



London Borough of Hammersmith & Fulham

# Cabinet

15 OCTOBER 2012

**CABINET MEMBER  
FOR HOUSING**

*Councillor Andrew  
Johnson*

**BUILDING A HOUSING LADDER OF  
OPPORTUNITY INCORPORATING:  
HOUSING STRATEGY (Annex A)  
HOUSING ALLOCATION SCHEME (Annex B)  
TENANCY STRATEGY (Annex C)  
HOMELESSNESS STRATEGY (Annex D)**

**Wards: ALL**

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

The **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 for the majority as a platform for progression into other housing options, not a final destination.

The **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 and those aged 18 to 25 years old.

The **Housing Allocation Scheme** 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 **Homelessness Strategy** sets out how the Council will meet its 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  
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DoL

## **Recommendations:**

- 1. To approve the Housing Strategy, Tenancy Strategy, Housing Allocation Scheme and Homelessness Strategy documents annexed to this report.**
- 2. That delegated Authority be given to the Cabinet Member for Housing in conjunction with the Executive Director of Housing and Regeneration to consider an updated Equality Impact Assessment and to make such minor changes to the documents annexed to this report as they consider necessary.**

## 1. SUMMARY

1.1 Cabinet approved a report on 21 May 2012 to publicly consult on four related housing strategy documents under the generic heading of 'Building a Housing Ladder of Opportunity'. This report seeks approval from Cabinet to formally adopt the four documents following consultation and implement the respective actions and policies set out in each.

1.2 The over-arching draft document is the Housing Strategy, setting the overall 'direction of travel' to the Council's future housing approach. The other three draft documents – Housing Allocation Scheme, Tenancy Strategy and Homelessness Strategy – are geared towards implementing the changes set out in the Housing Strategy document. More detail on the content and approach is set out below.

1.3 The four housing strategy documents were the subject of a consultation process. A summary of the online survey and a further summary of individual responses are attached as annexes to this report. These comments have been considered and key changes (and other matters to note) that are proposed to be accepted are set out in Section 4 of this report. In summary, there was strong support for the three Housing Strategy objectives:

- **Deliver economic and housing growth:** 65% agreeing compared to 18% disagreeing
- **Tackle economic and social polarisation:** 55% agreeing compared to 20% disagreeing
- **Manage a better, streamlined service:** 59% agreeing compared to 22% disagreeing

1.4 More detail on consultation responses can be found in Sections 3.6 – 3.12 of this report.

## 2. THE FRAMEWORK SET BY THE HOUSING STRATEGY AND HOW THE OTHER DOCUMENTS FIT TOGETHER

2.1 The 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**. A cross cutting theme of our housing approach is to increase home ownership. 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.
- (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; tackle concentrations of mono-tenure provision; an allocation policy, local lettings plans, and flexible tenancies that prioritise hard working households and those making a community contribution for affordable housing.
- (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.

2.2 The 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.

2.3 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.

- **Housing Allocation Scheme (Annex B)** – Comprehensive review of the allocations policy with the Council setting its own qualification 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.
- **Tenancy Strategy (Annex C)** – Sets out the Council's approach to introducing fixed term tenancies and the exceptional circumstances where a lifetime tenancy will be granted.
- **Homelessness Strategy (Annex D)** – 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.

### **3. THE CONSULTATION PROCESS**

#### **Who we engaged with**

3.1 The consultation process involved consultation with three core audiences:

- Council tenants and leaseholders representatives who were sent a letter from the Cabinet Member with the four strategy documents. Other residents of the borough were able to contribute to the process through use of the Citizenspace consultation portal.
- 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, and victims of domestic violence
- Key agencies responsible for approving and/or delivering the Housing Strategy document, e.g., Mayor of London (who has to ensure that the local strategy is in broad compliance with his own regional document); private and affordable housing developers; providers of supported housing services; voluntary sector agencies; local advisory agencies.

3.2 In addition to the four draft documents, a housing strategy annex and draft initial screening equalities impact assessment was circulated either by post to local interested parties and available on the Council's Citizenspace consultation portal.

