


London Borough of Hammersmith & Fulham CABINET 2 NOVEMBER 2015		
ADOPTION OF THE COUNCIL'S HOUSING ALLOCATION SCHEME; TENANCY STRATEGY: AND HOME BUY ALLOCATION SCHEME		
Report of the Cabinet Member for Housing (Councillor Lisa Homan) and the Cabinet Member for Economic Development and Regeneration (Councillor Andrew Jones)		
Open Report		
Classification - For Decision Key Decision: YES		
Wards Affected: All		
Accountable Director: Mike England –Director for Housing Options		
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1. EXECUTIVE SUMMARY

- 1.1. This report seeks Cabinet approval for the adoption of the Housing Allocation Scheme (Annex A); Tenancy Strategy (Annex B); Home Buy Allocation Scheme (Annex C); and note the Equalities Impact Assessment (Annex D).
- 1.2. The Housing Allocation Scheme sets out the rules by which applicants in housing need are assessed and prioritised for suitable accommodation available to the Council, which includes affordable rented accommodation available from the Council and housing associations. The Tenancy Strategy sets out the Council's approach to the kinds of affordable housing tenancies granted in the borough by both itself in its landlord role and the borough's housing associations. The Home Buy Allocation Scheme sets out the Council's approach to prioritising applicants on low to medium incomes who are seeking low cost home ownership and other intermediate housing options. The Equalities Impact Assessment identifies potential positive and negative impacts arising from the adoption of the Annex A-C documents.

- 1.3 This report seeks to adopt the revised annexed documents, following a consultation process during January to March earlier this year, and a more recent engagement process focusing on the detail of the proposed changes.

2. RECOMMENDATIONS

- 2.1 That Members:

2.1.1 Adopt the Housing Allocation Scheme (Annex A); Tenancy Strategy (Annex B); Home Buy Allocation Scheme (Annex C).

2.1.2 Note the Equalities Impact Assessment (Annex D)

3. REASONS FOR DECISION

- 3.1 Following the adoption of the Housing Strategy in May 2015, it was agreed to undertake a further consultation process towards adopting the Council's Housing Allocation Scheme; Tenancy Strategy; and Home Buy Allocation Scheme. This report recommends Members adopt the annexed documents described above.

4. INTRODUCTION AND BACKGROUND

- 4.1 The adoption of the Housing Strategy by Cabinet on 11 May 2015 triggered the need for consultation on other documents that will deliver three of the 16 action plan objectives identified in *Delivering the change we need in housing*.

5. PROPOSAL AND ISSUES

- 5.1 Key changes set out in the Housing Strategy relevant to the three documents were as follows.

5.1.1 **Housing Allocation Scheme:** It was proposed to amend the overcrowding qualifying criteria from 2 bedroom need to a 1 bedroom need; to relax the medical condition qualifying criteria from 'severely affected' to 'moderately affected'; and, local residency qualifying criteria to be changed from 'five years' to 'five out of the previous seven years'.

5.1.2 **Tenancy Strategy:** It was proposed that the Council re-introduce lifetime tenancies for general needs applicants, but retain the option to grant fixed term tenancies for particular categories of applicant, primarily for those who have a history of criminal or anti-social behaviour or applicants who are eligible and qualify for accommodation through the adoption of a Local Lettings Plan. Also included is some narrative on the Council's approach to affordable rents in the borough, refining the approach set out in the Council's Housing Strategy.

5.1.3 Home Buy Allocation Scheme: It was proposed that the revised Home Buy Allocation Scheme will include reference to the ‘thirds’ approach to affordability, with intermediate housing products income bands of up to £29,000; up to £43,550; up to £50,550 which will be index linked to the Average Weekly Earnings Index (AWEI).

5.2 As well as reflecting revised policy positions on housing allocation and tenancy issues, the documents also reflect any relevant updates arising from changes in Mayoral policy; publication of government regulations; case law and judicial reviews; refinement of definitions; other updates and corrections to previous documents; and other drafting changes made by Council officers. The format of the annexed documents are broadly similar to that of documents previously adopted, but changes in policy as described in the Housing Strategy have been made.

