

Draft Report

Tamworth Borough Council - Review of Draft Housing Allocations Policy

1. Introduction

This report reviews the draft housing allocations policy (January 2018) in relation to (i) government legislation and guidance and (ii) good practice (as identified by Housing Quality Network - HQN). It also addresses specific issues raised by officers at a meeting on 20 August 2018 and a subsequent email.

It should be noted that the Government's green paper on social housing was published in August 2018. There is a brief section that covers allocations. But there are no actions that are required at this stage.

Overall, the council has:

- Adopted an appropriate approach in developing an up-dated policy / scheme.
- Developed sound policies and practices taking account of national guidance since 2013/14.
- Produced a readable and understandable document.

It could, therefore, if it so wished, go through the HQN accreditation process at an appropriate stage. This would provide further reassurance on the quality of its approach.

The next section set out the national policy context emphasising that councils have relatively greater flexibilities since the Localism Act, 2011. This is followed by sections commenting on (i) process, (ii) policies and operational procedures and (iii) documentation. Finally, there is a brief commentary on the green paper.

2. Context

Allocation of housing by councils is covered in Part 6 of the Housing Act, 1996. It has, however, been substantially amended by the Homelessness Act, 2003, and the Localism Act, 2011. There are also a series of statutory guidance notes which local authorities have to consider when designing and implementing their schemes. Nominations by councils to housing associations are covered by this framework.

The policy making principles for councils in drawing up or modifying an allocations scheme are:

- A scheme must (i) determine priorities between applicants and (ii) set out operational procedures for letting property.
- It needs to have regard to homelessness strategies and tenancy strategies.
- Councils should consult with housing associations with whom they have nomination agreements over new schemes or major changes in policy.
- A summary of the allocation scheme must be published.

In relation to specific policies, national requirements focus on, for example, eligibility criteria, qualifying persons and reasonable preference groups.

The Localism Act, 2011, gives councils greater relative flexibility in designing and implementing allocation schemes. There is now much less top-down prescription. Statutory guidance frequently uses phrases such as ‘may’, ‘should consider’ and ‘has powers’. For example, ‘authorities *may* frame their allocation scheme to take into account factors in determining relative priorities between applicants in the reasonable (or additional) preference categories’¹ (*author’s italics*). Similarly, housing authorities have the power to give additional preference to particular categories of households, but they are not required to use it.

Nevertheless, flexibility poses challenges as well as providing opportunities to develop schemes that meet local requirements. These, principally, are that councils must be able to demonstrate that they have considered government guidance as well as meeting the basic policy-making and policy requirements (see also section three).

Thus, this report primarily comments on the draft allocations policy rather than assessing it against detailed prescriptive guidance as would have been the case in, say, 2000s.

3. Policy-making

The current state of play on allocations policy-making is exemplary. There is a draft allocations policy that will be the subject of a consultation process. There is an extremely useful ‘summary of changes’ report that includes the major changes, the reasons for the changes and the risks / benefits. This helps to demonstrate that the council is considering government guidance and requirements – see, for instance, in the ‘summary of changes report’ the coverage of ‘armed forces’, ‘introduction of new banding grounds’ / right to move and the Homelessness Reduction Act, 2017. Finally, there is an impressive impact assessment report that includes modelling the impact of some of the major changes so as to demonstrate their effect.

Therefore, the following points, primarily on consultation, should be seen as observations and a checklist on the process from the current state of play to formal adoption and implementation.

Consultation

The only formal requirement is that councils consult with housing associations that are covered by nomination agreements.

¹ DCLG (2012) *Allocation of Accommodation; guidance for local housing authorities in England*, London, DCLG, para 4.15.

However, good practice suggests that it should be extended to cover:

- County council social care and children's services.
- Health sector re medical priority.
- Third sector organisations that provide advice and support to tenants and potential tenants.
- Tenants' organisations.

In the relevant housing legislation and guidance, there is no time period specified. However general government guidance state that normally a 12-week period should be adopted by public sector bodies on consultations.

Lastly, for a successful consultation phase, it is important to:

- Clarify the overall purpose of the consultation.
- Highlight what aspects of the updated policy are the focus of attention.
- Ensure that material is readily available and easy to understand.

Because of the quality of the existing / current documentation, it should be relatively straightforward for the council to take the necessary steps on these three points.