3.3 The Council wrote to borough Tenants and Residents Associations; gave a presentation to the Tenants' Borough Forum on 22 May 2012; attended a stand at the Tenants' Conference on 14 July 2012; met with residents when requested; convened two housing strategy meetings of the H&F Housing Association Forum on 18 May 2012 (before the official start of the consultation process) and 6 July 2012. One-to-one meetings were held with housing association and homelessness organisation representatives on housing strategy matters and specific issues of interest. A meeting was convened with the Mayor of London's housing representatives on 4 July 2012 (note of meeting attached as Annex E). The Council also wrote to local Members of Parliament; Assembly Member; and contacted elected Members by email. A meeting of the Housing, Health and Adult Social Care Select Committee discussed the housing strategy documents on 17 July 2012. The consultation process was also advertised on the Locata, the Council's choice based letting application and also on the

Community and Voluntary Sector Association Hammersmith & Fulham website. The Council's own intranet was used to advertise the process to council officers. Letters were sent to national housing bodies – Chartered Institute of Housing, Shelter, Crisis, National Housing Federation – and also London Councils. The documents were also the subject of media attention in the national, regional and trade press.

3.4 The consultation period was initially publicised as being from 22 May 2012 to 18 July 2012, following approval by Cabinet of the documents on 21 May 2012. However, the process could not fully begin until after the 'call-in' period had expired. Letters and other email correspondence did not begin being sent out until after the call-in date of 30 May 2012. To compensate for this, the consultation deadline was extended 25 July 2012 to interested parties to ensure there was reasonable time for responses.

3.5 In total, there were a maximum of 114 respondents to the short online survey (see below). Some respondents did not answer certain questions, meaning the number of responses varied according to question. Using the Council's Citizenspace web-based consultation application, an eleven question online 'short' survey was prepared to cover key issues raised in each of the housing strategy documents. More detailed online surveys (which for consistency included the questions in the short survey) were created for each of the four documents. Set out below are summary comments on the key questions in the housing documents. The survey report is attached as Annex F to the Cabinet Report. The more in-depth survey will be made available and will help inform the policies and procedures process referenced later on in this report.

### **What did online respondents say?**

3.6 Focusing on the responses to the short online consultation survey, the responses ranged from strongly agree; agree; neither agree, nor disagree; disagree; strongly disagree. Where respondents neither agreed nor disagreed, their percentage response has been removed, hence the responses do not add up to 100%). On the issue of the three housing strategy themes (identified in section 2.1), there was support for the approach being adopted:

- **Deliver economic and housing growth** – 65% agreeing compared to 18% disagreeing
  - **Tackle economic and social polarisation** – 55% agreeing compared to 20% disagreeing
  - **Manage a better, streamlined service** – 59% agreeing compared to 22% disagreeing
- On the housing allocation scheme, there was strong agreement – 80% - for the council's proposals to **verify needs at the point of application**, compared to 13% who disagreed. On stopping applicants

from outside the borough applying for housing in Hammersmith & Fulham, there was strong agreement – 66% - compared to 24% disagreeing. There was strong support – 54% - for the Council's intention to modify its approach to the choice based lettings scheme compared to 32% disagreeing.

- On the issue of introducing a **five year local connection rule**, 47% of respondents thought the length 'about right' with 21% thinking it too short, and 32% thinking it too long.
- On the issue of **tenancy succession**, 47% agreed with the approach being adopted with 41% disagreeing.
- Just under half of respondents (47%) thought that the **guideline maximum household income of £40,200 for accessing social housing** was about right, with 37% thinking it too low and 19% thinking it too high.
- On the Council's intention to **give greater housing allocation priority to groups who make a community contribution**, there was strong support with 61% agreeing compared to 27% disagreeing.
- On priority for particular community groups, the strongest support was for **working households** – 78% - with the lowest support for young people (52%), applicants in training and employment (50%) and volunteers (50%).
- On the Council's intention to issue **five year fixed term tenancies**, 48% agreed compared to 39% who disagreed. In respect of using two year tenancies for those who had a history of anti-social behaviour, committed a crime, etc, 68% agreed compared to 24% disagreeing. And for issuing 2 year tenancies that were between the ages of 18 and 25 years old, 53% agreed compared to 31% who disagreed.
- On homelessness issues, there was **strong support for the Council's intention to end the perception that a homelessness application will lead to a social housing tenancy**, with 53% agreeing compared to 24% disagreeing. On using private sector rented housing outside the borough to meet its homelessness duties, 47% agreed compared to 33%.

