

BARNSELY METROPOLITAN BOROUGH COUNCIL

This matter is a Key Decision within the council's definition and has been included in the relevant Forward Plan

**Report of the Executive
Directors of PLACE &
COMMUNITIES**

Changes to the Council's Lettings Policy 2018

1. Purpose of report

- 1.1 To present the findings from the review of the Lettings Policy that was carried out in 2018.
- 1.2 To request approval for the proposed amendments to be made to the existing Lettings Policy as summarised in the report at section 3.8.

2. Recommendations

- 2.1 It is proposed that the recommendations made as a result of the review (noted at section 3.8 of this report) are supported and the proposed changes to the Lettings Policy are implemented.

3. Introduction

- 3.1 The current Lettings Policy was agreed by the Council and implemented from April 2014 (following the 2013/14 Review). Although there have been minor amendments to the Lettings Policy over the last four years, the policy is, and has remained, fit for purpose. In brief summary, the changes in the period since 2014 have included:
 - Revisions to the designated 'age restricted' properties
 - Changes in the ways in which vacant properties are advertised and the methods by which applicants are able to apply for properties following the Access to Services Review.
 - Changes required responding to Universal Credit regulations relating to housing costs for 18 to under 22 year olds.
- 3.2 On 3rd April 2018, the Homelessness Reduction Act 2017 came into force. The Act significantly reforms England's homelessness legislation by placing duties on Local Authorities to intervene at earlier stages to prevent homelessness in their areas. It also requires housing authorities to provide homelessness services to all those affected, not just those who have 'priority need'.

- 3.3 In order to ensure compliance with new legislation, and as recommended in the accompanying statutory code of guidance, the Council's Lettings Policy has been reviewed jointly between BMBC, Berneslai Homes and representatives from the Tenant's Federation (the Review Panel) to give effect to the new duties set out in the 2017 Act. In reviewing the current policy documents, officers have also undertaken a more general overview of the Policy and propose a small number of other slight amendments to the wording of the Policy to ensure that it remains flexible enough to adapt to other legislative changes expected to be announced in the Secretary of State Guidance.

The changes to Homelessness Legislation:

- 3.4 Under the 2017 Act, the Council is under a duty to take reasonable steps to **prevent** homelessness where an applicant is threatened with homelessness within 56 days. Whilst the main objective is to take action to enable the applicant to remain in their current home, where remaining in the current home may not be suitable or appropriate the Council should seek to support applicants to secure suitable alternative accommodation to prevent homelessness. This is the Prevent Duty.
- 3.5 Where an applicant is homeless and eligible for assistance, the Council must take reasonable steps to **relieve** homelessness (within 56 days) by assisting the applicant to secure suitable accommodation. This duty may be brought to an end in a number of ways including making an offer of suitable accommodation. This is the Relief Duty.
- 3.6 Under both the **Prevention** and **Relief** duties there is a requirement to complete a personal housing support plan (PHSP) with customers, detailing what action is required. The actions contained within the plan should address the customer's circumstances, their housing and support needs. The actions will be identified as being actions either the Council or the customer will progress and set time scales for updates to be provided. This additional function clearly establishes an expectation that customers will take responsibility for resolving their housing issues and allows the Council to end their duties where customers do not comply with actions set out in the plan. It should be noted that the Housing Solutions Team are committed to assisting engaged customers to resolve their housing solutions either side of the 56 day period.
- 3.7 In reviewing the Lettings Policy, the Review Panel have identified a number of areas where minor changes would assist the Authority to best meet our duties under the new Act.

3.8 The recommendations contained in the sections below will help the Council to continue to meet its statutory and corporate obligations and to do so in a more effective manner:

3.81 **Banding:**

BAND	CURRENT	PROPOSAL
1	Full Duty Homeless cases ONLY (eligible, homeless, priority need, not intentional, local connection).	Keep this the same. Numbers should significantly reduce as the Prevention and Relief stages should assist. There are no proposed changes to other applicants who would currently qualify for Band 1 status.
2	Vulnerable Applicants defined as homeless under the 1996 Act but who are not owed Full Duty as they have made themselves intentionally homeless.	Band to provide reasonable preference to applicants threatened with homelessness and owed the Prevention Duty (section 195 (2)). There are no proposed changes to other applicants who would currently qualify for Band 2 status.
3	Non-Vulnerable applicants who are not owed Full Duty and who have not made themselves intentionally homeless.	Band to provide reasonable preference to applicants owed the Relief Duty (section 189B) There are no proposed changes to other applicants who would currently qualify for Band 3 status.
4	Out of district applicants with no local connection but who have emergency, very urgent or urgent re-housing needs	Reasonable preference to applicants that are threatened with homelessness (and have Prevention Duty) but who do not have a Local Connection There are no proposed changes to other applicants who would currently qualify for Band 4 status.
5	This band is for qualifying applicants who have no local connection with Barnsley and who have minor, or no, housing needs.	There are no proposed changes to other applicants who would currently qualify for Band 5 status.

