

<p>Non-Executive Report of the:</p> <p><b>Overview and Scrutiny Committee</b></p> <p>19<sup>th</sup> October, 2020</p>	
<p><b>Report of:</b> Asmat Hussain, Corporate Director for Governance</p>	<p><b>Classification:</b> Unrestricted</p>
<p><b>Call-In: Amendments to the Council’s housing Allocations Scheme</b></p>	

<b>Originating Officer(s)</b>	David Knight
<b>Wards affected</b>	ALL

**CONSIDERATION OF THE “CALL IN”**

Having met the “Call In” request criteria, the matter is referred to the OSC in order to determine the “Call In” and decide whether to refer the matter back to Cabinet for further consideration.

The following procedure is to be followed by the Committee for consideration of the “Call In”:

- i. Chair to invite a call-in member to present call-in.
- ii. Chair to invite members of the Committee to ask question.
- iii. Chair to Invite Cabinet Member to respond to the call-in.
- iv. Chair to invite members of the Committee to ask questions.
- v. Followed by a general debate.

It is open to the OSC to either resolve to take no action (which would have the effect of endorsing the original Mayoral decision/s), or to refer the matter back to the Mayor for further consideration setting out the nature of its concerns and possibly recommending an alternative course of action.

**RECOMMENDATION**

That the Overview and Scrutiny Committee (OSC) considers:

- 1. The contents of the attached report, review the Mayor in Cabinet’s decision (provisional, subject to Call In) arising; and
- 2. Decide whether to accept the decision or to refer the matter back to the Mayor with proposals and reasons.

The Mayor in Cabinet on 23rd September, 2020 considered a report on the revised Allocation Scheme that had been developed in response to the introduction of the Homelessness Reduction Act (HRA) in April 2018 which places a greater emphasis on the local authority to prevent and relieve homelessness. The current Allocation Scheme (implemented in 2016), requires updating to allow the Council to discharge its duties under the new legislation and to better reflect local priorities.

## **DECISION**

1. To note the outcome of the consultation on the Council's proposed amendments to the Allocations Scheme and the Equality Analyses at Appendices 2 and 4 of the report.
2. To approve the proposed amendments to the Allocations Scheme as set out in paragraph 3.3 to 3.7 of the report.
3. To approve the proposal to remove existing social housing tenants under the age of 50 from Band 3 of the Common Housing Register.
4. To authorise the Corporate Director Place to develop an Intermediate Housing Register.
5. To authorise the Corporate Director Place to determine the eligibility criteria for the first three months of marketing any new Intermediate Housing projects, (fully or partially funded by the GLA), following consultation with the Mayor and Cabinet Member for Housing and Regeneration.
6. To agree that the maximum household income threshold for eligibility to join the Common Housing Register be increased to £90,000 as set out in paragraph 3.10 of the report and authorise the Corporate Director Place to increase this figure as and when the GLA amends its maximum household income threshold for eligibility to access shared ownership products.
7. To approve the miscellaneous amendments and revisions to the policy as detailed in paragraph 3.11 of the report.
8. To ratify and/or authorise all past, present and future exercises of its functions under Part 6 of the Housing Act 1996 (as permitted by Article 2 of the Local Authorities (Contracting Out of Allocation of Housing and Homelessness Functions) Order 1996) by, or by employees of, the RP partners from time to time to the Common Housing Register, including but not limited to the following: Arhag Housing Association, Clarion Housing, Eastend Homes, Gateway Housing Association, London & Quadrant, Metropolitan Thames Valley, Network Homes, Newlon Housing Trust, North London Muslim Housing Association, Notting Hill Genesis, One Housing, Peabody, Poplar HARCA, Providence Row HA, Southern Housing Group, Spitalfields Housing Association, Swan Housing Association, Tower Hamlets Community Housing or their successors in title or any other RPs or bodies that the Council may choose to partner with from time to time.
9. To authorise officers retrospectively to contract out the exercise of the Council's functions referred to in point 8 above.
10. To review the policy annually and offer the Overview and Scrutiny Committee a report on the implementation of the changes made one year after their implementation (expected to be one year after 1 April 2021).

The decision above has been 'Called-In' by Councillor Marc Francis (signed also by Councillors Tarik Khan, Mohammed Pappu, Shah Ameen and Shad Chowdhury).