### **What did written respondents say?**

3.7 A number of respondents preferred to submit their responses in writing rather than use the online mechanism. This was particularly relevant where respondents had convened their own meetings and wished to present their views in the form of meeting minutes or written responses. And some specialist organisations, e.g. from the homelessness and learning disabilities sectors had issues of detail

which did not necessarily lend themselves to a survey response. Also received was a response from the Member of Parliament for Hammersmith. The responses from individual groups are summarised in Annex G, and will be published in full, subject to permission from respondents. Some respondents saw the changes proposed as an opportunity to stop perceived shortcomings in current policy and practice. Many interested parties across the spectrum saw the changes as a fresh opportunity to engage with the borough on housing issues.

3.8 In summary, for **Housing Strategy** interest groups representing people who are physically disabled, learning disabled, and elderly were concerned that their needs were not sufficiently identified and consequently would not be prioritised under the new strategic approach. There was also a broader concern that existing development planning policies designed to meet these groups' needs were not delivering on the ground, despite sound policies being in place. Delivery of housing that is wheelchair accessible and meeting lifetime homes standards were quoted as concerns. Housing Associations (described as Private Registered Providers in the strategy documents) were concerned that their potential role in helping delivering the strategy objectives, which they were broadly supportive of, was not being given sufficient profile, given that they collectively own and manage as much affordable housing as the Council. In a similar vein, some housing associations considered the strategy to be 'council-centric' and not sufficiently partnership focused. On this last point, the Council will be working more closely with housing associations in the future and reference has been made in the revised housing strategy document.

3.9 On the **Housing Allocation Scheme**, there were concerns from housing associations that the move towards more direct lettings reduces the element of choice for applicants and may in practice be more time-consuming to operate. There was a general concern from disabilities organisations that the housing needs of their client groups might be marginalised. There were additional concerns about how the community contribution mechanism might work in practice for people who may not be able to spend time volunteering or access sustainable employment. Concern was also expressed about how the Accessible Housing Register (which is to be retained) will work with the new Assisted Choice approach, replacing the current Choice Based Letting scheme. Homelessness organisations expressed concern that their client groups needs may be marginalised, although there was some 'in principle' support for the overall strategic approach. Concerns were expressed about how ex-offenders and the fairness of the proposal for 2 year tenancies for this and other client groups, such as 18-25 year olds. There was a broader issue of how the new Scheme could reduce 'silting up' of supported housing, where vulnerable households were reluctant to 'move on' to other permanent accommodation. However, a number of respondents were broadly supportive of the additional priority being given to community contribution groups, e.g, working



households, ex-armed services personnel, and also recognised that the current choice based lettings scheme was not flexible enough to disabled people's needs.

3.10 On the **Tenancy Strategy**, housing associations (described as Private Registered Providers in the strategy documents) were clear that they would have regard to the strategy on fixed term tenancy matters. However, they were generally reluctant to change their approach based on the Council's adopted position. Whilst many are issuing fixed term tenancies (and have been able to for some time), they are generally of the view that differing local authority positions on fixed term tenancies make it difficult for them to adopt a single position. An issue of contention was also the fairness of granting 2 year fixed term tenancies for 18-25 year olds and to a lesser degree, people who had history of anti social behaviour, tenancy fraud, etc.

3.11 On the **Homelessness Strategy**, the general concern was about how sustainable an option the private rented sector would be to meet homeless people's needs, whether within the borough or outside it. The potential break up of friend and family networks was also highlighted. This change would need to be monitored to assess its impacts. There was also a concern that the needs of rough sleepers weren't sufficiently profiled.

