

Cabinet 1 November 2016	 TOWER HAMLETS
Report of: Aman Dalvi, Corporate Director of Development and Renewal	Classification: Unrestricted
Amendments to Housing Allocations Scheme	

Lead Member	Councillor Sirajul Islam Cabinet Member for Housing Management & Performance
Originating Officer(s)	Mark Baigent, Interim Service Head Strategy, Regeneration, Sustainability & Housing Options
Wards affected	All Wards
Key Decision?	Yes
Community Plan Theme	A Great Place to Live

Executive Summary

This report for Cabinet recommends that the Allocations Scheme is amended in relation to the new Right to Move for employment reasons, introduced by government regulation. Members are asked to agree to the introduction of a new sub band to the Allocations Scheme following legal advice in relation to the 3 year residence requirement to be eligible to go on the Housing Register. Members are also asked to agree to amend the Allocations Scheme to place a restriction on applicants bidding for property smaller than their assessed need based upon the age/gender of children in order to avoid overcrowding.

The report further recommends a reduction in the quota for applicants not in housing need in Band 3 in order to direct more resources to higher priority applicants in housing need in Bands 1 & 2. Members are also asked to agree to give delegated authority to Director of Development and Renewal to set a target each year for a limited number of general needs properties to be used for temporary accommodation in the borough due to the procurement problems being experienced.

Members are asked to agree the Lettings Plan for 2016/17 and 2017/18 and to amend the criteria for key workers in the Allocations Scheme to include social workers.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Note the changes to the Allocations Scheme regarding the new Right to Move for employment reasons as required by changes in government regulations.

2. Agree to a new sub band in Band 2 of the Allocations Scheme to avoid the risk of legal challenge to present policy on applicants in housing need who do not meet the 3 year residence requirement.
3. Agree to restrict existing policy that allows applicants to bid for 1 bed smaller than their assessed bedroom need and allow room sharing only where children of opposite sexes are both under 10 years old.
4. Agree to amend the quota for Band 3 lets from 10% of one, two and three bed properties to 5% of 1 bed & studios per annum.
5. Authorise the use of some social housing general needs stock as non – secure tenancies for temporary accommodation up to a maximum of 100 units per annum.
6. Agree the Lettings Plan for 2016/17 and extend it to 2017/18.
7. Agree to add social worker to the professions that qualify for key workers status set out in the Allocations scheme.
8. Re-instate power to discharge the housing duty by making a Private Rental Sector Offer

1. REASONS FOR THE DECISIONS

- 1.1 Members are asked to agree to amendments in the Allocations Scheme in response to changes in government regulations requiring the local authority to comply and in relation to legal advice on the 3 year residence requirement to qualify to go onto the Housing Register.
- 1.2 Members are asked to agree to further amendments to the Allocations Scheme to respond to increasing homeless demand and the need for more affordable temporary accommodation in the borough.
- 1.3 The Lettings Plan has been updated for 2016/17 and 2017/18 and is set out in paragraph 3.80 of this report for decision by Cabinet. Members are also asked to amend the criteria for key workers in the Scheme to include social workers.

2. ALTERNATIVE OPTIONS

- 2.1 The Council is required to implement the new Right to Move in accordance with government regulation and no alternative has been identified.
- 2.2 The alternative to introducing a new sub band would be to assess each case on its individual merits. This would require administrative resources to carry out detailed casework on what could be a substantial number of new applicants.
- 2.3 The alternative is to continue with the existing policy that does not allow sharing a bedroom for children of different sex, regardless of age.
- 2.4 Alternative options are to maintain the existing quota of 10% of lettings up to 3 bedroom size property or reduce it to 5% of lettings up to 3 bedroom size.
- 2.5 Alternative options are to not agree to the proposal, or agree to a different annual target of properties for the purpose of temporary accommodation.
- 2.6 Members may wish to amend the targets in the Lettings Plan for any of the Priority Target Groups.
- 2.7 Members may decide not to include social workers in the professions that qualify for key worker status in the Allocations Scheme.

3. DETAILS OF REPORT

Right to Move

- 3.1 A new regulation came into effect on 20th April 2015 requiring local authorities to set aside 1% of lets to rehouse 'social tenants' who want to move for

employment reasons where the employment is more than one year and over 16 hours per week. Local authorities must give reasonable preference to those who qualify and publish lets against the 1% target.

