand homes. There were mixed views expressed by this Working Group and by Area Panels. It was noted in discussion at Dudley Housing Partnership that historically customers have preferred council offers to housing association offers, so perhaps we should guard against making our offer to prospective tenants too much more attractive than the housing association offer, as we are all working together to meet housing needs.
23. The views expressed so far by customers are
 - 50.7% felt Dudley council tenancies should continue to be for life
 - 18.4% felt some tenancies should be fixed term because the tenant's needs may be short term
 - 17.3% felt all new tenancies should be fixed term and people should move on when they no longer need a council home
 - 11.8% felt some tenancies should be fixed term because the property is in short supply eg adapted homes and large houses.
24. The Working Group considered these responses, but also drew attention to the specific issue of high cost voids that had occurred because tenants refused improvements. It was suggested that the use of fixed term tenancies would make it easier for the council to manage its customer relationship, because tenants who were resistant to providing access for improvements and for home checks would know that ultimately their tenancy might not be renewed. The Working Group therefore felt that more work should be undertaken on the potential use of flexible (fixed term) tenancies.

Conclusion

25. Members' views are invited, and will be reported to the Cabinet Member for Housing, Libraries, Archives & Adult Learning to consider the immediate changes and further work to be undertaken.

Finance

26. There are no specific financial implications arising from this report at this stage.

Law

27. The powers and duties of housing authorities in relation to the allocation and management of Council housing are set out in the Housing Acts 1985 and 1996, the Homelessness Act 2002 and the Localism Act 2011.

Equality Impact

28. The review could potentially lead to some changes impacting on residents within the borough and outside it. An Equality Impact Assessment has therefore been commenced.



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List of Background Papers

Dudley Housing Needs Survey & draft Housing Strategy
(considered by Housing Working Group 11th December 2012)
Dudley/Black Country Tenancy Strategy
Dudley Homelessness Strategy
Dudley Lettings Policy
Localism Act Part 7
Code of Guidance on Allocations

Bandings Scheme – as at February 2013

Band 1 – People the Council needs to move, ie any of the following

- People whose homes the Council is planning to demolish
- People who are tenants of a family house in the borough, owned by the Council or a housing association, and who will be moving to a flat or one bedroom bungalow
- People who have to leave a Council tenancy following the death of the tenant
- People giving up a joint tenancy of a Council or housing association rented property following a relationship breakdown, for the partner with the care of the children to remain there
- People giving up two Council or housing association rented properties in the borough, for one property of similar or lower demand
- People who are ready to move on from supported housing that is subject to Dudley's Move On Protocol or to be discharged from hospital subject to a change of accommodation
- People who have a disability and whose homes cannot reasonably be adapted to meet their needs including members of the Armed Forces and former members, including reservists, injured in active service

Band 2 – People with urgent needs, ie any of the following

- Members of the Armed Forces and former members, including reservists, who are entitled to additional preference under SI 2012 No 2989
- People the Council has accepted as unintentionally homeless and in priority need from a settled address within the borough – this need will be awarded band 2 for one month and can only be extended if it was not possible for the need to be met in that time
- People who are severely overcrowded (lacking two or more bedrooms)
- People who need to move urgently from a rented home with a serious hazard that cannot be repaired
- People with urgent medical, disability, or related support need
- People with approval for an urgent management move usually because of violence or serious risk of violence
- People who have to leave a tied tenancy because their employment has ended through no fault of their own
- People with other urgent and exceptional needs not covered elsewhere including those the Council has accepted as referrals from partner agencies

Band 3 – People with more than one need, ie more than one reason from the list in band 4

Band 4 – People with one need, ie any of the following

- People accepted by the Council as needing to move into the borough to work or to give or receive support – this need cannot be combined with other needs to create a Band 3 need
- People who are homeless but not included in Band 2 because they are non priority or are homeless intentionally – this need cannot be combined with other needs to create a Band 3 need, because the homelessness decision and award of Band 2 or 4 will have taken account of all relevant factors
- People with moderate medical, disability, or related support needs
- People who are overcrowded and need one more bedroom than they have including a single person aged 18 or over and having to share a room other than with their partner, or a single person having to share a room with more than one person
- People who are Council or housing association tenants within the borough and will be releasing a family home
- People who are Council or housing association tenants within the borough, who are singles or childless couples and will be moving from a home that is not for their age group or household type to one that is
- People with other exceptional needs not covered elsewhere including those the Council has accepted as referrals from partner agencies

Band 5 – People with reduced priority (subject to a right of appeal), ie any of the following

- People with one or more housing needs, but whose present or last settled address is not within the borough, and who have no particular need to live here
- People with one or more housing needs, but who have or have had sufficient equity to afford private rental
- People with one or more housing needs, but who have reduced priority because they have failed to pay rent, have caused neighbour nuisance or anti social behaviour, or have breached other conditions of tenancy

Band 6 – People with no recognised need, for example

- Single people or couples who are lodging and have their own bedroom
- People who have a tenancy or own a property that is adequate for their needs

Band 7 – People with no recognised need who also have reduced priority (subject to a right of appeal), ie

- People who would be in Band 6 (no need) and have reduced priority for reasons such as those described in Band 5
- People who have a housing need but have had all priority removed due to very serious anti social behaviour that makes them unsuitable to be a tenant