

Cabinet

21 MAY 2012

**CABINET MEMBER
FOR HOUSING**

*Councillor Andrew
Johnson*

**BUILDING A HOUSING LADDER OF
OPPORTUNITY INCORPORATING: DRAFT
HOUSING STRATEGY
DRAFT TENANCY STRATEGY
DRAFT SCHEME OF ALLOCATION
DRAFT HOMELESSNESS STRATEGY**

**Wards:
All**

The purpose of this report is to seek Cabinet's approval and endorsement of the documents listed above for public consultation including interested parties and the Mayor of London who is a statutory consultee.

The draft **Housing Strategy** provides an overarching framework for the other documents and for the Council's Housing activities as a whole. There are 3 key themes of *Delivering Major Economic and Housing Growth, Tackling Economic and Social Polarisation and Managing a better, streamlined council housing service. It sets out the Ladder of Housing Opportunity and the vision of social housing as a staging-point, not a final destination.*

The draft **Tenancy Strategy** proposes fixed-term tenancies for new social housing lettings, typically 5 years, but 2 years in cases such as special schemes for working households

The **Scheme of Allocation** will significantly increase the proportion of social housing lettings allocated to working households and those making other contributions to the community and promotes Local Lettings Plans to produce more balanced communities. It proposes changes to the inefficient Housing Register to clarify who qualifies for Housing and restricts access to the Register to those who have a reasonable chance of being housed. The report proposes ending the Choice-Based Lettings system which creates false hopes and expectations for

applicants.

The draft **Homelessness Strategy** sets out how the Council will meet its a statutory obligations but also proposes breaking the link between a homelessness application and a social housing tenancy through using new powers to discharge duty into the private sector.

The proposed changes will yield significant General Fund savings from 2014/15.

CONTRIBUTORS

EDHRD
DHOSED
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**HAS A EIA BEEN
COMPLETED?
(initial screening)
YES**

**HAS THE REPORT
CONTENT BEEN
RISK ASSESSED?
YES**

Recommendation(s):

That the Draft Housing Strategy, Draft Tenancy Strategy , Draft Scheme of Allocation and Draft Homelessness Strategy documents for public consultation with the interested parties identified in section 9 of this report be approved.

1. INTRODUCTION AND EXECUTIVE SUMMARY

- 1.1. The Housing environment is in a period of significant change both within the borough and externally. It is therefore a timely moment for the Council to set out its strategic position on a range of issues that now need to be addressed. The Localism Act 2011 has brought discretions and opportunities in the area of social housing, Right to Buy discounts have been increased bringing home ownership within the reach of many council tenants once again and clear progress is being made in the major Opportunity Areas for regeneration in the borough.
- 1.2. This report introduces four documents which provide a statement of the Council's intent in driving forward the housing agenda and Building a Housing Ladder of Opportunity. These are consultation drafts of the;
 - Housing Strategy
 - Tenancy Strategy
 - Scheme of Allocation
 - Homelessness Strategy.

The purpose of the different documents is summarised in Annex B.

- 1.3 The framework set by the Draft Housing Strategy is set out below in Section 2. Key points from the rest of the report are as follows;

Tenancies

- Currently most social housing tenancies are granted on a secure / assured tenancy basis. This takes no account of changes in household circumstances, can lead to a poor use of housing resources and provides little incentive for promoting personal aspiration, for example to move into home-ownership or the making of contributions to building successful communities;
- Existing tenants will be unaffected by the new proposals;;
- However, most new tenancies will be for a fixed term. Usually this will be for 5 years but with exceptions of 2 year tenancies in certain circumstances, for example where there are special schemes for working households within Local Lettings Plans.
- New tenancies in sheltered accommodation and for other older residents and for those with special housing or health needs would still be on a secure / assured basis.
- Many tenancies will be renewed but this will provide the Council with the opportunity to review how the tenancy has gone and whether the circumstances which led to its being granted still apply.

Priorities for Allocations

- The current system of allocating social housing has successfully provided for people who are vulnerable and who cannot house themselves. However, it has also created concentrations of people on

Housing and Welfare Benefits and some disadvantaged communities which are not sufficiently balanced or cohesive. The system has also disadvantaged households on low or modest incomes which are not in a position to buy or rent on the open market but whose need for housing may be as great as those who have been housed.

- The new Scheme of Allocation will give a greater priority to those who are working, those in training leading to employment and those making a significant contribution to the community and as a result a significantly higher proportion of lettings will go to such groups. Examples of a community contribution would be ex-service personnel and foster carers.
- A system of Local Lettings Plans would serve to deliver mixed, balanced and sustainable communities in particular areas; this would include giving access to households on the Home Buy register to short-term tenancies as a prelude to low-cost home-ownership options.

Housing Register

- The Housing Register is an inefficient mechanism for applying for Housing and creates false hopes and expectations for applicants. Most applicants have no chance of being housed and as many as 1 in 5 are from outside the Borough.
- It is proposed to introduce more rigorous qualification criteria such that only people with a reasonable prospect of being housed will be accepted on to the Register. A local connection of at least 5 years is proposed as a qualification criterion.

System for Allocating Social Housing

- The Choice-Based Lettings system attracts many bids for each letting, the great majority of which are futile and/or unrealistic. On the other hand, some applicants on the Housing Register rarely or never bid.;
- It is proposed to replace the CBL system with a system of "Assisted Choice". Applicants will be offered a number of options. This could include a social housing tenancy or private sector accommodation; declining an offer would be reflected in an applicant's status on the Housing Register;
- The aim would be to deal with cases quickly and provide high quality advice, particularly to those people who are vulnerable for health or other reasons.