### **Mayor of London's Housing Strategy**

3.12 A key consideration for the Council was to ensure that the documents were in general conformity with the Mayor's Housing Strategy, the latest iteration of which is the Revised Housing Strategy (December 2011). Representatives from the Mayor's Housing Team attended a meeting with the Council on the 4<sup>th</sup> July 2012 to discuss any changes that the Mayor may seek to the Council's four draft documents to address conformity issues. There were some issues raised (see Annex E attached to this report) which the Council considers to be satisfactorily addressed in the revised documents.

### **CLG Regulations, Guidance and Consultation Papers**

3.13 Since the drafting of the 21 May 2012 Cabinet Reports and annexes, a number of Government Community and Local Government (CLG) documents have been published which have influenced the content of some of the housing strategy documents.

- The CLG Allocation of Housing (Qualification Criteria for Armed Forces) (England) Regulations 2012 (July 2012)
- Allocation of accommodation: Guidance for Local Housing authorities in England (June 2012)
- The CLG Homelessness (Suitability of Accommodation) (England) Order 2012 – Consultation set out the Government's

proposals for defining the suitability – quality and location - of private rented housing for homeless people (May 2012)

- The CLG Pay to Stay Consultation Paper on charging higher rents to social housing tenants (June 2012).

3.14 The Council has had regard to the first two of these documents when preparing the housing strategy documents (principally the Housing Allocation Scheme in these instances) and made reference to the likely direction of travel that may follow the adoption of policy on the second two documents.

#### **4. What we are proposing to Change following Consultation and Other Matters to Note**

4.1 On the **Housing Strategy** the key areas proposed for change/addition (marked with an asterisk) and/or to note are

- Further development of a strategic approach to meeting the housing needs and aspirations of vulnerable, disabled and elderly residents \*
- Making reference to a closer working relationship with Private registered providers (normally housing associations) to deliver the housing objectives set out in the strategy \*
- Highlighting the Council's private sector housing role \*

4.2 On the **Housing Allocation Scheme**, the key areas proposed for change/addition (marked with an asterisk) and/or to note are:

- Clarification within the text of those matters which relate to criteria for qualification for the Housing Register and those which relate to the priority to be afforded to groups within those which qualify for the Register \*
- The introduction of clearer qualification criteria for allocations via Local Lettings Plans to applicants from the Homebuy register. These involve a combination of local connection, status within reasonable preference categories and income \*
- Clarification of the operation of the income threshold for qualification for the Housing Register. This involves both taking account of the size of accommodation required by the applicant and an assets and savings cut-off beyond which a household would be unlikely to qualify for entry to the Register \*
- Updating the Scheme to take account of recent Government guidance and Regulations on armed services personnel. This includes in particular a provision that local connection cannot be used to disqualify this category of applicant from the Housing Register \*
- The retention of the proposal to exclude households owed a homelessness duty and who are in long term temporary accommodation from the categories of qualifying persons for the Housing Register. Although they sit within one of the statutory

reasonable preference categories, these households are by definition already suitably housed within their temporary accommodation. The Council is concentrating its resources on dealing with households who need urgent assistance because of their homelessness and those in long-term temporary accommodation would anyway be brought into scope for qualification for the Register at the point at which the accommodation was no longer available to them. The limited turnover of stock of accommodation available to the Council also means it is reasonable for it to consider the realistic prospect of a household being offered accommodation in setting its qualification criteria for the Register

4.3 On the **Tenancy Strategy**, the key areas proposed for change/addition (marked with an asterisk) and/or to note are:

- Clarification of the timing of work in preparation for the renewal or non-renewal of fixed-term tenancies \*
- The retention of the proposal to offer 2 year fixed-term tenancies to younger households between the ages of 18 and 25. The rationale is that such households will by definition tend on average to be less experienced than others in managing a tenancy, that the landlord needs a particular flexibility in these cases to be able to review how things are going after a relatively short period and that particular incentives need to be in place to encourage tenants to manage their tenancies well. There is the additional factor that since the thrust of the Housing Allocation Scheme is to encourage and prioritise those who are making a community contribution this is an additional demand on younger households who may be less experienced than others in making such a contribution. There is evidence that the early ending of tenancies is more common amongst younger people. A study of lettings in the properties of Glasgow Housing Association (which received the transfer of housing stock from Glasgow City Council) in 2003, for example, found that the rate of tenancy non-sustainment was relatively high amongst younger single people and younger childless couples. This lends support to the proposition that initial tenancies for this group should be for a shorter period. Internal research has indicated that tenancy turnover in the last three years amongst newly let Hammersmith & Fulham Council stock was proportionately greatest amongst the 18-25 year old cohort.