Impact

At some stage, the allocations policy ought to be independently signed off as meeting requirements such as data protection, equality, safeguarding, value for money etc. Some of these issues are covered in the draft policy document (e.g. section 17 on data protection and section 19 on equality and diversity along with 5.4. and a forthcoming appendix).

Normally, councils formally meet these requirements when a policy is considered by the relevant committee(s). Relevant officers, independent of the topic, review the documentation and provide comments for the covering report.

It is assumed that this approach will be adopted by the council.

Final Documentation

See section five of this report.

4. Policies and Operational Procedures

Overview

The draft allocations document appropriately sets out the broad framework, context and aims in sections one to five. Section six onwards cover the policies and operational procedures.

Overall, the documentation is clear though there may be a need for cross-referencing in the final approved version (and see section five of this report).

Comments and observations about the two parts of the document can be found in the tables in the next two sub-sections of this report. It is followed by a brief sub-section dealing with homelessness as additional queries have been raised by officers.

Sections one to five

This provides a clear and comprehensive overview of the draft allocations policy including links to housing options etc. The importance of these are stressed in statutory guidance.

| Section / Sub-section | Topic | Commentary / Observation |
|-----------------------|--|---|
| 2 | Definition of an 'allocation of accommodation' | It would be useful to cover transfers in more detail. This is not now covered by allocations legislation but the government has highlighted that it expects to see that transfers are encouraged in cases where they do not fall under other headings e.g. medical priority etc. This expectation is usually covered through mutual exchange only – is this the case in Tamworth? |
| 3 | Legal Framework – <i>minor points</i> | 3.1. Not sure that it is relevant to mention Housing Act, 2004. But Homelessness Act, 2003, should be mentioned in the list of legislation. 3.2. Homelessness Reduction Act, 2017, and not 2018. |
| 4.6. | Housing associations | Perhaps the wording could be clearer to distinguish between nominations that are covered by the draft allocations policy and direct allocations by housing associations that is covered by the Regulator of Social Housing tenancy standard (2012). Linked issue may be affordable rents – there are examples elsewhere where housing associations reject nominations on the basis of pre-tenancy checks. Is this the case in Tamworth? Does this link to section 14 on affordability? |
| 5 | Aims of the scheme (5.1. and 5.2.) | There are ten aims. It might be argued that this is rather a long list. It would also be useful to present this as a table with an example / illustration of how each is being achieved. |

Sections six onwards

This part of the draft allocations policy covers operational policies and procedures.

| Section / Sub-section | Topic | Commentary / Observation |
|-----------------------|--|---|
| 6 and 7 | Applying to join register / eligibility | Very clear statements |
| 8.3. | Local connection (see also 15 below) | <p>Presentational issue: should 'D) Armed Forces' be in 'Local connection exemptions'?</p> <p><i>Minor</i> presentational issue: There are two sections numbered 8.4!</p> <p>Residency period: there are a number of legal cases where a two-year consecutive residency has been successfully challenged over homelessness cases where behaviour and other issues have prevented this criterion being met. Is this covered by the wording of 8.4.?</p> |
| 8.12 – 8.15, pp 23-27 | Disqualified persons | <p>Important that this is set out clearly and precisely in detail as the Localism Act, 2011, continued to allow councils to utilise disqualification but it is now up to councils to set this out and justify it.</p> <p>C and D – housing need, financial resources and savings / assets / capital: principle is sound but difficult to operationalise as DWP criteria are not necessarily in line with local income requirements to be able to afford / access private rents and bottom rung of owner occupation. Key test is whether a household, financially, can access other tenures.</p> |
| 8.19 – 8.23 | How to apply? | Checks and 8.20 and 8.22: In our meeting we discussed 'references'. My view is that the wording here is appropriately explicit on the precise information that is required. |
| 10 | Bedroom requirements, property eligibility and entitlement | Presentational issue: Might it be better to put the summary table in 10.18 at the start of the section? |
| 11 | Banding | <p>Presentational issue: A summary table on the same lines as 10.18 would be useful at the start of this section.</p> <p><i>Minor</i> presentational issue: Paragraph numbering on p 42</p> |