Homelessness

- The homelessness system provides for people who are vulnerable but can also create perverse incentives to leave accommodation;
- Under these proposals the Council will continue to meet its statutory obligations, but there will no longer be an automatic link between a homelessness application and a social housing tenancy. It is proposed that the Council use its prospective powers to discharge its duty in the private housing sector.

1.4 Hammersmith & Fulham is amongst the first authorities formally to bring forward proposals arising from the Localism Act. Some of the proposals of other London Boroughs that have initiated consultation on their response to the Act reflect those in this report. For example,

- **LB Havering** is anticipating fixed-term tenancies with a norm of 5 years;
- **LB Brent** is exploring how flexible tenancies could help make best use of the housing stock, probably with a minimum 5 years as a norm. The Authority is also minded to exclude applications from anyone not resident in the Borough and those who have no prospect of being housed and to use the flexibility offered to extend the use of private rented households for homeless households;
- **Royal Borough of Kensington & Chelsea** proposes 5 year flexible tenancies as the norm with older tenants and those with a substantial disability or illness being granted secure or assured tenancies;
- **Westminster City Council** proposes 5 year flexible tenancies as the norm with a 2 year tenancy for specific groups, eg young people saving for a deposit. WCC also propose secure tenancies for older residents.

2. THE FRAMEWORK SET BY THE HOUSING STRATEGY

2.1 The Draft Housing Strategy is attached as Appendix A. A cross cutting theme of all the Council's future work on Housing will be our ambition to **Build a Housing Ladder of Opportunity**. The Council aims to achieve this in a range of direct ways, such as through the reinvigorated right to buy to council tenants; increasing discount market sale opportunities in new housing developments; delivering new housing through the Local Housing Company; promoting shared ownership and other 'First Steps' opportunities such as slivers of equity in Council homes. Our broader objective is to treat affordable housing as a valued, integrated and more accessible segment of the housing market, playing a greater part in regenerating local communities and local economies. To achieve this, the Council will:

- (a) **Deliver Major Economic and Housing Growth** – To be achieved using housing investment acting as a catalyst for wider socio economic change. Hammersmith & Fulham is uniquely positioned to continue that through delivery of its five regeneration opportunity areas, three of which are identified by the Mayor of London as strategic priorities and via its Local Housing Company.
- (b) **Tackle Economic and Social Polarisation** – To be achieved by promoting Right-to-Buy and creating low cost home ownership initiatives such as slivers of equity and part-rent and part-buy in Council housing using more imaginative and flexible approaches to estate regeneration; allocations policies prioritising working households; local lettings plans and flexible tenancies.

- (c) **Manage a better, streamlined council housing service** – To be achieved through more effective and efficient housing and leasehold management services with clear, realistic performance targets using other housing management service providers as required to increase resident satisfaction with repairs, resident involvement and dealing with Anti-social behaviour.

3. THE CURRENT SOCIAL HOUSING SYSTEM AND THE CASE FOR CHANGE

3.1 The current system in which people apply for social housing in Hammersmith & Fulham, are allocated a home and then occupy it can be summarised as follows;

- An “open” Housing Register, open to all applicants, whether within the borough or not, as long as they are not specifically rendered ineligible by statute; the total on the Register is 10,300 and 1 application in 5 is from outside the borough;
- Applicants are placed in one of 4 bands (A to D) on the register according to their assessed level of priority for Housing; 94% of applicants are in one of the two lowest bands;
- Applicants “bid” for specific properties on a “Choice-Based Lettings” (CBL) scheme called “Locata.” The properties are provided either by the local authority or by Registered Providers (Housing Associations.)
- Bids are made using the priority afforded by an applicant’s place in the banding system; a higher band will outbid a lower band and within the same band an applicant with an earlier application date will outbid one with a later date; a total of 131,000 were made in 2010/11.; the average number of bids for 3 bedroom properties was 157.
- Far fewer properties are available than there are applicants and as a result most bids and indeed most applications are unsuccessful; in 2011/12 and net of transfers fewer than 500 lettings were available;
- Special quotas are made available to ensure a minimum number of properties are allocated to specific groups, e.g. those in employment, people who are vulnerable or residents who are nominated by Adults or Children’s services;
- The Council has a statutory duty to give “reasonable preference” to particular groups set out in legislation, including homeless households;
- Homelessness legislation requires the authority to assess applications from those approaching it as homeless, to secure temporary accommodation while an application is being assessed and to provide accommodation on a permanent basis where a rehousing duty is accepted;
- Since the demand for permanent accommodation for homeless households cannot be met immediately, such households can spend a considerable period in temporary accommodation, usually accessed from private landlords. There are over 900 such households placed by

the Council and increasingly their accommodation is being provided outside the Borough;

- Where a permanent allocation is made to social housing in the Borough, this is almost always on a secure or assured tenancy basis.

3.2 The social housing system operated at present was originally built on the best of intentions. But in its effects it can be said to be unfair to certain groups, to give false hopes and expectations, to create perverse incentives to particular categories of applicant, to make inefficient use of resources both of assets and staff and not sufficiently to promote personal responsibility and economic growth which are amongst the key objectives of the Borough's Housing Strategy. This is set out in more detail below.

