



AGENDA ITEM: 12

**EXECUTIVE OVERVIEW
AND SCRUTINY COMMITTEE:**

8 APRIL 2009

Report of: Executive Manager Housing and Property Maintenance Services

Relevant Portfolio Holder: Councillor V Hopley

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SUBJECT: REVIEW OF THE HOUSING ALLOCATIONS POLICY

RVL/LG/EH2889eo&s
3 April 2009

District wide interest.

1.0 PURPOSE OF THE REPORT

1.1 The purpose of this report is to inform the Executive Overview and Scrutiny Committee of a decision of the House of Lords, which has an implication on the changes being put forward to the Housing Allocation Policy.

2.0 RECOMMENDATIONS

2.1 That the changes outlined at Appendix 1 are considered in light of a recent House of Lords judgement and a view taken to incorporate those changes into the new policy.

2.2 That any comments of this Committee be forwarded to Cabinet at their meeting on 16 June 2009 in order that they can make an informed decision.

3.0 BACKGROUND

- 3.1 I attach a summary of the House of Lords decision and how this affects the policy. (Appendix 1).

4.0 CURRENT POSITION

- 4.1 The current position is that it has become necessary to review the draft Allocations Policy in light of the House of Lords decision to ensure that it is fair and equitable for applicants.

5.0 ISSUES

- 5.1 The attached report highlights the impact of the judgement and proposals to amend the Allocations Policy in light of that judgement.

6.0 SUSTAINABILITY IMPLICATIONS/COMMUNITY STRATEGY

- 6.1 See Appendix A

7.0 FINANCIAL AND RESOURCE IMPLICATIONS

- 7.1 There are no financial or resource implications arising directly from this report.

8.0 RISK ASSESSMENT

- 8.1 A risk assessment was carried out on the existing Allocations Policy and it was felt that this needed to be amended at the current time to address some issues since the Allocations Policy came into force.

9.0 CONCLUSIONS

- 9.1 The judgement of the House of Lords has allowed local authorities to be more flexible when deciding how to frame their Allocations scheme. It is important to consider this judgement and seek the views of Members and the Tenants and Residents group prior to the final report being presented to the next Cabinet meeting on 16 June 2009.

Background Documents

There are no background documents (as defined in Section 100D(5) of the Local Government Act 1972) to this Report.

Equality Impact Assessment

There is no evidence from an initial assessment of an adverse impact on equality in relation to the equality target groups.

Appendices

Appendix 1 Summary of the House of Lords judgement & recommended changes to the Allocations Policy.

Appendix 2 Department of Communities and Local Government Letter advising of the judgement in R (on application of Ahmad) v London Borough of Newham 2009

Appendix 1

Redraft of priority bands following the House of Lords decision in R (on application of Ahmad) v London Borough of Newham 2009

Background

The case of R (on application of Ahmad) v London Borough of Newham challenged the lawfulness of Newham's allocation scheme. The Court of Appeal held that Newham's scheme was unlawful because it did not allow for cumulative need, applicants were ranked by band with each band being ranked by date order and a small percentage of allocations were made to existing tenants who did not have any housing need.

Newham appealed to the House of Lords and they passed judgement on the 4 March 2009. The House of Lords held that Newham's scheme was lawful. It was held that;

- There is no requirement in s.167 of the Housing Act 1996 for housing authorities to frame their allocation scheme to provide for cumulative preference i.e. affording greater priority to applicants who fall into more than one reasonable preference category.
- An allocation scheme that allows for priority to be determined between applicants in the reasonable preference categories on the basis of waiting time alone is not unlawful or irrational.
- An allocation scheme is not unlawful if it allows for a small percentage of lets to be allocated to existing social housing tenants who wish to transfer and who do not fall within any of the reasonable preference categories.

In light of this decision, it is recommended that sections 13 & 30 of the policy (the criteria for Band A and exceptional circumstances) be amended.

Current draft

The current Allocations Policy allows for a certain degree of cumulative preference to be taken into account. The current amended draft extended this in line with the view taken by the Court of Appeal in the Newham case.

The subsequent House of Lords decision has finally clarified the position in relation to how authorities should deal with cumulative preference.

After reviewing the judgment it is felt that removing the provision of cumulative need is the most appropriate course of action to ensure the policy remains fair and equitable.

It is recommended that applicants only be awarded band A if they meet one of the following criteria i.e.

- Applicants who have made a homeless application and have been assessed as unintentionally homeless and in priority need as a result of being victims of violence or harassment;
- Applicants applying for an allocation of accommodation who have not been assessed as homeless but need to move urgently due to being victims of violence or harassment
- Severe overcrowding
- Urgent Medical Need
- Unfitness and Disrepair
- Anti-Social Behaviour
- Left in Occupation
- Under Occupation

Section 30 of the policy provides delegated authority to the Executive Manager Housing Services to decide on the priority band to be awarded in exceptional cases. This would allow cases that do not fall into any of the band A criteria to be awarded this priority if the circumstances of the case warrant such an award.

The effect of implementing the current draft without removing the provision of multiple need

Implementing the amended policy without removing the provision of awarding band A for cumulative need will result in an uneven distribution of applicants between the bands.

Band A could become saturated with cases meaning allocations would very rarely be made to applicants in bands B to D.

This could also increase the number of homeless presentations as homeless applicants attempt to claim band A on the basis of cumulative need. An increase in homeless applications in band A would reduce the number of allocations made to households who are not homeless but have a high degree of housing need.

A more appropriate course of action would be to consider an applicant's needs and award priority based on the highest of those needs.

Recommendations

It is recommended that the Allocations Policy be amended and multiple need removed as a criteria for being awarded band A priority. This will ensure the Allocations Policy remains fair and equitable for all applicants.