6. CONSULTATION

6.1 A full consultation process on the Housing Strategy was undertaken between January 2015 and March 2015 with the final document being adopted by Cabinet on 11 May 2015. A good response was received to that consultation process on a range of housing issues, e.g., new affordable housing supply; the Residents’ Commission; and the private rented sector. Responses to the first consultation process (relevant to this report) reflected the following views:

- On the Housing Allocation Scheme, there was support for the 5 year residency rule (39%), with additional support (11%) for a ‘five years out of seven years’ rule for those who temporarily live outside the borough but who are still considered local; and a further 21% who thought it should be longer than five years. 13% thought it should be removed altogether with 15% thinking it should be less than five years
- On the Housing Allocation Scheme, there was support for relaxing the overcrowding needs criteria from two bedrooms to one bedroom, with 63% agreeing, with 21% disagreeing
- On the Housing Allocation Scheme, there was strong support for continued operation of the community contribution criteria, 77% agreeing with 21% disagreeing
- On Fixed Term Tenancies (i.e., relating to the Tenancy Strategy), there was an even split between those wishing to return to lifetime tenancies, 42% agreeing, with 40% disagreeing. In the next question, some 69% agreed on retaining fixed term tenancies for certain categories of applicant, with 19% disagreeing

6.2 The January 2015 to March 2015 process was considered to be a successful and fairly exhaustive process, with over 400 responses received plus meetings with various interested parties. The approach for the second phase of consultation was necessarily going to be ‘lower key’

given that the first phase had dealt with the headline policy issues. The engagement process and interactions are described in more detail below, summarising the outcomes of the housing strategy consultation process which include descriptions of what changes were made to individual documents. The consultation process began on 29 June 2015 and ended on 16 September 2015.

6.3 Contact with interested parties included the following:-

- Direct letter from the Cabinet Member for Housing to Chairs and Secretaries of 30+ Tenants and Residents Association (TRAs) with copies of the housing strategy and associated documents
- Direct letter from the Cabinet Member for Housing to the Borough's two Members of Parliament and to the Deputy Mayor of London for Housing and Land (and the GLA Housing Investment Manager for the borough)
- Press release on the 29 June 2015 promoting the 7 July 2015 Housing, Economic Development and the Arts Policy Accountability Committee (PAC) meeting on the with a reminder News piece added to the Council's News page on 1 September 2015
- Report and consultation documents considered by above mentioned PAC on 7 July 2015
- Presentation to Borough Forum on 29 June 2015
- Presentations to H&F Housing Association Forum meetings on 17 July 2015 and 4 September 2015
- Two email notes circulated by H&F Advice Forum* on 6 July 2015 and 27 August 2015
- Attendance at two Housing Representatives Forum Surgery Sessions on 15 September 2015

* email group membership comprises over thirty five voluntary sector organisations with a direct or indirect interest in the housing agenda.

6.4 The documents were available from a dedicated webpage at <http://www.lbhf.gov.uk/housingstrategyconsultation>

7. ISSUES THAT AROSE DURING THE CONSULTATION PROCESS

7.1 Key issues through written submissions or comments made in various fora are described below.

7.2 At the **Economic Regeneration, Housing and the Arts Policy & Accountability Committee 7 July 2015** meeting (Minutes attached as Annex E) which featured the consultation documents as the agenda items, a number of issues/questions were raised by members of the public (abstracts of minutes of meeting italicised below) which included the following:

Housing Allocation Scheme

7.2.1 *Members of the public asked whether the priority bands would take into account factors such as poor or criminal behaviour. Officers explained that there would be some ability to disqualify people if there was clear evidence of antisocial or criminal behaviour. However there would not be an automatic expulsion from the housing register with the circumstances of each case judged on its merits. Disqualifying someone from being entitled to council housing was a sensitive matter and was an action that would not be taken without careful consideration in a case conference.*

7.2.2 *In response to concern expressed about Looked After Children (LACs) and young people, officers explained that all children coming out of Council care would be covered by a quota and that there were around 30 flats allocated each year for this purpose. For homeless young people under the age of 18, Children's Services provided assistance and those over 18 would be subject to the same requirements and banding as other residents. For vulnerable residents with Special Education Needs or in need of other support, the Borough also had a good range of supported accommodation.*