A process map comparing the old legislation with the new is included at Appendix B. The proposed changes to the banding will be monitored and reviewed by the Panel at a six-monthly interval to ensure that the Council is

meeting its duties under the Act and that other applicants have not been unduly affected by the banding changes.

3.82 Section 6d - Ineligible applicants on the grounds of unreasonable behaviour:

In looking at the current policy, officers feel that the distinction between 'qualifying' and 'ineligible' applicants is not clear enough. The changes in the policy are designed to address this.

Ineligibility in the context of the policy relates to immigration control, people who have failed the habitual residence test, people from abroad determined 'ineligible' by the Secretary of State.

Qualifying people is more about our locally determined criteria taking into account Codes of Guidance, Local priorities and issues and covers things such as ASB, rent arrears.

It is proposed that section 6d should be amended to be identified as the 'qualification criteria' as it identifies those positive and negative individual circumstances that will be considered in determining the outcome.

It should be noted that there are no actual changes to the criteria on which decisions are made.

3.83 Section 7a (ii) - Local connection

It is proposed that this section of the Lettings Policy is amended to reflect the common working definition used for homelessness assessments for establishing a local connection. In short, this means changing the time that they, or a close family relative, must have spent living in the borough over the last 5 years from 2 years to 3 years. This policy change will be reviewed by the Panel at a six-monthly interval to ensure that the Council is able to best meet the needs of all applicants on the waiting list.

3.84 8g – Housing Applicants aged 18 to 21 years old

From 1st April 2017, the Government changed the benefits system; resulting in some single persons aged between 18 and under 22 years of age no longer being eligible for assistance with housing costs through Housing Benefit or Universal Credit.

As a result of these changes, the council reviewed the Lettings Policy and from 28th September 2017, any housing applicant aged between 18 and under 22 years of age, coming up for an offer of accommodation, was subject

to a financial assessment to ascertain if they were able to afford a tenancy. Where the assessment determined that a tenancy was unaffordable, the offer was withdrawn and further offers would not be made until the applicants circumstances changed.

On 29th March 2018, the Secretary of State announced that the Government were changing the benefits system and effectively reversed their decision to withdraw assistance with housing costs for some 18-under 22 year olds. The suggested change in the Lettings Policy is to reflect these changes in the welfare benefit system and withdraw the need for financial assessments for applicants in this age group. In short, this means removing paragraph 8g.

At the time of writing this report, the date the Government intends to change the welfare benefits system for this age group is not yet known. The suggested change in the Lettings Policy is in anticipation of these changes.

3.85 9a – what type of tenancy to be offered

The change basically strips out the existing definitions of secure, introductory and flexible tenancies and replaces them with simplified wording which states that the allocation of tenancies will be in accordance with the law at the time of allocation. This simplified wording prevents a further amendment should the Government take the decision to enact proposals in the Housing and Planning Act 2016, ending automatic lifetime tenancies, at some point in the future.

The primary tenancy offer remains as a secure lifetime tenancy, following the 12 month Introductory Tenancy period.

3.86 Lettings' Policy - Appendix 1 - Exclusion and Suspension Statement

1. Background

It is proposed that this section of the policy is amended with the term 'qualification criteria' for the reasons highlighted above at 3.82.

2. Exclusion - General principles

It is proposed that this section of the policy is amended to include the conditions where the council considers a Housing Register applicant to be ineligible for the allocation of accommodation, and sets out the three-stage test of 'suitability'. The examples of behaviour /conduct have also had slight amendment.

3.9 The current lettings policy has been re-drafted taking into consideration the recommendations set out in this report and a number of minor corrections to details and syntax have also been incorporated.

4. Consideration of alternative approaches

4.1 There are no other alternative approaches. In order to ensure compliance with new legislation, and as recommended in the accompanying statutory code of guidance, the Council's Lettings Policy has been reviewed jointly between BMBC and Berneslai Homes to respond to the new duties set out in the 2017 Homeless Reduction Act.

