

26 April 2012

Brighton &amp; Hove City Council

<b>Subject:</b>	<b>Housing Allocation Policy Review</b>		
<b>Date of Meeting:</b>	<b>26 April 2012</b> 19 April 2012 - Cabinet		
<b>Report of:</b>	<b>Strategic Director Place &amp; Strategic Director People</b>		
<b>Lead Cabinet Member:</b>	<b>Cabinet Member for Housing</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jugal Sharma</b>	<b>Tel: 3101</b>
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<b>Key Decision:</b>	<b>Yes</b>	<b>Forward Plan No: CAB27244</b>	
<b>Ward(s) affected:</b>	<b>All</b>		

## 1. SUMMARY AND POLICY CONTEXT:

- 1.1 The current Housing Register Allocations Policy was approved by Housing Cabinet 22 March 2011. Under the current policy young people leaving care (care leavers) are not automatically awarded Band A priority for social housing (Council & Registered Provider), but are assessed for housing depending on their housing need in the same way as other applicants. The current Allocation policy, however, does give the Lead Commissioner for Housing discretion to award priority in exceptional circumstances. There is also a quota system in place for Children's Services to grant up to 15 cases Band A status per annum as decided by Children's Services. This is normally used for re-housing young people from local families.
- 1.2 Care leavers and their representatives have raised concerns with the Council regarding the current policy and have suggested that automatic Band A status should be reinstated for young people leaving care.
- 1.3 To ensure we are reflecting both the need to make best use of limited housing resources and fulfil our corporate parent role to young people leaving care, a review of the policy has been undertaken including public consultation over 12 weeks (7 November 2011 - 29 January 2012). A list of consultees is attached in Appendix 1.
- 1.4 Consequently, this report sets out recommendations for revising the Allocations policy and its operation reflecting a stronger consideration of the Council's role as corporate parent to young people leaving care.

## 2. RECOMMENDATIONS:

- 2.1 That Cabinet recommends to Council that:
  - (i) the proposals set out in paragraph 3.22 to 3.28 and also Appendix 3 be approved;

- (ii) the Strategic Director, Place, be authorised to amend the Council's Housing Allocations policy to reflect the above changes;
- (iii) the Strategic Director Place and the Strategic Director People, be authorised to take all steps necessary or incidental to the implementation of the proposals in paragraphs 3.22 to 3.28, including making appropriate arrangements for assessments, referrals and reporting to Members as suggested in paragraphs 3.14 and 3.24 of the report.

### **3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:**

- 3.1 The Housing Register Allocations policy has and will continue to be subject to periodic review reflecting legislation, local demographic changes and policy preferences. Where changes are made the Council strives to ensure that the policy remains legal, reasonable, effective and efficient.
- 3.2 Under the previous Housing Allocation policy 2005 care leavers who were assessed as not requiring supported accommodation were awarded Band A priority. This entailed a joint assessment process as part of a Joint Protocol agreed between Children's Services and Housing. This process did not necessarily consider all of the housing tenure options available and how accommodation offers might be accompanied by on-going support packages to ensure accommodation offers and tenancy arrangements were successful.
- 3.3 The policy was reviewed and a report brought to Housing Cabinet 22 March 2011. Based on the consultation, automatic Band A status for care leavers was removed. As such, for care leavers who did not need supported accommodation, it was possible to offer and oblige private rented accommodation as a first option. In part this reflected a concern that housing potentially vulnerable people onto housing estates with relatively high concentrations of deprivation might not be the most appropriate solution.
- 3.4 Subsequently, however, care leavers and their representatives have raised concerns with the Council regarding this decision. They have suggested that automatic Band A status should be reinstated for young people leaving care as a first choice. In response the Council has undertaken a further review of the policy including public consultation over 12 weeks (7 November 2011 - 29 January 2012).