| | | |
|------|---------------------------|---|
| | | <p>Band 1*: The approach of having two or more band 1 characteristics seems appropriate and avoids complex systems that have many additionality rules. It might be useful at some stage to undertake some modelling of band1* households to check how this is operating.</p> <p>Medical grounds (11.10): Should there be more coverage of delayed transfers of care (DTOC)? I assume this might be raised by health and social care during the consultation phase.</p> <p>Move on from supported housing (11.21): This may be covered in other policies such as protocols, but should there be a support / care package associated with such moves? This is especially the case where there is a one-offer move on policy.</p> <p>Under-occupation (11.27) and Incentive to Move (11.31): Clarification needed on the differences between these two categories and the criteria for entitlement to incentive to move.</p> <p>Statutory homeless households (11.64): should this section be expanded to cover homelessness in general in the light of the duties under the Homelessness Reduction Act. 2017?</p> |
| 15 | Local lettings | There is sometimes confusion between local connections and local lettings among some organisations and customers. Might be useful to clarify this. |
| 16.1 | Exceptional circumstances | <p><i>Minor</i> presentational issue: line 1 of para 16.1. – should it read minor in ‘number’?</p> <p>16.3., bullet point two: Is this not covered by a category in band one?</p> <p>High risk offenders: officers raised the issue of direct lets in specific circumstances. Normally, this would require the support of a vulnerability panel, but some councils use exceptional circumstances if there is not support (and of course the numbers are usually low).</p> |

Homelessness

The relationship between allocations policy and the homelessness reduction legislation and guidance is an important and emerging issue countrywide. As it is

less than six months since the implementation date of the latter, councils and their partners are in the early stages of bringing together these two policy areas.

There are a number of different approaches that have been adopted. Generally councils have either incorporated minor changes in allocations policies prior to April 2018 with the intention of making more substantial alterations at the next major review, or have decided to undertake a significant update as part of a major review that is timetabled for late 2018.

More specifically, HQN has found that:

- Councils have been ensuring that statutory homeless households are in a high / highest band.
- Help / advice is provided for homeless households on accessing / using the allocations / lettings scheme as part of prevention.
- There is an expectation that statutory homeless households will engage with the lettings scheme (and where necessary with help) so that they are active homeseekers.
- Where necessary, there is a care and support package in place for vulnerable homeless people on the housing register.
- Some local authorities in high demand areas have reviewed banding schemes and reduced the relative priority of some groups in anticipation of an increase in the number of homeless households on the housing register because of the so-called '56-day rule'.

Overall, a reoccurring theme is that councils did not have time / resources prior to April 2018 to update and coordinate allocations policies with homelessness strategies.

In relation to Tamworth, the council appears to be making the necessary changes to meet the principles of the homelessness reduction requirements. It will be important that the forthcoming update of the homelessness strategy includes cross-reference to the allocations policy. In addition, it is likely that the annual lettings plan (section 15) will need to take account of homelessness patterns and minor changes may need to be made to the policy (as set out in section 21).

5. Documentation

The statutory requirements are:

- Allocations scheme: this is normally interpreted as a detailed statement covering policies and procedures.
- Summary of the allocations scheme that is freely available: this is usually taken to mean a customer-friendly version.

The draft allocations policy meets the principles of the former. The latter could adopt a FAQ approach.

However, the council should, in addition, give consideration to producing a separate brief strategic statement on allocations. Sections one to five of the draft policy could form the basis for this statement. An added advantage of this approach is that it usefully separates overall policy from detailed operational procedures.

Finally, there is a case for more cross-referencing in the final version of the policy so as to more easily see the links between policies

6. Social Housing Green Paper

The major announcement is that an evidence collection exercise on understanding how the allocations system operates across England will be undertaken (paragraph 179).² It identifies three issues that will be the centre of attention:

- Use by councils of flexibilities
- Relationship between councils and housing association on nominations.
- Lettings systems including CBLs.

It is, however, unclear what the direction of travel may be. Nevertheless, there are three underlying principles in the green paper:

- Efficient use of existing social housing for those who need it most (which is the title of the sub-section that includes allocations and lettings).
- Household choice.
- Housing stability for renters – one of the other measures in the green paper is the announcement not to require councils at this stage to use fixed term tenancies.

The council may wish to reflect on whether these are adequately covered in the draft allocations policy.

² <https://www.gov.uk/government/news/social-housing-green-paper-a-new-deal-for-social-housing>.