4.4 On the **Homelessness Strategy**, the key areas proposed for change/addition (marked with an asterisk) and/or to note are:

- The inclusion of references to the Government's draft Suitability Order on the placement of homeless households in the private sector and in temporary accommodation. At the time of writing the Government has not issued the Order, following a consultation earlier in the year \*

4.5 The comments and feedback that the Council has received has helped considerably to improve the content of the strategy documents and changes have been made on that basis. The comments and feedback has also helped highlight where interested parties concerns are and where the Council needs to be mindful of impacts. Regarding how the changes will impact on specific groups, an element of this will depend on how the changes will be implemented and what the change in approach will mean in practice for applicants. This is particularly relevant to the implementation of the Housing Allocation Scheme and the Homelessness Strategy. The Council intends to work with interested parties on how the changes will impact on particular client groups which will include a focus (as referenced elsewhere in this report) on how the housing needs and aspirations of the vulnerable, elderly and disabled are met in the future. Monitoring and evaluation of the impacts of implementing the new approach will need to be an integral part of the new approach.

## **5. NEXT STEPS AND INTERIM MEASURES**

5.1 With the adoption of the Core Strategy in October 2011; adoption of the Borough Investment Plan in Dec 2011; and the proposed adoption of the Housing Strategy; Housing Allocation Scheme; Tenancy Strategy; and Homelessness Strategy, the Council is in a strong position to switch its focus from strategy development to delivery.

5.2 The most time-intensive and sensitive elements of the changes proposed centre on the changes to the Housing Allocation Scheme. Work to develop the policies and procedures necessary to implement the new approach has already begun, with a view to achieving a 'go live' date in April 2013. There is still considerable work to be undertaken, e.g., new application form templates; ICT adjustments; associated training & development; etc.

5.3 There will need to be an effective and ongoing engagement process with interested parties both within the Council and outside it to ensure the reasons for the new strategy documents' objectives are understood. Specific activities will involve liaising closely with council officers and agencies responsible for dealing with the needs and aspirations of vulnerable, elderly and disabled residents, to ensure resources are used to maximum effect. Officers will also need to fully review information held on the website, some of which needs updating independent of the changes in the strategic approach.

5.4 Specifically on short term actions:

- 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 for October 2012 to March 2013 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.

5.5 The Housing Strategy, Tenancy Strategy and Homelessness Strategy 'go live' from adoption. The Council's stated intention to use private rented sector accommodation to discharge its homelessness duty can be adopted, once the Homelessness Order comes into force, expected in late 2012.

5.6. As set out in 4.1 it is intended that Officers further develop the strategic housing and health approach to effectively meet the local needs of the vulnerable, disabled (including people with learning disabilities) and elderly residents. In addition it is recognised in the Equality Impact Assessment that further scoping work needs to be undertaken to understand the housing needs and aspirations of some of groups who share a relevant protected characteristic (in particular age and disability). It is intended that Officers will carry out this work, update the Equality Impact Assessment and report to the Cabinet Member for Housing in March 2013.

5.7 It is also anticipated that there will be further developments in central Government policy which will impact on the Allocation scheme and Homeless strategy. In particular the expected regulations concerning additional preference for the allocation of housing to members of the Armed forces and the suitability of accommodation regulations mentioned in 3.13. These developments may necessitate changes to the policy.

5.8 It is proposed that delegated Authority be given to the Cabinet Member for Housing in conjunction with the Executive Director of Housing and Regeneration to make such changes to the documents annexed to this report as they consider necessary as result of the further work on Equality Impact Assessment or because of changes in government policy. If they consider it necessary a further report will be made to cabinet.

## **6. FINANCIAL IMPLICATIONS**

6.1 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 Housing Allocation Scheme. 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.