#### **Legal & Policy Considerations**

- 3.5 In considering the how best to resolve matters and proceed, officers have had regard to the legislation and policy relating to care leavers and the obligations on local authorities in meeting their housing needs. The Council has 3 key considerations: it's obligations as Housing Authority; as a Children's Services Authority; and, as a Corporate Parent to care leavers.
- 3.6 The current Allocations policy, looked at on its own, complies with legal requirements under the Housing Act 1996 and Code of Guidance. The list of people we are required to give reasonable preference to is set out in Appendix 4, there is no requirement to award priority to young people leaving care looking at the council's duty as a Housing Authority (as opposed to a Children's Social Services Authority).

- 3.7 In terms of the Children Act 1989, the council has used the Allocations policy as a way of discharging its housing duties to care leavers. S17(6) and S20 of the Act established a duty to provide accommodation for a Child in Need. S23 (b)(8) also refers to the need to provide “suitable” accommodation, where a care leaver seeks it, defined under the Care Leavers (England) Regulations 2010. (Suitable is defined as accommodation which, in so far as reasonably practicable, is suitable for the child in light of his needs, including his health needs see Appendix 5). This requires the council to look at the needs and wishes of the care leaver and facilities. For those aged 18, s23(a)(2) states there should be a care plan that can include accommodation. To be clear, however, none of these requirements stipulate that the offer of “suitable” accommodation must, in all cases, include a Council tenancy or the award of Band A priority for council housing.
- 3.8 Hence, the current Allocations policy, taken by itself, is lawful. As long as the council complies with its duties under the Children Act regarding the provision of “suitable” accommodation, there is no requirement or inference that this should necessarily be via the Housing Allocations policy and the council is at liberty to discharge that function by other means if it so wishes.

### **Options for moving forward**

- 3.9 Care leavers and their representatives have signalled that they may seek a judicial review of the current policy and their opportunity to be consulted and make representations on changes. Whilst the view of the Council’s legal officer is that the Council’s position is legally safe in relation to compliance with housing legislation, there are issues around the Council’s position as a children’s services authority and policy options open to the Council. If the Council considers that a council or other social housing tenancy would be best as a general rule to meet care leaver’s needs, then we would need to give the care leaver sufficient priority within the Allocations policy, taking into account our responsibilities as Corporate Parent.
- 3.10 In considering this your officers have reviewed the key operational issues. There is a risk of tenancy breakdown when a young person becomes a tenant for the first time and this may impose some costs in reinstating the property and also dealing with the personal care aspects of the breakdown, albeit these costs on average are not considered to be different from any other vulnerable group. Experience to date has been mixed but there is agreement amongst housing and social service professionals that systems need to be in place to ensure that young people are prepared and that their assessment clearly demonstrates they are ready to live independently. Support may be appropriate to help young people in sustaining their tenancy and to develop the practical, financial and emotional skills and resilience to live independently.
- 3.11 Housing and social service professionals are also in agreement that care leavers should be involved, in so far as is reasonable, in all decisions relating to their care. As a corporate parent, we may want to give particular weight to the wishes and feelings of care leavers in determining their housing options. At present, responsibility for care leavers housing allocations falls primarily on the Lead Commissioner, Housing following consultation with Children’s Services professionals. Where professional differences of opinion on an appropriate housing option cannot be reconciled, protocols are currently in place to refer the matter to the Strategic Director People to arbitrate. To support the Lead Commissioner, Housing and the Strategic Director People, it may be helpful

establish a board to review the impact of care leaver housing allocations and where necessary advise on potential service improvements. Such a board is often a feature of other local authorities' care leaving arrangements and could involve feedback from care leavers and/or their representatives.