3.3 The Housing Register and the Bidding System:

Key Statistics;

The Housing Register;

- At the beginning of April there were 10,300 households on the Housing Register;
- Of these (49%) were within the lowest priority band (D) and 94% within the lowest 2 bands (C and D).
- In 2011/12, there were 619 lettings to social housing. When transfers are excluded, this figure drops to 470 lettings;
- 19.5% of applications were from outside the Borough;
- 2766 applicants had been on the Register for over 5 years and 478 for over 10 years;
- One applicant joined the register on 19 April 1976, almost 36 years ago;

Choice – Based Lettings;

- In 2010/11 a total of 131,343 bids were made for property;
- The average number of bids for 2 bedroom properties was 84 and for 3 bedrooms 157;
- The record number of bids for one property is 542;
- In 2010/11, 914 applicants on the Register made no bids for accommodation;
- 7100 applicants have only ever made 3 bids or less or have never bid;
- 363 homeless households have never made a bid for accommodation;
- In 2010/11, there were 92 instances where the successful bidder refused the offer of accommodation;
- The record number of refusals by any one household is 6.

Like most local authorities, LBHF uses a housing register to assess priority for social housing. There are 4 bands, A to D, in decreasing order of assessed housing need.

- Band A;** Emergency and very severe housing need;
- Band B;** High priority applicants with an urgent need to move;
- Band C;** Others with an identified housing need and within the Statutory “reasonable preference” categories;
- Band D;** All other registered applicants.

Most allocations are via a bidding system – Choice-Based Lettings (CBL). If applicants “bid” for a property, the bid from the highest band is successful and within each band the bids are assessed in date order from the original application.

Although this is a form of queue it has its own special rules, such that for many people the longer they wait, the further they get from the front. There are now a number of significant problems with this system;

- Anyone can apply to go on the register, unless they are ineligible for reasons such as their immigration status. Applications can be made from outside the borough and even outside the UK;
- As a result the register is very lengthy – 10,300 at the latest count. 1 in 5 applicants live outside the Borough;
- Against this, the resources available, in the form of lettings in social housing are very limited. Exclusive of transfers, the number in 2011/12 was 470;
- The large majority of people on the register therefore have no chance of ever being housed within this system. Many stay on the register a long time and more than 1 in 4 have been on the register for more than 5 years. The system could be said to lack fairness and transparency for residents and to create false hopes, false expectations and frustration amongst applicants;
- Most properties advertised within CBL receive large numbers of bids. Because of the number of applicants, most of these bids are futile. Many applicants are bidding many times without any prospect of being successful. A total of 131,000 bids were made in 2010/11 and on average each 3 bedroom property attracted 157 bids;
- On the other hand, some people on the Register do not bid at all or if they do, do so on a limited basis only once they realise the real prospect of being successful. In 2010/11, 914 applicants did not make a bid. In all, 7,100 households have made 3 bids or less or have never bid;
- There are 363 cases where homeless households have made no bids for accommodation;
- Sometimes the successful applicants refuse the property; this occurred on 92 occasions in 2010/11; although strenuous efforts are made to avoid this, this increases the risk of delays in letting the property and hence loss of rental income;

- All applications require some level of administration even if there is no prospect of it resulting in a successful allocation of property. Many applicants make enquiries about their position. As a result there is unnecessary cost in administering the system and a less than optimal balance between the resources available to deal with cases of vulnerability or severe housing need and those where there is little or no housing need.

3.4 The Homelessness Process

Key Statistics;

- **In 2010/11, 2521 approaches were made to the Council's Housing Options Service. 6. 5% of these cases resulted in a homeless application.**
- **In 2010/11, 345 formal homelessness applications were made; of these, the majority, 181, were not accepted;**
- **Of those cases not accepted, the reason in 27% of cases was that the applicant was found not to be homeless and in another 37% of cases not to be in priority need. Intentional homelessness was found in 17% of cases and 18% of cases were found not to be eligible for assistance;**
- **Where applications were accepted, over 1 case in 3 was where the household had been excluded by their family, relatives or friends. The next largest category (27%) was where the household had lost rented or tied accommodation.**

Homelessness legislation has provided an important safety net for people in the borough who through no fault of their own have housing that is insecure or, in a few cases, who literally have nowhere to stay. The system has been successful in helping people who are vulnerable. This will continue to be case. For many years the Council has recognised that the best approach is to intervene to prevent homelessness before it occurs and to obviate the need for a formal homelessness application. Substantial resources have been successfully deployed to achieve this and to assist residents to find accommodation in the private sector.