## 6.2 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.

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 impact will not arise until 2014/15 at the earliest as the first 2 year tenancies come up for renewal.

### 6.3 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 MTFS 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.

### 6.4 Transitional and Development Costs

There will be a number of transitional and development general fund costs in implementing the proposals. These costs will relate to programme and project management, resident communication and consultation, amendments to IT systems and staff training. These costs can be met from the Housing Options reserves agreed for the 2012/13 financial year, in particular the amount set aside for the review of the Housing Register.

## **7. RISK MANAGEMENT**

7.1 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 Cabinet 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 respect of Homelessness

- 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.

7.2 The report incorporates and illustrates risks presented by the adoption of the four housing strategy documents and implementing their objectives and specific actions. These will be managed in accordance with the council's project management approach.

## **8. EQUALITY IMPLICATIONS**

8.1 The Council's statutory duty under the Equality Act 2010 applies to the housing strategy documents which are the subject of this report. The protected characteristics to which the Public Sector Equality Duty ("PSED") applies now include age as well as the characteristics covered by the previous equalities legislation applicable to public bodies (i.e. disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, sexual orientation, religion or belief and sex).

8.2 The PSED is set out in section 149 of the Equality Act 2010 ("the Act") provides (so far as relevant) as follows:

(1) A public authority must, in the exercise of its functions, have due regard to the need to:

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

(c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

8.3 Case law has established the following principles relevant to compliance with the PSED which Council will need to consider:



(i) Compliance with the general equality duties is a matter of substance not form.

(ii) The duty to have "due regard" to the various identified "needs" in the relevant sections does not impose a duty to achieve results. It is a duty to have "due regard" to the "need" to achieve the identified goals.

(iii) Due regard is regard that is appropriate in all the circumstances, including the importance of the area of life of people affected by the decision and such countervailing factors as are relevant to the function that the decision maker is performing.

(iv) The weight to be given to the countervailing factors is in principle a matter for the authority. However in the event of a legal challenge it is for the court to determine whether an authority has given "due regard" to the "needs" listed in s149. This will include the court assessing for itself whether in the circumstances appropriate weight has been given by the authority to those "needs" and not simply deciding whether the authority's decision is a rational or reasonable one.

(v) The duty to have "due regard" to disability equality is particularly important where the decision will have a direct impact on disabled people. The same goes for other protected groups where they will be particularly and directly affected by a decision.

(vi) The PSED does not impose a duty on public authorities to carry out a formal equalities impact assessment in all cases when carrying out their functions, but where a significant part of the lives of any protected group will be directly affected by a decision, a formal equalities impact assessment (an EQIA as opposed to an Environmental Impact Assessment, also known as an EIA) is likely to be required by the courts as part of the duty to have 'due regard'. The EQIA is attached and will need to be read and taken into account in reaching a decision on the recommendations in the report.

(vii) The duty to have "due regard" will normally involve considering whether taking the particular decision would itself be compatible with the equality duty i.e. whether it will eliminate discrimination, promote equality of opportunity and foster good relations. Consideration must also be given to whether, if the decision is made to go ahead, it will be possible to mitigate any adverse impact on any particular protected group, or to take steps to promote equality of opportunity by, for example, treating a particular affected group more favourably

8.4 A full EQIA is attached to this report as an appendix. Here, officers have summarised the positive and negative impacts which have been identified in the analysis and the proposed mitigation measures.

## **Housing Strategy**

8.5 Of the four strategy documents, the Housing Strategy is the over-arching document which sets the parameters for the other three of documents, namely the Housing Allocation Scheme, the Tenancy Strategy and the Homelessness Strategy. This section highlights the specific equality impacts arising from the Housing Strategy with more detail set out in the comments under each of the other three strategy document headings where applicable. Note: where disability is specified, this includes people with learning disabilities.

8.6 The analysis of equality impacts of the adoption of the Housing Strategy (and the associated strategy documents described below) on protected groups as defined by the Act shows that:

1. There are likely to be positive impacts on age, disability, pregnancy and maternity; marriage and civil partnership; race; and sex protected groups. These may arise from increasing the supply of new affordable housing (including homes that meet the lifetime homes standard and homes that are wheelchair accessible); and, adoption of a housing allocation scheme that gives priority to people meeting statutory reasonable preference criteria.