- 3.2 The Council will have to comply with the new regulation and this can be done by creating a new Priority Target Group in Band 1B in the Allocation scheme. Feedback from the Residents Focus Group supported this new regulation. However, demand from 'existing social tenants' outside the borough seeking to move to Tower Hamlets for employment reasons is likely to be low.
- 3.3 The Housing Moves scheme operated by the London Mayor allows for moves for tenants in London. Any lets through the existing Housing Moves scheme can be included in the 1% target which would reduce the impact of the numbers rehoused under the new right to move regulation.

3 Year Residence Requirement

- 3.4 In 2013 following the Localism Act, the allocations scheme was amended to require 3 years continuous residence in the borough to be eligible to go onto the housing register unless exceptional reasons applied.
- 3.5 There is recent case law involving Ealing Council where their policy included a similar residential requirement that was challenged by a homeless applicant fleeing domestic violence who did not meet the criteria. The court found Ealing Council's policy to be unlawful because it failed to give reasonable preference to the applicant who was entitled to it under statute.
- 3.6 The Tower Hamlets allocations scheme is similarly vulnerable to legal challenge as it does not give reasonable preference to applicants in housing need in the borough if they do not meet the 3 year residence requirement. So far this issue has been managed by considering cases that have arisen on an exceptions basis where a request for a review by the applicant has been made.
- 3.7 However legal advice is that placing the onus on the applicant to raise the issue is potentially unlawful and the Council should assess each case for possible exceptional circumstances. This would require investigation and verification of the circumstances of each case. This would be a substantial administrative burden.
- 3.8 Removing the residency requirement would be unpopular amongst borough residents. An alternative would be to create a sub band in Band 2 (Band 2B) for applicants who are in housing need but do not meet the 3 year residence requirement.
- 3.9 This would give them reasonable preference by being given greater priority than applicants in Band 3 and would therefore be legally compliant. However they would have lower priority than other Band 2 applicants who meet the residence requirement.

- 3.10 Members are asked to agree to the introduction of a sub band in Band 2 designated Band 2B. This would resolve the risk of legal challenge to the present scheme whilst retaining the 3 year residential qualification period.
- 3.11 Should applicants placed in Band 2B subsequently meet the 3 year residential requirement they would qualify for Band 2 and be given a new preference date from when their circumstances changed in line with existing rules of the Allocations Scheme. This rule is to ensure that when an applicant moves to a higher priority band because of change of circumstances they would not have a higher preference date than applicants in the higher priority band before them.
- 3.12 The results of public consultation on this proposal are mixed. 60% of respondents consider the 3 year residence requirement is about the right length. However support for the proposed new sub band is relatively low with 32% supporting it, 44.5% not supporting it. This may be due to the limitations of the question asked which did not explain that the proposal is intended to reduce the risk of legal challenges to the policy and that the more costly alternative would be to commit staff resources to assessing the individual circumstances of each case that might arise.

Residential qualification and temporary moves out of borough

- 3.13 Members have raised concerns about individual cases where an applicant may move out of the borough for a limited period for good reason but in doing so may be considered to no longer meet the 3 year residence qualification or lose time in the borough towards meeting it. There are different scenarios where this issue may arise.
- 3.14 Members are asked to agree that where an applicant has been accepted onto the housing register but moves out of the borough for a short period for exceptional reasons, for example domestic violence, the time spent out of borough should not automatically count against them. Each case will be considered on its own merits.
- 3.15 Where an applicant applies as homeless and the Council accepted it had a statutory duty to assist them, then the local connection rules in Part VII of the 1996 Housing Act would apply. In relation to residence, a local connection is defined as 6 out of the last 12 months or 3 years out of the last 5.
- 3.16 Where a housing applicant does not meet the 3 year residential criteria but is in housing need they would be placed in the proposed new sub band in Band 2 should Members agree to this proposal.

Bidding for smaller property than assessed need

- 3.17 In 2013 in response to welfare reforms, the allocations scheme was amended to allow applicants to bid for 1 bed smaller (1 bed space only) than their household requirement. In 2015 /16, 216 applicants were rehoused on this basis.