Tenancy Strategy

7.2.3 *Members of the public present argued that the public health benefits of secure, long-term tenancies outweighed any other issues as they promoted engagement with the community and dissuaded anti-social behaviour.*

Home Buy Allocation Scheme

7.2.4 *Members of the public asked how the Council could control people buying affordable homes and selling them on quickly to make significant profits and reducing the overall level of affordable housing.*

7.3 Writing on behalf of the **Mayor of London**, the **Greater London Authority's** Housing & Land representative made the following comments:

7.3.1 Housing Allocation Scheme

7.3.2 *The Mayor believes that councils should be doing more to support working Londoners into affordable rented housing, in order to better reward those who are supporting London's economy. The Mayor therefore supports the proposal by LB Hammersmith & Fulham to use local letting policies to allocate affordable rented housing to those on the Home Buy Register, providing a balance is struck to ensure the most vulnerable continue to be looked after. The Mayor also welcomes the proposed approach that homes let through any such local lettings policy should be on fixed term tenancies. The Council should consider setting a target of the number of working Londoners it intends to support through this approach, which would increase transparency.*

7.3.2 Supporting mobility is a key priority for the Mayor, and therefore the Mayor is encouraged that the Council continues to promote opportunities for its residents to move through mutual exchanges and the Mayor's Housing Moves mobility scheme.

7.3.3 Tenancy Strategy

7.3.4 The Mayor supports the use of fixed-term tenancies to help ensure that social housing, which is a scarce asset in London, is used effectively to meet housing need. LB Hammersmith & Fulham has around 850 people on its Housing Register, a number that will rise when waiting list restrictions are relaxed, and around 1,200 households in temporary accommodation.

7.3.5 While it is for the Council to determine the appropriate mix of fixed term and secure tenancies to best meet local need, the Mayor is of the view that any blanket policy on tenure undermines the key purpose of social housing, i.e. meeting housing need. LB Hammersmith & Fulham's approach comes close to being a blanket policy with only a few limited exemptions. The Mayor is of the view that the Council should consider whether a more flexible use of fixed and secure tenancies would enable the Authority to better meet the range of needs it faces and ensure that any affordable rented homes on secure tenancies are supporting those who would benefit from it most.

7.3.6 Home Buy Allocation Scheme

7.3.7 The Mayor has introduced changes to the way shared ownership operates in order to improve choice, mobility and flexibility for Londoners. In his Further Alterations to the London Plan, published earlier this year, the Mayor set out that locally-placed restrictions on intermediate housing should be lifted after three months, opening them up to people across London who meet the London-wide eligibility criteria. This approach is fully aligned with the policies in his statutory Housing Strategy and with the funding criteria for affordable housing in London. To ensure that organisations developing new intermediate homes do not face seemingly contradictory policy frameworks, the Mayor would wish to see this "cascade" approach explicitly recognised in Hammersmith & Fulham's Home Buy Allocation Scheme.

7.3.8 The GLA also stated that recent government policy proposals, such as 'pay to stay', may have a significant impact on the way that affordable housing is allocated in London. LB Hammersmith & Fulham may therefore wish to wait until these policy proposals are properly clarified, or at least until the publication of the Housing Bill, before finalising its tenancy strategy and allocation policies. Should further revisions be made to these document, the Mayor would expect to be able to comment once more.

7.3.9 In response, on the **Housing Allocation Scheme**, the Council welcomes the Mayor's comments on the Council's proposed use of Local Lettings Plans to vary the use of affordable housing for wider cohorts of housing need and aspiration. The Council also acknowledges the role that the Mutual Exchange and Housing Moves Schemes play in promoting the ability of residents to move in London (and beyond) for economic and/or social reasons. On the **Tenancy Strategy**, the Council notes the Mayor's support for continuing to issue fixed term tenancies, but also notes that it is for the Council to decide on what types of council housing tenancies are granted. The Council is of the view that the granting of secure 'lifetime' tenancies creates a better basis for tenants to be part of successful and sustainable communities.