2. There are likely to be negative impacts on age, disability, pregnancy and maternity, race and sex protected groups. These may arise from adoption of the Housing Allocation Scheme; Tenancy Strategy; and Homelessness Strategy and are detailed further below.

### **Housing Allocation Scheme**

8.7 The analysis of equality impacts of the adoption of the Housing Strategy on protected groups as defined by the Act shows that:

1. There are likely to be positive impacts on age; disability; marriage and civil partnership; pregnancy and maternity; race; sex; and sexual orientation protected groups. One of the guiding principles to the new Housing Allocation Scheme is that applicants will need to meet one or more of the needs based reasonable preference criteria. Where applicants do not have a defined need, they will not be able to access the register (unless there is a Local Lettings Plan in place). Another guiding principle is the adoption of a more flexible, customer focused approach to allocations. This will allow officers to match household needs and preferences in a direct manner for applicants from protected groups, as opposed to relying on a choice based lettings approach which people from protected groups have not always found user-friendly.

2. There are likely to be negative impacts on age; race and sex protected groups as private rented sector housing is expected to be increasingly used to meet both homelessness need but also other housing applicants' needs. These impacts can be mitigated by ensuring that the private rented housing meets CLG homelessness guidance

regarding suitability and quality grounds as set out in statutory regulations which have yet to be published. The impact of placing applicants from protected groups in the private rented sector itself cannot be mitigated because these groups are highly represented amongst the current cohorts of homeless people.

## **Tenancy Strategy**

8.8 The analysis of equality impacts of the adoption of the Tenancy Strategy on protected groups as defined by the Act shows that:

1. There are likely to be positive impacts on age; disability protected groups. These may arise from older people and disabled people continuing to be granted 'lifetime' tenancies as opposed to fixed term tenancies for other need groups.
2. There are likely to be negative impacts on age; disability; pregnancy and maternity and race protected groups. These may arise from granting fixed term tenancies and also charging affordable rents which are closer to market rent (as opposed to target social rent) for younger people and can be mitigated for certain groups (such as care leavers) but cannot be mitigated for any other protected groups because of the Council's commitment to adopting fixed term tenancies. Adopting such tenancies does not preclude tenancies being renewed if tenancy conditions are met.

## **Homelessness Strategy**

8.9 The analysis of equality impacts of the adoption of the Homelessness Strategy on protected groups as defined in the Act show that:

1. There are likely to be positive impacts on the age; disability; marriage and civil partnership; pregnancy and maternity; sex protected groups. These may arise from the adoption of a proactive homelessness strategy which is focused on preventative actions and a Housing Allocation Scheme that centres on applicants meeting one or more of the reasonable preference criteria.
2. There are likely to be negative impacts on age; race protected groups. These impacts may arise from the Council's intention to use private rented accommodation to discharge its homeless duties. It is therefore likely to have a high impact on these protected groups. These impacts can be mitigated by ensuring that the private rented housing meets CLG homelessness guidance regarding suitability and quality grounds as set out in statutory regulations which have yet to be published. The impact of placing applicants from protected groups in the private rented sector itself cannot be mitigated because these

groups are highly represented amongst the current cohorts of homeless people.

## **Conclusion**

8.10 Members are advised that there are likely to be positive and negative impacts following the adoption and implementation of the housing strategy documents described above. The expected impacts may not occur but positive and negative impacts will be evidenced through effective monitoring and evaluation. Section 7 of the Equalities Impact Assessment sets out an Action Plan designed to monitor and evaluate equality impacts as and when they arise and take mitigating action where both possible and necessary. This section of the EqIA describes further scoping and evaluation work to be undertaken on equalities impacts with a specific focus on the needs of the disabled, vulnerable and the elderly and is to be completed by March 2013 in line with Sections 5.6 – 5.8 of this Cabinet Report.