- 3.18 Common Housing Register partners have raised concerns that some families not affected by the welfare reform changes were rehoused in this way causing unacceptable overcrowding, e.g. a single mother and teenage daughter rehoused in a 1 bed property.
- 3.19 The partner's reluctance to overcrowd conflicts with a demand from applicants to be able to choose a smaller size property than their household need in order to resolve their housing problem. Continuing this policy will assist managing homeless demand and help maintain control over temporary accommodation numbers and costs. The numbers rehoused in 2015/16 demonstrate that there is a demand from applicants to be able to exercise this choice.
- 3.20 CHR partners have been consulted and in response to their concerns Members are asked to agree that the provision to be able to bid for 1 bed less than assessed need is retained but subject to an age restriction that room sharing would only be accepted where there are children of the opposite sex if they are under 10 years old.
- 3.21 The majority of responses from the public consultation supported this proposal. 49.1% agreed with it, 34.8% did not.

Homeless Demand and the Allocations Scheme

- 3.22 The pre 2010 Allocations Scheme contained an incentive to apply as homeless because homeless households were placed in a higher priority band than overcrowded housing register and transfer cases. As a consequence homeless applications and demand for temporary accommodation was high.
- 3.23 When the Scheme was reviewed in 2010, a core objective was to try and reduce homeless applications. The revised Allocations Scheme implemented in 2010, placed homeless, housing register and transfer cases in the same band (Band 2) where preference was given in date order of registration. This produced a simple date order queue that was transparent, easy to understand and administer.
- 3.24 Under the new scheme, if an existing overcrowded Housing Register applicant made a homeless application they were given a new preference date (the date they applied as homeless). This meant they lost their previous waiting time on the register as a housing applicant.
- 3.25 The objective was to reduce homeless demand by giving an incentive to housing register applicants living in insecure accommodation to remain with friends or family if possible. Prior to 2010 by far the largest group of homeless applications came from such applicants.
- 3.26 A reduction in homeless demand meant that more housing supply would be available for housing register applicants and demand for and cost of

temporary accommodation could be reduced. The objective was to create a genuine alternative to making a homeless application for those who could remain with friends or family, by providing a better route to rehousing than if they applied as homeless. However, those that chose to do so would remain overcrowded while they were waiting on the list.

- 3.27 Changing the preference date from the original housing application to the date of registering a homeless application meant loss of any previous waiting time in the date order queue. On the other hand any disadvantage was offset by the fact they would be given suitable temporary accommodation pending permanent rehousing.
- 3.28 In 2010/11 the new Allocations Scheme exceeded expectations. The incentive not to apply as homeless clearly influenced the choices made by many housing applicants. In the first year of implementation, homeless acceptances fell by 36% from 838 to 537 and fell again to just over 400 in the following two years.

Table 1 – Showing reduction in homeless acceptances from 2010.

Year	09/10	10/11	11/12	12/13	13/14	14/15	15/16
Homeless acceptances	838	537	404	406	557	558	522

- 3.29 In 2010 the number of lettings to the homeless (943) were approximately the same as housing register applicants (994). After the introduction of the new Allocations Scheme, there was a substantial fall in lettings to the homeless and lettings to housing register applicants increased accordingly. (Table 2)

Table 2 All lets by category since 09/10

Year	09/10	10/11	11/12	12/13	13/14	14/15	15/16
Homeless	943	606	358	408	336	277	466
Hsg Reg	994	1,025	1,408	1,194	882	922	1,025
Transfers	746	621	937	833	689	674	690

- 3.30 **Rise in Homeless demand** – However, homeless acceptances rose from 406 in 2012/13 to 557 in 2013/14, a 37% rise. Acceptances remained at this higher level in 2014/15 (558) and 2015/16 (522). (Table 1)
- 3.31 The reason for the increase in homeless acceptances from 2013/14 is mainly due to private rented sector changes such as rising rent levels, increased competition and a rise in homeless applications due to loss of a private sector tenancy. It has also become more difficult for the Housing Service to procure private rented sector options to prevent homelessness.

- 3.32 However, the number of homeless applications from households living in insecure accommodation with friends or family remains relatively low. This indicates that the original objectives of the Allocations Scheme implemented in 2010 are being maintained.
- 3.33 Any loss of confidence in their rehousing chances on the part of this large group of applicants could generate an increase in homeless applications from them. This combined with increased homeless demand because of the deteriorating position in the private rented sector could push the level of homeless acceptances well above the present trend of over 500 a year.
- 3.34 **Temporary Accommodation** – Over the last four years there has been increasing difficulty in sourcing suitable temporary accommodation due to rising rents in the private sector and greater competition for resources. One consequence was a substantial rise in B & B usage with a large number exceeding the six-week legal limit during 2015/16.
- 3.35 At present 90% of private rented sector procurement for temporary accommodation is out of Borough. There has also been an increase in use of expensive B & B (costing the Council an average of £11,000 per placement pa) and nightly paid private sector accommodation (£6,500 pa) due to reduced supply of lower cost private leased accommodation.
- 3.36 Nightly paid accommodation currently comprises 31% of all self-contained private rented sector temporary accommodation used, compared with 24% in May 2015.