- 3.12 In light of the review and the response to recent consultation on the policy, there is an option for the Council to give greater weight to its role as a Corporate Parent to care leavers and thus offering Band A housing priority to care leavers. This reflects the requirements of the Children Act 1989 whereby the responsible authority has to satisfy itself as to the character and suitability of the landlord or other provider complying with health and safety requirements related to rented accommodation. The Act also requires the responsible authority, in so far as reasonably practicable, to take into account the child's wishes and feelings and also education, training or employment needs.
- 3.13 Consequently in undertaking formal assessments, officers would have regard to both a professional view as to whether the care leaver is ready for independent living as well as the wishes of the individual. Officers would have particular regard to the significance of security of tenure, affordability and emotional well being, particularly in the early years of adult life where young people leaving care may be at a critical stage in full time education, employment and/or training and would benefit from stability of tenure.
- 3.14 Where Council accommodation is not readily available or might be considered otherwise inappropriate, the council may also consider offers to care leavers of accommodation in relation to private sector landlords where these can also be assured as offering security of tenure, affordability and emotional well being.
- 3.15 In all cases, the judgement of the professional parent and the views of the care leaver child would need to be carefully considered in deciding upon a housing option. Where necessary, the council may also seek to provide supplementary packages of support (see Appendix 5 Schedule 2) to enable a care leaver to make a successful transition to independent living irrespective of the Band A status.
- 3.16 To ensure that the policy and its operation is achieving the desired impact and is not generating any adverse and unintended consequences, it may also be prudent for a joint annual report from Children's Services and Housing to be submitted to an appropriate (sub) Committee regarding the impact on social housing management and the well being of care leavers.

### **Implications for housing supply & housing waiting lists**

- 3.17 Care leavers generally need studios or 1 bed properties. In the last year the number of studios and 1 bed properties becoming available was 584. In terms of demand, there were a total of 7,495 households waiting for this size property, which comprise: 142 in Band A, 519 in Band B, 5164 in Band C and 1670 in Band D (see Table 1).

**Table 1: Council Housing Availability & Waiting List Priorities**

Size	Number of properties available	Waiting households	Banding Priority			
			A	B	C	D
Studios and 1 bedroom	584	7,495	142	519	5,164	1,670
2 bedroom	231	3,181	105	263	1861	952
3 bedroom	82	1,386	48	220	816	302
4+ bedroom	10	203	17	59	98	29

**Care Leaver Housing Requirements**

3.18 Children's Services provide close monitoring of young people leaving care. Table 2 below shows where they go.

**Table 2: Housing Accommodation for Young (18 year old) People Living Care**

	2006	2007	2008	2009	2010
Supported Lodgings	4	8	14	7	2
With Parents Or Relatives	5	8	7	12	7
Foyers And Similar Supported Lodging	2	0	2	4	11
Community Home Or Other Residential Care	0	5	3	2	2
<b>Independent Living *</b>	<b>15</b>	<b>14</b>	<b>14</b>	<b>14</b>	<b>18</b>
SSD Not In Touch With Young Person	0	0	2	0	0
Semi-Independent Transitional Accommodation	2	3	1	0	0
Other Accommodation	1	0	1	0	0
Ordinary lodgings without formal support	0	0	0	0	0
In Custody	2	0	0	3	1
Bed And Breakfast	0	1	2	1	0
Emergency Accommodation	0	0	0	0	1

**Note:** About five young people outside of the 18 year old age bracket are also likely to be assessed as ready for independent living.

\*independent living – this group goes to a mixture of local authority housing both in the city (80%) and beyond, as well as private rented accommodation.

3.19 The number of young people leaving care and entering council enabled accommodation is recorded at between 14 to 18 per year. Looking forward, based on young people currently in care and due to reach their eighteenth birthday, the number seeking and able to sustain independent living is forecasted in Table 3.

**Table 3: Forecast of Young People Leaving Care Seeking & Able to Sustain Independent Living**

	2011	2012	2013	2014	2015
<b>Independent Living only</b>	<b>17</b>	<b>17</b>	<b>18</b>	<b>18</b>	<b>19</b>

3.20 As such the forecast pressure on annually available suitable council housing accommodation is relatively modest and would not unduly distort the allocation of council housing across all recognised needs groups in the city.