## **9. COMMENTS OF THE EXECUTIVE DIRECTOR OF FINANCE AND CORPORATE GOVERNANCE**

9.1 The project costs have been estimated to be £100k and consist of mainly IT costs. There are sufficient funds within the reserve mentioned in paragraph 6.4 to fund this expenditure which will be monitored as part of usual budget monitoring activities.

## **10. COMMENTS OF THE DIRECTOR OF LAW**

10.1 As set out in the report officers have carried out a statutory consultation process on the housing strategy documents. In making their decision Members must conscientiously take into account the issues raised by the consultees. Failure to do so could give rise to a challenge by way of Judicial Review. In addition Members will have to weigh the potential adverse impacts on the protected groups as identified in the EqIA, together with proposed mitigation measures; and will have to consider these and any countervailing factors before reaching their final decision.

### **10.2 Housing Allocation Scheme**

The Localism Act 2011 has introduced changes to the way the Council can allocate social housing. In particular the Council has power to determine which applicants do or do not qualify for an allocation of social housing in the borough.

10.3 The Council must give “reasonable preference” to the categories of people set out in the Housing Act 1996 (the Act) and this includes the homeless and 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. Additional preference must be given to particular descriptions of people with urgent housing need within the reasonable preference categories. The proposed scheme has taken this into account by providing high priority in band 1.

10.4 It is proposed that only persons with reasonable preference will qualify for social housing but the scheme is framed to also take into 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.

10.5 This policy is considered to be justifiable and lawful. The Council has a broad discretion to allocate accommodation in such manner as considers appropriate. This discretion is subject to general common law principles of public law and in particular the requirement of "Wednesbury" reasonableness which means the decision must not be irrational or one which no reasonable authority could take. Case law has established that as long as a scheme complies with the statutory requirements the courts should be very slow to interfere on the ground of alleged irrationality. It is accepted the allocation of housing is a matter of political sensitivity, judgement and local expertise and knowledge.

10.6 Under the Act the Council is also required to have regard to guidance given by the Secretary of State which was issued in June 2012. It should be noted that the guidance does suggest housing authorities should avoid setting criteria which disqualify groups of people whose members have reasonable preference, for example the homeless. It is intended to disqualify homeless applicants who are in long term temporary accommodation and the justifications for this are set out in section 4 of the report. The scheme does give the Director of Housing Options, Skills and Economic Development discretion to make allocations to non qualifying persons in cases of exceptional housing need.

10.7 It is suggested that the Officers should monitor the operation of the scheme to ensure that the Council complies with its obligations to towards persons in the reasonable preference categories. Should any major changes be made to the scheme there is a duty to consult with local private registered providers of social housing.

#### 10.8 Tenancy Strategy

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. But the Council must also comply with "tenancy standard" set the Social Housing Regulator and this suggests that 2 year fixed term tenancies should only be granted in "exceptional circumstances". It is considered that the exceptional cases set out in Section 4.4 of the

Tenancy Strategy are lawful. But Members should note that during the consultation process concerns were raised about the proposal to grant 2 year tenancies to 18-25 year olds. Officers reasons for adopting this policy are set also set out in section 4.

#### 10.9 The Homelessness strategy

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. It is intended that the Council make use of this but it should be noted that the section is not yet in force and that we await Regulations dealing with suitability of accommodation in the private sector. The Strategy may need to be reviewed when the Secretary of State publishes these Regulations.

### 11. COMMENTS OF THE DIRECTOR FOR PROCUREMENT AND IT

11.1 There are no procurement issues arising directly from this report.

#### **LOCAL GOVERNMENT ACT 2000** **LIST OF BACKGROUND PAPERS**

<b>No.</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	Housing Strategy Annex comprising Evidence Base; Borough Investment Plan - Executive Summary (Dec 2011); Background Reference Documents; Glossary.	Aaron Cahill x 1649	Housing Options/145 King St W6
2.	In-house research on tenancy turnover in LBHF housing stock	Aaron Cahill x 1649	Housing Options/145 King St W6
3.	Investigating Tenancy Sustainment in Glasgow.” Heriot-Watt University, 2007	Aaron Cahill x 1649	Housing Options/145 King St W6
<b>CONTACT OFFICER</b>		<b>NAME: Mike England EXT. 5344</b>	