Tackling increased homeless demand and limited supply of temporary accommodation

- 3.37 New Homeless lettings quota - in March 2015 Members agreed to give delegated authority to the Corporate Director (D & R) to set a quota for homeless lettings to increase the number being rehoused in order to release units of temporary accommodation and bring the length of stay in B & B back within legal limits.
- 3.38 A quota was applied in 2015/16 resulting in 466 lettings to the homeless, a 68% increase on the 277 lettings in 2014/15. This helped bring the B & B numbers back under control and towards legal compliance.
- 3.39 Although the increased number of homeless lettings in 2015/16 made an impact on the problem, the higher level of homeless acceptances and difficulties in procuring suitable temporary accommodation are likely to continue. In these circumstances it will be necessary to maintain the same homeless quota during 2016/17.
- 3.40 With a finite supply of property each year the increase in lettings to homeless households through use of the quota reduces the lettings available to overcrowded Housing Register applicants in Band 2 although at present they

remain significantly higher than the proportion of lets to the homeless even with use of the quota.

- 3.41 However, it will be important to monitor the situation carefully to avoid any loss of confidence in their rehousing prospects on the part of overcrowded housing register applicants living with friends or family. The Allocations scheme has successfully held down homeless applications from this group since 2010. Giving a new preference date (thus losing previously accrued waiting time) to homeless applicants previously is a main factor in achieving this. The other important factor is that by doing so, rehousing prospects are much better for overcrowded households than should they apply as homeless. Maintaining the high level of lettings to this group is of course dependent upon maintaining a relatively lower number of homeless acceptances.

Proposed reduction in Band 3 Quota

- 3.42 Applicants not in housing need are placed in Band 3 of the Allocation Scheme. From 2010 a quota of 5% of lettings was earmarked for these applicants. This was to provide an opportunity for rehousing for private sector tenants who wanted to move to more secure accommodation and to offer some 'like-for-like' transfers for tenants of Common Housing Register partner landlords.
- 3.43 Members decided to increase the quota from 5% to 10% for 2014/15 in order to make up for the previous year's underperformance. This resulted in 163 lettings for Band 3 applicants compared with 277 homeless households in 2014/15.
- 3.44 In the March 2015 Cabinet report, members were asked to agree a return to a 5% quota for Band 3 applicants for 2015/16. However members decided to retain the 10% quota. This resulted in 194 lettings to Band 3 applicants in 2015/16 consisting of 38 two and three bed properties and 156 one bed & studios.
- 3.45 This relatively high number of lettings to applicants not in housing need took place during a period when the number of homeless acceptances had risen significantly. The costs to the Council of accommodating homeless households have risen exponentially because temporary accommodation housing benefit subsidy has been frozen since 2011. Housing Benefit subsidy shortfall and discretionary housing payments to benefit-capped households in temporary accommodation has cost the Council between £5.5million and £7.5million PA in the last three years. Given the pressures of higher levels of homeless demand and difficulties in securing suitable temporary accommodation Members are asked to agree to reduce the quota to 5% of 1 bed & studio properties per annum only.
- 3.46 In the public consultation, 84% of respondents agreed it was either very important or important to give priority for housing to those in housing need. However in relation to the proposal to reduce the Band 3 quota to 5% of 1 beds/studios only 30.6 % of respondents agreed and 48% disagreed.