However; the current system has some unsatisfactory consequences and can create perverse incentives. For example:

- If a homelessness application is made and accepted the resident is almost always placed in temporary accommodation. However, they are awarded preferential status within the existing allocation system for permanent housing. This means that, at some point, however long they wait in temporary accommodation, they are effectively guaranteed a social housing tenancy. This is the case even if their objective level of housing need is less than other residents in the borough who have chosen, for whatever reason, not to make a homelessness application;
- The largest single category of homelessness applications is from households which have been excluded from their existing

accommodation by their own family, relatives or friends. While in many cases the home circumstances may be unsustainable, the system and the prospect of a social housing tenancy can act as a perverse incentive for applications to be made;

- As a result, a significant proportion of general needs social housing in the borough is allocated to households who have made and had accepted a homelessness application. This may be at the expense of other groups whose need for housing may have been as great or greater.
- In some cases the homelessness system creates false expectations of gaining a social housing tenancy quickly. In reality, the stay in temporary accommodation can be lengthy. Increasingly, given the price of private accommodation in Hammersmith & Fulham, it is outside the borough, causing potential disruption to family life, education and job prospects. Procuring and managing temporary accommodation is a major and costly exercise for the Council.
- The homelessness system has generated its own bureaucracy, much of the output of which is deciding not to accept a homelessness application. The majority of homelessness applications are refused, but not before an often complex investigation is carried out, often itself subject to legal challenge by the applicant. Applicants have the right of review of a negative decision, which again can involve a complex investigation, is usually also refused and again is subject to legal challenge.

3.5 The Allocations process

Key Statistics

- **Approximately 70% of social housing tenants in Hammersmith and Fulham are currently workless and dependent on benefits.**

The current system of deciding who lives in social housing has been relatively successful in providing for people who are vulnerable and cannot physically house themselves, for example due to their age or a disability. However, it has also;

- Produced a concentration in social housing of people on Housing and Welfare Benefits, with disproportionately high levels of unemployment, which was not the intention when the property was built;
- As a consequence created disadvantaged communities and places which are not sufficiently balanced, cohesive or economically vibrant;
- Disadvantaged other households on low or modest incomes who cannot meet market rents or afford to buy their own home but whose housing need may just as great as those who are housed. This includes working households and other people who may not be working but are training to work or people who are making a valuable contribution to the community in another way.

To this extent, some areas of the borough with large proportions of social housing are not making the contribution that could to help drive economic growth and community cohesion.

3.6 Tenancies

Key Statistics;

- **in 2010, 9% of council tenants on Housing Benefit were under-occupying their property by one bedroom or more, while 13% lacked one or more bedroom;**
- **In March 2012, 355 households on the housing register were severely overcrowded (lacking 2 bedrooms or more);**
- **In 2010/11, 34 council tenants were evicted for rent arrears and 11 for anti-social behaviour.**

The current system means that Council tenancies are granted on a permanent basis and tenants have the right to stay for life unless the tenancy is brought to an end because of a breach. While this has brought a high degree of security for individual tenants, it;

- Takes no account of the fact that a household's need for social housing may be temporary;
- Can lead to a poor use of resources in that the tenancy is for life even if household circumstances change. This can mean, for example, that one resident is under-occupying by 2 or more bedrooms while another family in the borough is grossly overcrowded. Again, tenants have the right to stay in the property on a permanent basis even if their household income rises to a level which means they could afford shared or full home-ownership;
- Effectively gives 2 rights of succession, for example to a partner and then, for example to a child, even if in the latter case the housing need of the individual is less than other potential applicants;
- Provides little incentive for making contributions to building successful communities or to promoting personal aspiration, for example to move into home-ownership.

4. **HOW THE CONSULTATION DOCUMENTS FIT TOGETHER**

The Draft Housing Strategy sets the overarching policy framework for taking forward the Council's policy objectives.

The Tenancy and Homelessness Strategies and Scheme of Allocation documents are crucial components within the overarching Housing Strategy through which the Council will ensure that it delivers on making flexible use of available, affordable housing stock.

The common thread running through these work streams is to ensure that outcomes are aligned to the Council's 'Borough of Opportunity' vision which seeks to foster more balanced, mixed-income

communities, increase and balance housing and home ownership options and to support hardworking households in affordable housing

- **Tenancy Strategy** – Sets out the Council's approach to introducing fixed term tenancies in certain circumstances.
- **Homelessness Strategy** – Review of the Council's current approach to homelessness and development of an effective prevention methodology that meets legislative requirements and aligns with the Housing Strategy, Scheme of Allocation, and the Council's working households' agenda.
- **Scheme of Allocation** – Comprehensive review of the allocations policy with the Council setting its own eligibility rules to support its objectives to build sustainable mixed communities, support people on a low income who work and those who contribute positively to the community.

5. SUMMARY OF PROPOSALS

5.1 Tenancies

The proposals on social housing tenancies are set out in the Draft Tenancy Strategy. It is important to stress that these proposals will not normally affect existing tenants. However, they will apply to new tenancies and will gradually change significantly the way social housing in the borough is occupied.

The Council intends to take full advantage of the opportunity to grant fixed-term tenancies and will expect Registered Providers (mainly Housing Associations) to do the same. This does not mean that at the end of the tenancy tenants will not have the opportunity for renewal. Nor will there be a presumption that a tenancy will not be renewed. However, it will give LBHF the opportunity periodically to review whether the rationale for granting the tenancy in the first place is still there and to review how the tenancy has gone. If an allocation has been prioritised for particular groups, fixed term tenancies will give the Council the ability to ensure this is still the case. This will also encourage good behaviour in tenancies and greater contributions to community life and the local economy. Existing tenancies will not be affected.

It is proposed that the standard tenancy term will be 5 years . Tenancies would be for 2 years in the following cases, where prospective tenants;

- are aged between 18 and 25;
- have a history of anti-social or criminal behaviour;
- are an economically active household of any age where the Allocations Scheme or a Local Lettings Plan had designated a special case for working households or people making a community contribution including where this is being provided as a launch-pad into home-ownership; or

- where the Registered Provider is seeking a market or intermediate rent.