### **Options**

3.21 In light of the review and the results of consultation, the options are:

- a) Status quo. Although this complies with Housing law it leaves the council open to challenge under the Children Act.
- b) Amend the current arrangements to reflect the Council's corporate parent role by giving care leavers an appropriate priority subject to formal assessment.
  - i) Band A. There are a finite number of properties that become available and so there are implications for other client groups by increasing the priority of one group.
  - ii) Band B. This would give a high priority but may not be the best option to give sufficient priority to enable the Council to discharge it's duties under the Children Act.

If option b) is chosen it is also recommended that it be accompanied by a robust assessment of the needs of the care leaver and a support package as set out in Appendix 5, Schedule 2.

### **Recommendation**

- 3.22 That Band A Priority should be available as one of a range of housing options offered to young people leaving care. Allocation of band A priority should be based on individual need following a case conference involving the young person and all relevant parties.
- 3.23 That a case conference panel or board is set up to facilitate the above at 3.22.
- 3.24 That robust support packages are created with the involvement of the young person in advance of their leaving care.
- 3.25 That the implementation of support packages and the sustainability and success of tenancies on the part of care leavers is monitored by the newly created Corporate Parenting Sub Committee.
- 3.26 Where a care leaver seeks to appeal an assessment decision and/or agreement cannot be reached by professional assessors, the matter is to be referred to the Strategic Director People to arbitrate as the delegated corporate parent for the Council.
- 3.27 In addition, the Strategic Director People and the Strategic Director Place will provide an annual report to the Council through a proposed Corporate Parent (sb) Committee on the impact of housing allocations on the management of council housing stock and the well being of care leavers.

- 3.28 With regard to other issues raised as part of the consultation as set out in Appendix 3, officers recommend these changes are also accepted by cabinet and subsequently recommended by cabinet to Full Council at the earliest opportunity.

#### **4. COMMUNITY ENGAGEMENT AND CONSULTATION**

- 4.1 A minimum 12 week consultation process with city stakeholders over the proposed changes has now been completed and extended until 19 February for council tenants so that feedback from all area panels are taken into account when considering final recommendations. Stakeholders include our Communities of Interest, our partner agencies, Age Concern, support agencies, people on the Housing Register, CYPT, and support providers (a full list is provided in Appendix 2). The Community Engagement Framework and standards have been used in undertaking this consultation. Feedback is set out in Appendix 2.
- 4.2 The report was considered by HMCC 19 March 2012. An indicative vote was taken of tenant representatives who opposed the recommendation as amended. A majority of Councillors supported the recommendation as amended.

#### **5. FINANCIAL & OTHER IMPLICATIONS:**

##### Financial Implications:

- 5.1 The 2011/2 budget for the Home Move team is £0.337m which mainly consists of staffing costs (£0.284m) and the Home Move Magazine (£0.052m).
- 5.2 In general it can be challenging to identify direct financial implications from policy decisions and in this case the issues are primarily about priorities and balancing the council's various legal duties. No significant financial implications were identified when recent changes were made to the housing allocations policy in 2011, 2009 either at the time of decision making or afterwards through routine budget monitoring. There are clearly real pressures on the housing system in Brighton & Hove and there are only a finite number of council houses available. This means that any changes to prioritisation will have some consequential impact on others on the waiting list. However it is identified in the report that the potential number of care leavers who may be assessed as ready for independent living and who would choose a council tenancy is in the region of 14-18 per annum. This is just over 10% of the current Band A waiting list and only just over 2% of the total Band A and Band B waiting list based on the information in Table 1 and this also shows that the number of available studio and 1 bedroom properties available currently exceeds the total number of Band A and Band B waiting households. It is therefore difficult to envisage that this change will have any direct impact on other council budgets such as that for homelessness. The costs of housing for care leavers in full time education is funded by children's services, irrespective of the accommodation provided. All other care leavers are, in funding terms, no different to any other adult and would pay rent on their property and claim housing benefits where they were entitled. No specific additional housing management costs for the HRA have been identified for care leavers as a particular client group.