Alternative use of housing stock

- 3.47 As outlined above there is a pressing need for affordable temporary accommodation for homeless households in the borough. At present 50% of new placements and 90% of new supply consisting mainly of expensive nightly paid annexes (£6,500 pa) are outside the borough.
- 3.48 Empty properties from regeneration schemes are an important source of temporary accommodation as non secure tenancies (NST's). In June 2016 there were 252 NST's (158 Council and 94 RP). This is 11 fewer than June 2015.
- 3.49 All the Council NST's and 50% of RP NST's are due for return over the next 2 or 3 years. Some of these will be replaced by existing and new regeneration schemes but it is unlikely there will be sufficient to produce any overall increase in supply of these properties for temporary accommodation.
- 3.50 In response to the pressing need for affordable temporary accommodation in the borough Members are asked to give delegated authority to set targets each year for a number of general needs properties to be used for NST's in addition to the regeneration scheme properties already in use. A target of 100 units per annum including 50% of Right to Buy buy backs is proposed, the target to be reviewed annually.
- 3.51 Utilising social housing properties would enable affordable rents to be charged would reduce the Council's management costs and the costs of general fund subsidy for homeless households. This proposal would also reduce reliance on expensive B & B (£11,000 pa per household) and nightly paid annexes (£6,500 pa per household). In addition NST's are exempt from the Right to Buy and the annual 1% rent reduction.
- 3.52 It is proposed that suitable properties for NST's would be the least popular, for example, higher floors in blocks or where a property is not let on the first bidding cycle.
- 3.53 Reducing the Band 3 quota to 5% of 1 beds & studios if applied to lettings in 2015/16 would have released 38 two and three bed properties and 100 one beds or studios for alternative uses.
- 3.54 Given the high proportion of 1 beds/studios released from reduction in the Band 3 quota, and the high demand for temporary accommodation from small families, it is likely that the majority of properties used as NST's would be 1 bed/studios.

Discharge of homelessness duty into Private Rented Sector AST

- 3.55 From 2012 the Council had the power to discharge duty to a homeless household by offering a minimum 12 months suitable and affordable assured shorthold tenancy (AST) in the private rented sector, known as a Private Rented Sector Offer (PRSO). The Council exercised this power up until November 2014 and by doing so ceased a duty to over 70 households.
- 3.56 Following concerns expressed by Overview & Scrutiny and the former Mayor it was agreed to suspend the use of this power unless the applicant agreed to accept an AST. Since then ending the homeless duty by a private rented sector offer has happened on only two occasions.
- 3.57 On present trends it is unlikely that the private rented sector is likely to provide many options to discharge the homeless duty in this way. But there are occasions when the housing service might be able to discharge duty to a homeless case by making a suitable private rented sector offer. Members are asked to agree to re-instate this power which would be an additional tool in the armoury needed to respond to the challenges of meeting its statutory duty to homeless households.
- 3.58 The Council can only discharge its homelessness duty where the offer of accommodation is suitable and it would be reasonable for the household to occupy the property. This means all PRSOs (as with all final offers of accommodation to homeless households) must be affordable, the right size, in a suitable location with due regards to the employment, health care, education and social needs of the household. The Housing Options service determined that a PRSO would only be made where an Assured Short-hold Tenancy of at least 2 years was offered with the rent set at or below Local Housing Allowance. In almost all cases the properties offered were within the Borough and included properties which had received Empty Homes Grant from the Council, a condition of which is to offer the property for a minimum of five years to the Housing Options Service at or below Local Housing Allowance.

Lettings Plan 2016/17

- 3.59 Targets are set annually for Band 1B Priority Target Groups. Last year's targets, demand and performance against targets for 2015/16 are set out below.

Priority Target Group	Target	Demand @ 1 st April 16	Lets 14/15	Lets 15/16
Intensive Community Care and Support Scheme	35	9	32	25
Key Workers	15	6	9	16
Supported Housing Move ON Scheme/HOST referrals	75	13	55	38
Applicants Leaving Care	No Target	6	21	14
Sons & Daughters of CHR partner landlords	No Target	12	10	16
Armed Forces Personnel	No Target	0	0	0
Foster Carers	No Target	0	0	1
Retiring from tied Housing	No Target	0	3	0
Waiting List Decant	No Target	7	17	17
Totals			147	127
Band 3 Lets	10%		163	190
3 bed size			8	6
2 bed size			31	32
Bedsit/1 bed size			124	152

- 3.60 Cabinet is asked to consider and agree targets for the Priority Target Groups for 2016/17 and for these targets to be continued for 2017/18. This is because this report will be decided upon 5 months before the start of 2017/18. It is unlikely amendments to the targets will be required for 2017/18 and it would be efficient to agree to extend the targets now rather than return to Cabinet early in 2017/18.