Prior to considering renewal of the tenancy there would be a review of the reason for the original award of the tenancy and whether it still existed. Considerations would include;

- whether the accommodation was still suitable given the size of the household;
- any anti-social or criminal behaviour;
- the tenants' rent record and their general management of the property;
- whether the commitments of working households or to making a community contribution had been met;
- the income and wealth levels of the tenant and whether the tenant could be assisted into another form of tenure such as HomeBuy.

Shorter term lettings will also be required where the Council has embarked on regeneration schemes.

In some cases, secure / assured tenancies would still be offered. This will include tenancies in sheltered accommodation and for other older residents and for those with special housing / health needs.

The Council will support the statutory one right of succession and the approach on succession rights in fixed term tenancies will reflect the approach set out above. The detail of this will is set out in the Scheme of Allocation.

5.2 Housing Register

It is proposed that access to the Housing Register will be restricted to those people within the "reasonable preference" categories within the housing legislation. This will ensure that only those with a clear housing need will be admitted to the register.

Normally, access will also be restricted to applicants who can demonstrate that they have a local connection with Hammersmith & Fulham. This connection would be via residency, the current proposal is that the required length of local connection would be 5 years.

It is estimated that these changes will radically reduce the number on the register from the current level of around 10,000 and that this figure will be more than halved. This will allow for more efficient administration of the register and a higher-quality and effective advice and assistance service for those who qualify. Those who do not qualify will still be given a package of advice and assistance about their housing options.

5.3 The System for Allocating Social Housing

It is proposed to end the Choice-Based Lettings system. It will be replaced by a system of “Assisted Choice” where applicants will be offered a number of housing options. This may include a social housing tenancy, but could also feature accommodation in the private sector or the opportunity to buy a HomeBuy property. If an offer was declined, this would be reflected in an applicant’s status on the Housing Register.

The aim will be to deal with cases quickly and to provide high quality advice to residents about their options. In reducing both the time taken to deal with applications and the total number of applicants on the Housing Register, the aim would be to free-up time to deal with more complex cases and to provide a more comprehensive service for vulnerable clients, such as those with mental health difficulties or where there are people in the household with a physical disability.

5.3 Priorities for Allocations

The Draft Scheme of Allocation sets priorities for groups applying for Housing. The overall aim of the change will be to offer greater priority to working households, those in training leading to employment and those making a significant contribution to the community, while meeting statutory obligations to offer “reasonable preference” to certain types of applicant and as set out in Housing legislation.

The reduced numbers on the Housing Register will be placed in one of 4 bands, as follows

- Band 1;** Urgent need to move due to reasonable preference, local connection and an additional priority;
- Band 2;** Need to move; reasonable preference plus local Connection and Community Contribution;
- Band 3;** Need to move; reasonable preference, local connection but no Community Contribution;
- Band 4;** Reduced Priority; need to move; reasonable preference but with reduced priority.

The way in which different categories of applicant would be placed in each band is set out in detail in Annex 4 of the Draft Scheme of Allocation.

Examples of a Community Contribution would include working households; volunteering; people in training or education; ex armed services personnel; and registered foster carers. The list could be expanded subject to the “reasonable preference” criteria being met.

Each year an Allocations Plan would be drawn up setting out how the Scheme of Allocation was to be applied for that year. This would include special quotas to ensure a minimum provision is achieved within the “reasonable preference “ categories for specific groups. It is

proposed that this would include an employment quota and a quota for ex-service personnel and could include groups such as care leavers, and nominees from Adults and Children's social services.

The majority of allocations would be managed through this process and allow the Council to meet its statutory obligations towards the "reasonable preference" categories of applicant. A small percentage of lettings would be reserved for management cases including estate renewal decants and ex-staff commitments.

5.4 Local Lettings Plans

From time to time, the Council will adopt Local Lettings Plans for new schemes and/or areas of the borough where it wishes to deliver the broad objective of mixed, balanced sustainable communities. In addition to ensuring that successful applicants for accommodation are making a community contribution, the Council is also keen to ensure that higher income households from the Council's Home buy Register have access to rented housing on short-term fixed tenancies as a prelude to low cost home ownership options. This will give such households the experience of managing a household budget and also provide an opportunity for such households to save money towards a deposit for a low cost home ownership option. Providing this quota does not dominate the allocations based on need, such an approach is considered sustainable via the mechanism of local lettings plans.

5.5 Homelessness

The Council's proposed approach to meeting its homelessness obligations is set out in the draft Homelessness Strategy.

The Council will continue to meet its statutory obligations towards homeless households. It will also continue to prioritise the prevention of homelessness and providing high-quality advice and assistance to residents of the borough about their housing options. This will include continuing to seek and procure access to accommodation in the private sector. By preference this will be within the borough but as is the case now could equally be outside it.

However, a change in approach will be that the Council will use the new discretion in the Localism Act to discharge its homelessness duty to a household into suitable accommodation in the private sector. This will end the previously assumed link between a homelessness application and a social housing tenancy. This does not mean that the household concerned cannot gain access to a social housing tenancy; but it will mean that access cannot be guaranteed via the making of a homelessness application. Homeless households will sit within the "reasonable preference" categories within the Scheme of Allocation. However, as with other applicants, their priority for housing will be increased if they are working or making another form of Community Contribution as set out in that Scheme.