7.3.10 On the **Home Buy Allocation Scheme**, the Council notes the Mayor's comments about the need for a 'cascade mechanism' allowing local nomination arrangements to cascade to London-wide arrangements. Wording has been included in the Home Buy Allocation Scheme to reflect the Mayor's priorities, but further work will be required, possibly in conjunction with other local authorities, to work through how such a mechanism will operate in practice. The Council will want to ensure that Hammersmith & Fulham applicants (including those who work, but do not live, locally) continue to have local priority during that cascade period and that local applicants are aware of opportunities elsewhere in London.

7.3.11 Regarding the final GLA comments made (in Section 7.3.8), it is suggested that the Council may wish to delay the adoption of the Housing Allocation Scheme and Tenancy Strategy. Acknowledging that major policy changes are in train, it will be some time before such proposals are enacted and/or published with relevant guidance issued. Therefore it is recommended that the documents annexed to this Cabinet Report should be adopted as proposed.

7.4 At one of the two 'Drop In' consultation sessions held before the above mentioned **Housing Representatives Forum Surgery Sessions** on **15 September 2015**, a tenants' representative supported the Council's proposal to return to issuing secure 'lifetime' council tenancies from the current fixed term flexible tenancies to general needs applicants. Also raised was an issues about the (reading) accessibility of the documents, particularly the Housing Allocation Scheme. Whilst the document needs to be detailed and rigorous in its approach, it is considered necessary that a Housing Allocation Scheme summary document is prepared to help readers and potential applicants to understand the broad approach.

7.5 In relation to the Tenancy Strategy, **Housing Associations** have raised the issue of the four year rent reduction of 1% per annum imposed on all registered providers (i.e., the Council and housing association landlords) and therefore reference to rent increases of CPI plus 1% (the previous norm) would need to be addressed. Reference to rent increases/decreases have been deleted. Further comments on the

Tenancy Strategy, included reference to the positives of fixed term tenancies, allowing for affordable homes to be targeted at those most in need. There was a suggestion in addition to 'racial harassment' a more generic 'hate crime' definition (which was referenced by the Disability Forum and the Hammersmith & Fulham Disability Forum below) be added. Suggestions were also made on definitions and drafting which have been taken on board. Further comments were made on addressing specific client groups' needs which require further consideration by the Housing Options Division. Housing association stakeholders referenced recent Judicial Reviews that were found against London local authorities with respect to residency qualification rules and homelessness. Housing association partners recommended that the draft Housing Allocation Scheme should be reviewed in the light of recent legal judgments on homelessness cases.

- 7.6 Local disability representatives' organisations **Hammersmith & Fulham Disability Forum** and **Action on Disability** submitted comments. Both organisations highlighted the wide range of services they provide to the Borough's residents and specific challenges that the disabled face in accessing affordable housing, both for rent and low cost home ownership. Both organisations were supportive of the consultation documents' content, but had some concerns which are described and responded to below.
- 7.7 On the Tenancy Strategy, the **Hammersmith & Fulham Disability Forum** felt that where applicants are issued fixed term tenancies on a discretionary basis due to anti-social behaviour, considerations such as the applicant's mental health or whether they have a learning disability need to be active considerations in the operation of this policy and that it should be applied sensitively and fairly given the wider direction of travel regarding integrated care and the broader health and well-being agenda. Any tenancy renewal process would need to take account of these factors.
- 7.8 On the Housing Allocation Scheme, the Disability Forum were keen that disability hate crime was referred to as a disqualification criteria to access the Housing Register, which has been included. Reference was also made to whether applicants can 'self-refer' themselves to housing associations, which they can in some instances. Reference is made to this in the revised Scheme, but a separate schedule of housing associations who do allow 'self-referral' will need to be prepared. Such applicants applying independently will not have a housing priority accorded by being on the Council's Housing Register. On the Home Buy Allocation Scheme, there was a broad concern expressed about the affordability of products to eligible applicants.
- 7.9 **Action for Disability** raised similar concerns about the granting of fixed term tenancies and renewal; disability hate crime issues specified by the Disability Forum.