Priority Target Group	Current Target	Proposed Target
Intensive Community Care and Support Scheme Referrals	35	35
Key Workers	15	15
Supported Housing Move On Scheme/HOST Referrals	75	75
Applicants Leaving Care	No Target	
Sons & Daughters of CHR partner landlords	No Target	
Armed Forces Personnel	No Target	
Foster Carers	No Target	
Retiring from tied Housing	No Target	
Waiting List Decant	No Target	
Totals	125	125
Band 3 Lets	Current Target	Proposed Target
	10% of 1 bed/studio, 2 and 3 beds	5% of 1 bed/studio only

Comments on the target groups

- 3.61 **Intensive Community Care and Support Scheme** – In 2015/16 24 applicants were rehoused against a target set of 35. Last year's report referred to keeping the target number above known demand figures to accommodate the likelihood of increase in applications from applicants with learning disability. It is proposed that the higher target is retained for 2016/17 for the same reason. Meeting this demand as it arises will create opportunities for applicants in supported accommodation to live independently and will create vacancies for new applicants in need of support.
- 3.62 **Key Workers** - In 2015/16 16 key workers were rehoused against a target of 15. Last year Cabinet decided this category should be restricted to applicants living in Tower Hamlets that met the residential criteria in the Allocations Scheme. It is proposed that the target of 15 is retained for 2016/17.
- 3.63 The professions that qualify for assistance in the Allocations Scheme are: fire fighters & police officers stationed in the borough; NHS nurses working in the borough; paramedics and teachers working in the borough's LEA maintained schools.
- 3.64 Members are asked to agree that social workers should be added to the qualifying professions in the Allocations Scheme. This is due to a request from Social Services because they are unable to attract experienced social workers from outside London due to the high cost of accommodation in London Therefore, the 3 years residency rule to join the housing list should be

relaxed for this priority target group to allow experienced workers to be recruited and retained.

- 3.65 **HOST Team Referrals (Supported Housing Move on Scheme)** - In 2015/16 38 applicants were rehoused and there were 23 waiting rehousing. Last year it was reported that greater use is being made of private sector accommodation which has led to a reduction in demand for lettings for this group. The need for social housing for some applicants will remain in order to create vacancies for new residents in need of support. As in recent years, the target has not been met but it is not proposed to reduce the target because demand is likely to increase due to Welfare Reform changes and the Council's difficulties in securing suitable private accommodation. If sufficient cases are not identified available properties will be offered as general lets
- 3.66 **Applicants Leaving Care** - In 2015/16 14 applicants were rehoused and 6 are awaiting rehousing. No target is proposed, as these applicants will be rehoused as required.
- 3.67 **Sons & Daughters of CHR tenants** - In 2015/16 16 applicants were rehoused under the severe overcrowding provisions in the Allocations Scheme where medical priority was awarded to a household member. There are 12 cases awaiting rehousing. It is not proposed to set a target as rehousing these cases on demand is in line with the Council's strategy to reduce overcrowding.
- 3.68 **Foster Carers** – In 2015/16 one applicant was rehoused. There are none waiting rehousing. No target is proposed as those who qualify are accepted as being in urgent need of rehousing.
- 3.69 **Retiring from Tied Housing** - There were no cases rehoused in 2015/16 and none are awaiting rehousing. No target is proposed as in these cases there is usually a contractual obligation to offer a rehousing from tied accommodation on retirement.
- 3.70 **Waiting List Decant** - In 2015/16 17 households were rehoused and 8 are waiting rehousing. Applicants qualify when they are living with a tenant in accommodation due to be decanted. No target is proposed as qualifying applicants are offered rehousing as required.
- 3.71 **Band 3 Quota** - It is proposed to amend the quota to 5% of 1 bed / studios properties in order to free up resources for overcrowded and homeless households.

Implementation of proposals

- 3.72 Subject to member agreeing the recommendations, proposals that are not IT dependent can be implemented immediately. However some changes will be IT dependent and development work will be required to configure the system accordingly, for example the proposal to create a new sub – band (2B) in

Band 2. It is anticipated that those changes that require IT development can be implemented within 3 to 6 months.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report seeks approval for various amendments to be made to the Council's Housing Allocations Scheme in order to reflect recent changes in legislation and also to address particular issues that have arisen in relation to homeless applicants.
- 4.2 The main financial implications of the report concern the costs of temporary accommodation. As a result of the combination of the increasing numbers of applications to the homelessness section, the scarcity of available temporary accommodation and the high levels of rent charged to the Council, significant budgetary pressures are being faced. This particularly affects the Housing Benefits budget where pressures arise from both the impact of welfare reform and the effect that high rents have on the Benefits Subsidy received by the Council.
- 4.3 Although the Council has a statutory duty to pay benefits, the level of subsidy that is recouped from the DWP is capped. The proposals in this report, in particular the recommendation that targets are set for a specific number of properties to be made available to be let as non-secure tenancies, should help to mitigate some of these costs by reducing the number of homeless applicants that need to be placed in the more expensive bed and breakfast accommodation (paragraphs 3.50 to 3.54).
- 4.4 Any costs involved in the implementation of the amended policy will be met from within existing resources. This will include any changes that may be necessary to the lettings IT systems (paragraph 3.72).
- 4.5 The cost pressures arising in the Housing Benefits budget will be closely monitored and addressed as part of the budget process for 2017/18.