4.2 In reviewing the current policy documents, officers have also undertaken a more general overview of the Policy and have proposed a small number of other amendments to the wording of the Policy to ensure that it remains flexible enough to adapt to other legislative changes, as required.

4.3 The review panel agreed that the recommendations reflect the best opportunity to allow the Council to meet both our duties under the Homeless Reduction Act (prevent and relief) and our commitment to offer affordable accommodation to other qualifying applicants on the Housing Waiting List.

5. Proposal and justification

5.1 To approve the proposed changes to the Lettings Policy as identified at Section 3.8 of this report.

5.2 The review has taken into consideration compliance with current legislation and the most recent guidance. It is a key principle that allocations policies are seen to be fair and can be justified. It also acknowledges that there is a balance to be struck between the competing priorities of meeting the needs of applicants and developing balanced and sustainable communities.

5.3 Should the recommendations outlined in this report be approved, it is proposed that the changes are implemented and publicised at the earliest opportunity following approval via Full Council.

6. Implications for local people / service users

6.1 It is anticipated that that the proposed recommendations will enhance the existing policy and help the Council to maintain and improve the well-being and quality of life of people in Barnsley. This contributes to the Council's corporate priorities, in particular, assisting people to achieve their potential and the development of strong and resilient communities.

7. Financial implications

7.1 Consultations have taken place with representatives of the Service Director – Finance (S151 Officer).

7.2 There are no financial implications arising from this report.

8. Employee implications

8.1 There are no implications arising from this report.

9. Communications implications

9.1 All documentation will be updated to incorporate the approved recommendations. This will be published on the Berneslai Homes web-site (with links to the BMBC website) and will be available on request.

10. Consultations

10.1 Following the completion of the Housing Services Review, a strand of which reviewed the relationship between Berneslai Homes and the Council in the delivery of Community Safety and Allocations related services, a Review Panel (task and finish group) was established in late 2017 to review the existing Lettings Policy and code of guidance.

10.2 The Panel consisted of officers across Place and Communities directorates, Berneslai Homes (Rents and Lettings) and representatives from the Tenant's Federation who are supportive of the recommended changes to the policy. The Portfolio Holders for Place and Communities have also been consulted as part of review. A full member briefing will be held in advance of submission to White Cabinet.

10.3 As part of the consultation process, the report has been considered by officers from all three directorates and is presented to Cabinet as a joint report between PLACE and Communities.

11. Tackling Health Inequalities

11.1 Revisions to the Lettings Policy allow the Council to ensure that it fully complies with its legislative requirements and makes best use of its stock to ensure that residents in the borough are appropriately housed. As the proposed changes amend banding eligibility, a review will be undertaken at six-monthly intervals to ensure that applicants have not been unduly affected by the amendments to respond to the Homeless Reduction Act. The policy makes no changes to the eligibility criteria for those applicants who require specific accommodation due to their age/health

12. Climate Change & Sustainable Energy Act 2006

12.1 None.

13. Risk Management Issues

13.1 The recommendations are required to ensure that the Council meets its legislative duties. The impact of the proposed changes to accommodate the relief/prevent duties under the Homeless Reduction Act will be monitored at a six-monthly interval to ensure that banding/timescales etc. are addressing the aims of the Act and not unduly impacting upon other applicants/allocations.

14. Health & Safety Issues

14.1 None.

15. Compatibility with the European Convention on Human Rights

15.1 None. The changes respond to government legislation which is considered to be fair and justified.

16. Promoting Equality & Diversity and Social Inclusion

16.1 The recommendations have been fully assessed and comply with Equality and Diversity issues. An Equalities Impact Assessment was jointly produced by Berneslai Homes and the Council in August 2018 which considers the proposed changes to the Lettings Policy in light of the Homeless Reduction Act.

17. Reduction of Crime & Disorder

17.1 Within the existing and DRAFT policy, safeguards are in place to reduce ASB in new tenancies.

18. Conservation of Biodiversity

18.1 None.

19. List of Appendices

19.1 Appendix A- Financial Imps
Appendix B- Process Map

20. Background Papers

Lettings Policy 2018 presentation to Members (to be provided upon request).

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Financial Implications / Consultation



Date: 30th July 2018

Consultations have taken place with representatives of the Service Director – Finance (S151 Officer).