- 7.10 Some further work will need to be undertaken on the criteria operated by the Council to define in more detail what circumstances a fixed term tenancy will be granted. Such tenancies are unlikely to be granted often, but will need to take into account equality considerations and the specific circumstances and sensitivities of each case.
- 7.11 **Mencap** (voluntary organisation supporting people with learning disabilities) met with an officer of the Council to discuss their concerns. In their submission, whilst welcoming progress has been made in certain areas, comments focused on the need for training for H&F staff; designated staff; and monthly surgeries to assist applicants with their queries. Mencap welcome progress made on the new 'user friendly' application form and would like some work undertaken to improve it further. Comments were also made on the need for a housing advocacy service and long-term planning for people with life-long disabilities. Officers do expect more applicants with a housing need to access accommodation through the Housing Allocation Scheme. Applicants with learning disabilities are recognised as a need group in the Scheme and a pilot 'quota' has been set aside in the 2015/16 Annual Lettings Plan for applicants with learning disabilities who have housing needs as defined by the Housing Allocation Scheme. Officers continue to meet with representatives of Mencap on a regular basis to discuss how the process can be improved.
- 7.12 A related issue raised was how applicants can receive support during the pre and post application process. Applicants seeking suitable accommodation can find online application forms if they are not 'IT literate'; do not have English as a first language, further complicated by poor written skills. Similarly, applicants who have a disability (including learning disabilities) and/or medical condition may also find the application process difficult, particularly if they are unable to secure independent support.
- 7.13 A respondent referenced the recent court judgment in relation to domestic violence victims and the London Borough of Ealing's application of their local residency criteria. This judgment was made after the beginning of the H&F consultation process. Officers have since taken legal advice on this specific issue and the Scheme text has been revised accordingly. Further strong concerns were expressed about how the housing needs of adult-aged children would not be met by the Scheme, possibly contributing to young adults' homelessness. Concern was also expressed about the household member status of carers. The Council will be undertaking further work on homelessness reduction and the respondent's concerns can be considered as part of that work.
- 7.14 Changes were made to the documents to take account of the comments made where possible. Further corrections, refinements and updates were also made. A summary document will be prepared to accompany the Housing Allocation Scheme.

- 7.15 In conclusion, the Government's 2015 Summer Budget Statement and the Growth Statement that followed it set out a number of significant changes that are likely to impact on the Council's future approach to housing. Implementation of 'Pay to Stay' proposals (i.e., charging market rents to households on high incomes); welfare reforms which are likely to reduce benefit entitlement to low income households; and disposal of empty local authority homes to fund the extension of the right to buy to housing association tenants will directly and indirectly impact on the policies and content set out in the report Annexes.

8. TIMELINE AND RESOURCES FOR IMPLEMENTATION

- 8.1 It is expected that the new documents 'go live' in January 2016. Some preparatory work will need to be undertaken in order to facilitate the revised policies.
- 8.2 Changes to the Council's Tenancy Strategy will mean the Council returning to issuing secure 'lifetime' tenancies to nominees to its housing stock. The current Council Tenancy Agreement does not need to be modified to reflect this change, as the current document does facilitate the granting of secure lifetime tenancies. Given the ongoing Residents' Commission process, it is possible the Council's Tenancy Agreement document will be revised after the Commission has made its recommendation, and the Council has had the opportunity to consider that recommendation and decide upon next steps. Any future consultation on the Tenancy Agreement will include reference to our intention to review the section on dogs, pets and other animals.
- 8.3 By way of information, in 2014/15, 362 allocations were made to council properties. Of this number 259 (i.e., 71%) were 2 year and 5 year fixed term tenancies mostly with one year introductory tenancies.
- 8.4 It is proposed that officers review existing council tenants who have been granted fixed term tenancies since April 2013 providing there is no record of significant rent arrears; anti-social behaviour; or any other breaches of the tenancy. Existing fixed term tenants (excluding tenants issued fixed term tenancies under Local Lettings Plans) will be eligible for a 'lifetime' tenancy providing there is no record of significant rent arrears; anti-social behaviour; or any other breaches of the tenancy. Officers will write to these tenants to advise them of the review and outcome.