- 5.3 It is proposed to closely monitor the progress of such tenancies and ensure that any subsequent additional costs or loss of income, such as non payment of rent, are reported in due course. It is intended that any Officer time required for additional reporting requirements, attendance at panel etc would be met from existing resources.

*Finance Officer Consulted: Anne Silley*

*Date: 21/02/12*

Legal Implications:

- 5.2 As stated in the body of the report, the Council has legal duties both as a local housing authority and as a children's social services authority. The proposed arrangements, taken together, should be such as to enable the Council to discharge both duties, including the Council's obligations to provide "suitable accommodation" to care leavers.
- 5.3 The requirement under the Children Act 1989 is not to provide Council Housing in all cases. It is to provide "suitable housing" taking a range of factors into account. The proposed approach, being a needs-assessment-led approach, should therefore assist the Council in discharging its duty as a Children's Services Authority.
- 5.4 Irrespective of what is in the housing allocations policy itself, the Council will need to review the practical operation of the scheme in the context of its duty to care leavers. The regular report to the Corporate Parenting Sub-Committee will help provide this assurance.

*Lawyer Consulted: Abraham Ghebre-Ghiorghis Date: 1 February 2012*

Equalities Implications:

- 5.3 Equalities Impact Assessment has been carried out for the proposed options to change the Policy (Appendix 6).

Sustainability Implications:

- 5.4 The proposals will ensure that better use is made of the housing stock and will contribute to sustainable housing solutions

Crime & Disorder Implications:

- 5.5 None

Risk and Opportunity Management Implications:

- 5.6 There is no risk of legal challenge under Housing law but there is a risk of challenge under the duties toward young people leaving care under the Children Act if the local authority are relying on the Allocation policy to discharge it's duties to care leavers. The local authority's duty to care leavers is to provide suitable accommodation and it is open to the local authority to determine what and how this is achieved. (Appendix 5)



### Public Health Implications:

- 5.7 The report, by addressing the issues of accommodation for care leavers will effectively contribute positively to their health and wellbeing. However, as there is a finite supply of available housing, there may be adverse implications for other client groups.

### Corporate / Citywide Implications:

- 5.8 Limited social housing stock will be used in the best and most efficient way possible and that the city will benefit from clearer communication and updated Local Lettings Plans

## **6. EVALUATION OF ANY ALTERNATIVE OPTION(S):**

- 6.1 The alternative to the amendments would be for the policy to remain as per the current policy however this would not fully address the concerns raised by care leavers and their representatives.
- 6.2 We looked at the other councils in East and West Sussex in addition to some London Authorities Croydon, Westminster and Southwark. There is a mixture of what priority is awarded to care leavers, between Band A (or equivalent) and Band B (or equivalent). Full details are in Appendix 7.

## **7. REASONS FOR REPORT RECOMMENDATIONS**

- 7.1 The recommendations reflect the outcome of consultation on the housing Allocations policy and officer review whereby the council give greater weight to its role as a Corporate Parent to care leavers and thus offer Band A housing priority to care leavers.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. List of people and organisations consulted
2. Feedback
3. Minor Amendments
4. Code of guidance for local housing authorities 2002 - Allocation of Accommodation CHAPTER 5 Allocation Scheme, Reasonable preference
5. Duties under the Children Act relating to accommodation
6. Equality Impact Assessment
7. Allocation Schemes and priority for care leavers in other Local Authorities

### **Documents in Members' Rooms**

None

### **Background Documents**

- Housing Act 1996 and Code of Guidance
- The Children Act 1989
- Housing Register Allocations Policy was approved by Housing Cabinet 22 March 2011
- Housing Allocation policy 2005