5. LEGAL COMMENTS

Recommendations 1 & 2

- 5.1 The Council is required to comply with the requirements of Part VI of the Housing Act 1996 when allocating housing accommodation. Section 166A of the Housing Act requires the Council to have a scheme for determining priorities and the procedures to be followed in allocating housing accommodation. The Council is required to allocate housing in accordance with the allocation scheme.
- 5.2 Section 166A of the Housing Act 1996 specifies a number of matters that the allocation scheme must contain. In particular, the scheme must secure that a

reasonable preference is given to the following categories people with urgent housing needs –

- People who are homeless
- People to whom the Council owes a homelessness duty under the Housing Act 1996
- People occupying insanitary or overcrowded housing or otherwise living in unsatisfactory housing conditions
- People who need to move on medical or welfare grounds
- People who would suffer hardship if they were prevented from moving to a particular locality in Tower Hamlets.

5.3 Section 160ZA(7) of the Housing Act 1996, provides that local authorities may decide who does or does not qualify for an allocation of social housing. This is subject to regulations made by the Secretary of State. The Allocation of Housing (Qualification Criteria for Right to Move) (England) Regulations 2015 came into effect on the 20 April 2015 and provide that local authorities must not disqualify certain persons from social housing on the basis that they do not have a local connection with the authority's area.

5.4 The Regulations prevent an authority from applying a local connection test to existing social tenants seeking to transfer from another local authority area if they :

- have reasonable preference under section 166(3)(e) Housing Act 1996 because of a need to move to the local authority's area to avoid hardship, and
- need to move because the tenant works in the district, or
- need to move to take up an offer of work and if they were unable to do so, it would cause them hardship and that the tenant needs rather than wishes to move for work related reasons.

5.5 There is a significant risk of legal challenge to the Council's current scheme if it is not amended to include a sub band for applicants who meet the reasonable preference criteria but do not meet the 3 year residence requirement. It should be noted that the current exceptional circumstances exemption will not prevent a legal challenge against the Council. As set out in this report, the authority has a duty to comply with the regulations and minimise the risk of a legal challenge. In the cases of *Jakimaviciute v LB Hammersmith & Fulham* [2014] and *R (HA) v L B Ealing* [2015] the local authorities were unsuccessful in legal challenges relating to policies that either excluded certain categories of person or for reduced the defined 'reasonable preference' classes

5.6 When considering whether to adopt the proposed amendments to the scheme, the authority should consider the impacts of those criteria or requirements. This is to ensure that the persons in urgent housing need continue to receive 'reasonable preference' and that any policies adopted do not result in harsh and unexpected impacts. In making these amendments , the Council must consider the public sector equality duty to have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations

between persons who share a protected characteristic and those who do not. . An equality impact screening has been carried out and the Service Head Strategy, Regeneration & Sustainability has confirmed that the nature of the proposals and the limited impact on any of the protected characteristics as defined by the Equality Act 2010 means that a full impact assessment is not required. A copy of the equality impact screening is set out at Appendix 1.

- 5.7 Section 166A of the Housing Act 1996 requires the Council to consult registered providers of social housing and registered social landlords before making an alteration to the allocations scheme reflecting a major change in policy. The proposed change is considered to be a refinement of the existing policy, rather than a major change.

Recommendation 3

- 5.8 The report proposes to restrict the policy that allows applicants to bid for smaller properties than their assessed bedroom need and allow room sharing where children of the opposite sex are under 10 years of age. This is permissible having regard to the bedroom standard and is specifically contemplated in the *Allocation of accommodation: guidance for local housing authorities in England*. It does mean, however that the household may become overcrowded when the children reach the age of 10.

Recommendation 4

- 5.9 The report proposes to amend the quota for Band 3 lets from 10% of one, two and three bedroom properties to 5% of 1 bed & studios per annum this is in accordance with the Lettings Plan. See recommendation 6 for further details.