9. EQUALITY IMPLICATIONS

- 9.1 The 2010 Equalities Act places an equality duty on local authorities (and other public bodies) to protect people from discrimination in the workplace and in wider society. To meet this duty, the Council needs to consider all individuals when carrying out their day-to-day work when shaping policy, in delivering services and in relation to their own employees. It also requires that public bodies to:

- have due regard to the need to eliminate discrimination
- advance equality of opportunity
- foster good relations between different people when carrying out their activities

9.2 The adoption of the revised Housing Strategy documents (i.e., the housing Allocation Scheme; Tenancy Strategy; and Home Buy Allocation Scheme) requires the Council to undertake an Equalities Impact Assessment (EqIA) to fully assess what the positive and negative impacts of adopting the changed approach will be on defined 'equality groups'. These are:

- women
- black, Asian and ethnic-minority people
- young people and children
- older people
- disabled people
- Lesbian people, gay people, bisexual people and transsexual people
- people from different faith groups

9.3 The impacts of the delivery of the Housing Strategy vision as detailed in the documents on members of equality groups identified above are considered to be positive. However, officers will need to be mindful and identify any unintended impacts that might negatively affect members of specific equality groups identified above.

9.4 The completed Equalities Impact Assessment is attached as Annex D to this report.

9.5 Implications completed by: Aaron Cahill, Interim Housing Strategy Manager, 0208 753 1649.

10. LEGAL IMPLICATIONS

10.1 The Council is required by Section 166A of the Housing Act 1996 to have an allocation scheme for determining priorities and procedure for the allocation of housing accommodation in the borough. The recommended changes to the Scheme take into account the recent case law in respect of residency qualification and allocation to homeless applicants.

10.2 The Localism Act 2011 also gives the Council a statutory duty to produce a tenancy strategy setting out the Council's approach which sets out its approach for social and affordable housing landlords relating to:

10.3 The kinds of tenancies they grant; The circumstances in which they will grant a tenancy of a certain kind; The lengths of the tenancy; and the circumstances in which another tenancy is granted when an existing one expires.

10.4 The report sets out the result of wide consultation on changes to both the allocation scheme and tenancy strategy and in making their decision

Members must conscientiously take into account the issues raised by the consultees.

- 10.5 Implications verified/completed by: Janette Mullins Principal Solicitor Housing Litigation Tel 0208 753 2744

11. FINANCIAL AND RESOURCES IMPLICATIONS

- 11.1 The financial and resources implications arising from agreeing this Cabinet Report are associated with the adoption of the Housing Allocation Scheme. The new Scheme is likely to lead to an increase in the number of households on the Housing Register as a result of the changes set out in 5.1.1 of this report. In order to respond efficiently to expected increased service demands on the Housing Options service, additional resources are required to ensure service levels are maintained. The funding required in 2015/16 is £116, 675 for temporary staff, comprising £59,704 funded from the Housing Revenue Account (HRA) and £56,971 funded from the General Fund. A further £40,000 per annum is required to resource a Hostel Officer post, funded from the HRA from 2016/17 onwards.

- 11.2 Funding for these costs will be sourced from identified underspend in the General Funds; viring existing running costs; and from within the Housing Options budget.

- 11.3 Implications verified/completed by: Kathleen Corbett, Director of Finance and Resources, 020 8753 3031.

12. IMPLICATIONS FOR BUSINESS

- 12.1 No direct implications are identified.

13. RISK MANAGEMENT

- 13.1 Risks associated with the report recommendations remain the responsibility of the Housing Service for their identification and management. The Service maintains a register of risks that are reviewed quarterly by the Management Team ensuring that any risks that escalate are responded to quickly and efficiently.

- 13.2 Implications verified/completed by: (Michael Sloniowski, Shared Services Risk Manager telephone 020 8753 2587).

14. PROCUREMENT AND IT STRATEGY IMPLICATIONS

- 14.1 There are no procurement implications directly arising from this report.

- 14.2 Implications verified/completed by: Robert Hillman, Procurement Consultant (HRD), x 1538

LOCAL GOVERNMENT ACT 2000
LIST OF BACKGROUND PAPERS USED IN PREPARING THIS REPORT

No.	Description of Background Papers	Name/Ext of holder of file/copy	Department/ Location
1.	None		

LIST OF APPENDICES:

- Annex A – Housing Allocation Scheme
- Annex B – Tenancy Strategy
- Annex C – Home Buy Allocation Scheme
- Annex D – Equalities Impact Assessment
- Annex E – Minutes of the Regeneration, Housing and the Arts Policy and Accountability Committee Minutes Tuesday 7 July 2015