Households will be encouraged and assisted in considering a range of options other than a homelessness application. If the option of an application is chosen, the advice they receive will include the changed relationship with access to social housing and the likely location (including potentially outside the borough) of any temporary accommodation. The household will be fully advised of their options before deciding which route to take.

The household may still qualify for social housing through being in a “reasonable preference” category within the Allocations system, but there will be a more “level playing field” with other priority, reasonable preference groups.

6. WHAT WILL BE DIFFERENT IN THE FUTURE

Taken together, the proposals in this paper potentially add up to a significant cultural shift in the way social housing is accessed and occupied and in the contribution it makes to the economy and life of the borough. A social housing tenancy will need to be earned and its retention worked at. It will no longer necessarily be passed from one generation to the next.

Existing tenants of social housing will not immediately be affected by the proposals. Over time, however, they will be impacted by the changes, as empty homes in their area or on their estate are allocated through the new mechanisms described.

The proposals will bring a number of major advantages;

- Incentives will be built into the system to work, to train, to make a contribution to the community, to look after the property and to behave well and as a result a significantly greater proportion of lettings will be allocated to working households and those making a community contribution.;
- The emphasis on contribution to the community will foster community cohesion;
- Tenants will be encouraged to look at moving into full or partial home-ownership;
- There are mechanisms to create more balanced and successful communities; both as part of the general Scheme of Allocation and through Local Lettings Plans
- Social housing residents will make a greater contribution to the local economy;
- There will be more effective and efficient use of the housing stock on behalf of the whole community;
- It will still be a high priority to accommodate vulnerable people within the community and to contribute towards other Council priorities such as providing for those with a learning disability or for those with responsibilities as carers;

- The proposals will make more effective use of staffing resources, with a more comprehensive service for high priority clients and leading to savings in the cost of administering the service.

For some existing applicants for housing the proposals may at first sight be seen as a negative development. Most people currently on the Housing Register, for example, will no longer be and they will have access instead to a package of advice and assistance. In reality, however, this will not represent a material change in their circumstances, since their prospect of receiving an offer of a social housing tenancy is currently either minimal or nil. The new system will, however, reduce the number of people who have false hopes or expectations of being re-housed. Equally, those with a significant housing need will still be eligible for assistance and those whose position is an emergency or who have an urgent need to move, for example because of a serious medical condition, will still be afforded high priority.

Some applicants for housing will see their priority for housing increased; for others it will be reduced. In some instances, existing applicants will not be eligible to re-apply. This will principally be because of the increased emphasis on work and the making of a community contribution. This is one of the explicit objectives of the changes.

Some examples of how the changes may impact on some categories of applicant can be found in Annex A.

7. GOVERNMENT TIMESCALES AND CONSULTATIONS

- 7.1 Whilst the 2011 Localism Act has been enacted for some months, a number of the sections are not as yet in force. Specifically, Councils do not as yet have the power to discharge their homelessness duties into the private rented sector. The consultation on revising the Scheme of Allocation guidance which proposed giving additional preference to ex armed services personnel, only recently closed. Both these new provisions are expected to be in force later in the year. Legislation governing homelessness is broadly unchanged and therefore the council's ability to effect major changes to its approach to meeting such obligations is limited to the above mentioned 'discharge' powers when available.

8. INTERIM MEASURES

The Council is in a position to effect changes in the way that it operates its housing strategic role in advance of the set of housing strategy documents being adopted by Cabinet. Specifically:

- Local Lettings Plans can be adopted under the existing Scheme of Allocations to increase the numbers of eligible working households who are allocated accommodation for specific housing areas/schemes
- The 2012/13 Allocations Plan to be adopted can include higher quotas for categories such as ex armed services personnel; working households; and other groups providing they meet the reasonable preference criteria
- Officers are currently considering possible interim measures around the administration of the Housing Register prior to full implementation of the proposals in this report.

9. CONSULTATION PROCESS

9.1 This suite of documents has been developed in consultation with key staff members of the Housing and Regeneration Directorate (HRD) with input from Environment Services and Community Services staff. The development process has been undertaken over a relatively short timescale and has been overseen by the Lead Member for Housing; Executive Director for Housing and Regeneration; and Director (Housing Options). Two 'soft' consultation exercises have been held with outside housing agencies – registered providers and service providers/users of supported housing.

9.2 The documents will require a wider consultation process with three core audiences:

- Borough residents, including tenants and leaseholders of the Council; tenants, leaseholders and shared owners of Registered Providers (i.e., housing associations); and residents of other tenures in the borough
- Council staff both within the Housing and Regeneration Directorate and wider staff membership, particularly staff responsible children and the elderly agendas as well as staff responsible for vulnerable adults such as people with dependency issues, victims of domestic violence
- Key agencies responsible for approving and/or delivering the Housing Strategy document, e.g., Mayor of London (who will need to ensure that the local strategy is in broad compliance with his own regional document); private and affordable housing developers; private landlords; providers of supported housing services; voluntary sector agencies; local advisory agencies.

9.3 A detailed consultation plan will be developed and implemented.

10. TIMETABLE

10.1 The consultation strategy and communications plan will need to be developed accordingly. On the basis that these draft documents are

approved in May 2012 it is proposed that the public consultation process begin immediately after Cabinet approval in order to begin the circ. 8 week consultation period. Subsequent to the consultation and any resulting amendments, the policies will be submitted for Cabinet approval in Autumn 2012.