Recommendation 5

- 5.10 The Council has a duty under the Housing Act 1996 to secure that accommodation is available for eligible homeless applicants. When the Council receives an application for housing assistance under Part VII of the Housing Act 1996, it has a duty to assess the applicant's circumstances to decide what help, if any they are entitled to.
- 5.11 The Council is required, as far as is reasonably practicable, to secure accommodation in its own borough (Housing Act 1996, section 208(1)). The clear intention is that local authorities should not simply decant homeless persons into areas for which other authorities are responsible for. However, the High Court has made clear that in areas of acute affordable housing shortage a local authority may decide that it is not reasonably practicable to accommodate people in its area. The Council can use its own housing stock to secure temporary accommodation under Part 7 in performance of its homeless duties. Such offers of accommodation will not create a secure or introductory tenancy (Housing Act 1985, Sch1, para4). How the housing stock is let is possibly a matter of housing management. However the small number of properties that it are to be let means that the proposal is unlikely to

substantially affect 'secure tenants' so as to trigger the consultation requirements of S105 Housing Act 1985.

- 5.12 In line with its homelessness statement and tenancy strategy, the Council must take steps to deal with the increased demand for housing by homeless persons and to provide more affordable temporary accommodation. The proposed changes to the Allocations Scheme detailed in the body of the report should enable the Council to achieve this and comply with its statutory duties to homeless persons under Part 6 of the Housing Act 1996. Further the Council has a duty to ensure continuous improvement in the way its functions are exercised having regard to a combination of economy, efficiency and effectiveness. The measures proposed within this report will assist the Council in meeting this duty.

Recommendation 6

- 5.13 It is consistent with the Council's statutory housing functions and its own allocations scheme for the Council to consider and adopt a Lettings Plan. The proposed Letting Plan has been prepared having regard to the housing demand in the borough and the lettings made in 2014/2015 and 2015/2016. It provides a means of ensuring that the Council effectively gives reasonable preference and additional preference to prescribed persons under the Allocation Scheme and in accordance with the Housing Act 1996. Consistent with the public sector equality duty the Lettings Plan needs to be subjected to a proportionate level of equality analysis.

Recommendation 7

- 5.14 The report proposes to add social worker to the professions that qualify for key worker status. The Scheme allows a local authority to define the classes of qualifying individuals as a result this is permissible.

Recommendation 8

- 5.15 Further, the report proposes that the authority discharges its homeless duty by offering private rented sector accommodation. Section 193 of the Housing Act 1996 sets out the duties to those housing applicants that the local housing authority are satisfied are eligible, homeless, in priority need and not intentionally homeless.
- 5.16 Once a housing duty has been accepted, the housing authority is obliged to provide housing assistance. Sections 148 and 149 of the Localism Act 2011 amended section 193 of the Housing Act 1996 by introducing a power that allows the Council to make Private Rented Sector (PRS) offers to end the main homelessness duty. The Homelessness (Suitability of Accommodation) (England) Order 2012 requires the Council to consider a number of factors to ensure that the PRS offer of accommodation is suitable.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1 The policy changes should allow for housing resources to be better directed at housing applicants and homeless households in greatest need in the borough. It will also assist in providing suitable temporary accommodation in the borough for up to 100 households which will reduce costs to the Council.
- 6.2 The proposals have been subject to equality analysis as outlined in the attached checklist in Appendix 1. It is not considered that there will be any adverse impacts, or that further analysis will be required.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The proposals in this report contain recommendations to re-direct some housing resources from applicants in a lower priority band (3) towards applicants in higher priority Bands (1) and (2). The proposals also include a recommendation to use a limited amount of permanent housing supply each year for temporary accommodation for the homeless. These proposals are aimed at making best use of these resources in line with the priorities set out in the Allocations Scheme, to support meeting the Council's statutory duties towards homeless households and reducing costs of temporary accommodation where possible.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 No environmental implications or impacts have been identified.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The Council has statutory duties towards homeless households that includes provision of temporary accommodation at considerable cost to the Council. These proposals will help to maintain control over demand from the homeless and provide some additional temporary accommodation at lower cost in the borough.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 No contribution identified.

11. SAFEGUARDING IMPLICATIONS

- 11.1 No safeguarding risks or benefits from the proposals have been identified.
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Linked Reports, Appendices and Background Documents

Appendices

- Appendix 1 - Equality Analysis Quality Assurance Checklist
- Appendix 2 – Tower Hamlets Common Housing Register Allocations Scheme

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- None

Officer contact details for documents:

N/A