- 10.2 Implementation will be in phases; Both the Tenancy and Homelessness Strategies can be implemented on approval. It is proposed that the new system for allocating properties be ready for implementation in April 2013. Consideration is being given to the stages of implementing the new Scheme of Allocation following approval by Cabinet, with the intention of 'going live' in April 2013.

11. FINANCIAL IMPLICATIONS

- 11.1 Financial issues relating to the proposals are in four areas.

Homelessness and Temporary Accommodation

The Council has had considerable success in meeting and containing the costs of homelessness through its Housing Options and prevention operations and through matching the cost of temporary accommodation to rents payable and changing Housing Benefit and Local Housing Allowance arrangements. The HB Assist team has succeeded in negotiating rent reductions with private Landlords of homeless households in temporary accommodation.

The Housing Options service faces considerable challenges in addressing homelessness particularly in the light of recent and prospective changes to Housing and Welfare Benefit entitlement. These arise both from increasing difficulty for some households in sustaining a private sector tenancy and for the council itself in procuring access to private sector accommodation within the resources available to it. The proposals in this report may have some indirect impact on homeless households. In particular, the prospects of a homeless household receiving an offer of a social housing tenancy will be more dependent in the future on their being in work or making a community contribution within the terms of the Scheme of Allocation. To the extent that this results in fewer allocations being made to households applying down the homelessness route, this will increase the need to secure access to private sector accommodation.

Against this, the new system set out in this report may be perceived as affording less advantage to the making of a homelessness application and may start to exert downward pressure on the number of homelessness applications.

The impact on the general fund cost for temporary accommodation will require careful monitoring.

11.2 Income to the Housing Revenue Account and the Cost of Void Properties

A key proposal in this report is the introduction of flexible tenancies in Council property and the potential increase in the number of households in work living in the Council's social housing stock. The question therefore arises as to whether this may lead to more voids and bad debts as flexible tenancies come to an end, and hence additional financial pressure on the HRA due to:

- additional void rent loss
- increased maintenance void costs
- increased staff costs due to the volume of relets required
- a risk of additional bad debts due to the increased tenancy turnover and due to an increase in the number of tenants not on full housing benefit

On the other hand, there are a number of potentially countervailing factors;

- While there is no presumption that a tenancy will be renewed, equally there is no presumption that it will not. This will depend upon a case by case assessment. It is likely that a significant number of tenancies will be renewed and the issue of the majority of the additional void costs will not arise. There may still be a residual impact on staff costs.
- The proposals have a built-in incentive for tenants to look after their property;
- The proposals have a built-in incentive for tenants to keep a clear rent account.
- Proposed welfare reforms are likely to result in a cessation of direct Housing Benefit payments in all but vulnerable cases. This may in any case result in additional bad debt pressures potentially applying to all tenancies..

The effect of the proposals on income and void costs will require careful monitoring and revised assumptions are currently being fed into the business plan. Any significant impact will not arise until 2014/15 at the earliest as the first 2 year tenancies come up for renewal.

11.3 Staffing Costs

As noted above, there will be an increased cost for Housing Services in dealing with the renewal of flexible tenancies. This will be factored into the specification for the Medium Term Financial Strategy Transformation of Housing Services.

Within the Housing Options service there will be some additional general fund costs in administering a system of review and appeals and the assessment of applicants making a community contribution. Nevertheless, from 2014/15 this should be outweighed by significant

General Fund savings in dealing with a reduced number of housing applicants, albeit seeking to provide them with a more comprehensive service.

11.4 Transitional and Development Costs

Some general fund expenditure on transitional and development general fund cost will be required to implement the proposals. These costs will relate to programme and project management, resident communication and consultation, amendments to IT systems and staff training. Currently it is anticipated that these costs can be met from the proposed carry-forward of an under spend in Housing Options budgets from 2011/12 into 2012/13.

12. **RISK MANAGEMENT**

12.1 A separate Risk Log has been raised and will be incorporated into the departmental risk register once the final document contents have been agreed by the Lead Member for Housing and the Executive Director for Housing & Regeneration. Key risks identified include;

- A dependency on Government formally bringing into force certain provisions, particularly in the areas of Homelessness and the prioritisation of allocations to ex-service personnel;
- The need to secure access to additional private sector accommodation to deal with the local impact of changes in Local Housing Allowances and the introduction of Universal Credit in 2013.

12.2 The report incorporates and illustrates risks presented by the draft strategies and Scheme of Allocation documents and will be managed in accordance with the council's project management approach.

13. **EQUALITY IMPLICATIONS**

13.1 The initial screening assesses the Draft Housing Strategy as being broadly positive to most protected characteristics. There will be no direct impacts arising from the approval by Cabinet of the Draft Housing Strategy, but does give a greater likelihood (with the recent adoption of the Borough Investment Plan) of attracting affordable housing and wider regeneration funding in the future which will have the potential to deliver direct positive impacts for Hammersmith & Fulham's residents. Separate attention will need to be given to the proposed development of the Tenancy Strategy; revision of the Borough's Scheme of Allocation; revision of the homelessness strategy; and any change to the mechanism by which the Council allocates its homes (and those of its Registered Provider partners) where equalities impacts will need to be carefully considered.

14. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE

- 14.1 The financial implications are detailed in Section 11 of this report. There are no additional comments at this stage.

15. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)

- 15.1 The Localism Act 2011 has introduced changes to the way in which a Housing Authority can allocate social housing, the kinds of tenancies it can grant and to the ways it can discharge its homeless duty. But not all of the relevant provisions are in force. Taking each of these elements in turn:

15.2 Tenancy Strategy

Section 150 (1) of the Localism Act requires to the Council to prepare and publish a tenancy strategy setting out the matters to which the registered providers of housing in the borough are to take in account when formulating policies relating to the kinds of tenancies they will grant; circumstances in which they will grant a tenancy of a particular kind; the length of flexible or fixed term tenancies and the circumstances in which they will renew a tenancy. In addition the Council is required to publish its tenancy strategy by the 15 January 2013. In preparing the strategy the Council must have regard to its current allocation scheme; its current homelessness strategy and the London Housing strategy.

- 15.3 The Localism Act has amended the Housing Act 1985 to give the Council the right to grant flexible tenancies for a minimum term of 2 years. A tenant has the right of review a decision to grant flexible tenancy and of the decision to seek possession at the end of the term. At the end of the term a court can only refuse to grant possession if the review has not been carried out in accordance with the Act or if the review decision is wrong in law. A flexible tenant has the same rights as a secure tenant, for example the right to exchange, succession and take in lodgers.

15.4 Scheme of Allocation

Since the Housing Act 1996 came into force all local housing authorities have been required to publish an allocation scheme for determining priorities and the procedure to be followed in allocating housing accommodation. It is proposed to modify the existing allocation scheme and in doing so the Council must have regard to the tenancy strategy, the homelessness strategy and the London Housing strategy.

- 15.5 The Housing Act 1996 requires the Council to ensure that the Allocation scheme gives reasonable preference to the categories of

people set out in the Act this includes the homeless those who need to move on medical or welfare grounds. The term “reasonable preference” is not defined in the Act but case law defines this as a ‘reasonable head start’ it is accepted that this does not guarantee a person an allocation.

- 15.6 Sections 145 to 147 of the Localism Act make significant amendments to Housing Act 1996 relating to the allocation of social housing. But at present the provisions of the Act are only in force to the extent of enabling local housing authorities to draft and consult on allocation schemes and confer power on the Secretary of State to make regulations;
- 15.7 The amendments will give the Council power to determine which applicants do or do not qualify for an allocation of social housing in the borough. Social Housing may only be allocated to a “qualifying person”. As set out in 5.2 of the report it is proposed that only persons who fall within the reasonable preference categories will be admitted to the register.
- 15.8 Section 166A (5) of the Housing Act 1996 (as amended) provides that the council may frame the allocation scheme to take into account factors for determining priority of accommodation. The draft allocation scheme propose to take into account factors such as financial resources, behaviour and local connection. It is also proposed to give additional priority to working households, those in training leading to employment and those making a significant contribution to the community.
- 15.9 The secretary of states draft guidance states it is for housing authorities, after appropriate consultation to decide how to give effect the provisions of the Act. This view is reinforced by the case of *R (on the application of Ahmad) v Newham LBC (2009)*. The House of Lords held that it was undesirable for the courts to get involved in questions of how priorities are accorded by local authorities except in rare and extreme circumstances. It was also held that it was impossible to argue that a housing authorities allocation scheme was unlawful unless the basis on which it accorded priority between the reasonable preference groups was irrational. The court pointed out that housing allocation policy is a difficult exercise requiring not only social and political sensitivity and judgement but also local expertise and knowledge.
- 15.10 The Homeless strategy
The Homelessness Act 2002 imposed a duties on all local housing authorities to formulate and publish a homelessness strategy every 5 years. This means a strategy formulated for preventing homelessness; securing that sufficient accommodation is and will be available for the homeless and securing that there is satisfactory provision of support for the homeless. In formulating the strategy the council must have regard

to the allocation scheme, the tenancy strategy and the current London Housing strategy.

- 15.11 Section 148 of the Localism Act amends section 193 of the Housing Act 1996 to allow housing authorities to make “private rented sector offers” to end the homeless duty to a household. In section 5.5 of the report it is explained that the Council proposes to make use of this power and this is articulated in the draft strategy. However, it should be noted that Section 148 is not yet in force.

The Public Sector Equality Duty

- 15.12 The public sector equality duty provisions of the Equality Act 2010 came into force on 5th April 2011 and widened the general equalities duties with which a local authority has to comply. Amongst other things age is now included as one of the protected characteristics to which the general equality duties will apply and amends slightly the factors to which authorities will need to have due regard if they are to comply with those duties.

- 15.13 A full Equality Impact Assessment will be produced when the final strategies are presented to Cabinet, so that it can be taken into account by members before a final decision is taken. Members will have to weigh the potential adverse impacts on the protected groups as identified in the final EqIA, together with proposed mitigation measures; and will have to consider these and any countervailing factors before reaching their final decision.

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS

| No. | Description of Background Papers | Name/Ext of holder of file/copy | Department/ Location |
|--------------------------------------|---|---|-----------------------------|
| 1. | HM Government – Laying the Foundations: A Housing Strategy for England. (Nov. 2011) | Aaron Cahill x 1909 | HRD / Housing Options |
| 2. | Draft Borough Investment Plan | Aaron Cahill x 1909 | HRD / Housing Options |
| 3. | LDF Core Strategy | Aaron Cahill x1909 | HRD / Housing Options |
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