This is in accordance with the provisions of the Overview and Scrutiny Procedure Rules of the Council's Constitution.

**N.B.** In accordance with the OSC Protocols and Guidance adopted by the Committee at its meeting on 4th June 2013, any Member(s) who present(s) the "Call In" is (are) not eligible to participate in the general debate.

### **The 'Called-In' Requisition**

The Mayor's decision in Cabinet to approve the proposed changes to the CHR Allocations Scheme will cause serious detriment to homeless families going forward and over 1,000 longstanding residents currently in Band 3.

### **Background**

Ken Loach's seminal BBC drama Cathy Come Home revealed how badly homeless families were still being treated in 1960s Britain and led to the Homeless Persons Act in 1977, which obliged local authorities to accommodate them and offer "reasonable preference" in the allocation of social housing.

The Tory-Lib Dem Coalition Government's 2011 Localism Act gave local authorities the power to discharge their legal duty to homeless families through the offer of an Assured Shorthold Tenancy in the private rented sector (PRS), rather than social housing.

Without reference to councillors, LBTH began utilising this power in 2012/13. Labour councillors exposed the random basis on which families were being chosen to be discharged into the PRS and the misleading information given to induce them to accept the AST instead of challenging it legally, and forced Mayor Lutfur Rahman to instruct council officers abandon this practice.

Disappointingly, following the Homelessness Reduction Act 2017, discharge into the PRS began to be used again by LBTH in 2018 and many homeless families are also being directed towards expensive and poor-quality private tenancies in other parts of London. Understandably, most families are rejecting these "offers" forcing LBTH to go down the formal discharge of duty route which is subject to legal challenge.

In 2010, Labour councillors introduced a new Allocation Scheme, which increased the priority awarded to overcrowded families but also established a new Band 3 for those households who were legally defined as being "adequately housed", including the adult children of existing tenants and leaseholders, families wanting to move to another part of the Borough, those stuck in expensive private tenancies.

A quota of 5 per cent of lettings was apportioned to Band 3 applicants, with the intention to increase this to 10 per cent once it had bedded in. It later became clear that the Housing Options Service was not adhering to this quota and in early-2015 Labour councillors "called-in" the Allocations Policy and forced Mayor Rahman to instruct council officers to increase the number of lettings to Band 3 applicants to make good the shortfall in preceding years.

Officers appear to have done that by including moves of older people into sheltered accommodation as Band 3 lettings, which was never the intention of this quota. The consultation authorised by the Mayor in Cabinet in 2019 proposed to scrap Band 3, removing those households from the CHR and a new policy of offering to keep homeless families on its CHR for three years if they accepted a private tenancy in another Borough.

The overwhelming response to the consultation was to retain Band 3. In response, the Mayor promised to think again about this proposal. The proposed change now removes those in Band 3 who are existing social tenants and under the age of fifty. In 2020, a legal challenge by the Public Interest Law Centre exposed Lambeth's policy of offering to keep homeless families on its own Common Housing Register for two years if they accepted a PRS tenancy in another Borough.

Lambeth conceded before the High Court reached a judgment, accepting that the families affected were very unlikely to be offered social housing within two years and apologised to the families concerned and agreed to keep all those it had misled on its waiting list.

### **Reasons for Call-in**

We welcome the Mayor's acceptance that private tenants and those with no tenancy at all are not "adequately-housed", but believe that the 1,122 households due to be removed from the Common Housing Register include many social tenants who have a legitimate desire to move to alternative property of the same size as they are living in now, for example families at the top of tower blocks wanting a flat closer to the ground floor and others wanting to move closer to work, schools or family support networks in another part of Tower Hamlets.

If these households successfully bid for a different home, they will give up a home of the same size which can be let to a homeless or overcrowded family – creating "chain lettings". While it does have a small administrative impact on the Lettings Team, the continued inclusion of this category of applicants within Band 3 is essentially neutral in its impact on others in greater housing need.

The report to Cabinet doesn't mention PILC's successful legal challenge against Lambeth. In response to a Pre-Decision Question provides a confused and partial description of the Judicial Review. Its central point was that Lambeth had lured homeless families into accepting these offers without making it clear they were very unlikely to be rehoused before losing their "local connection" to their home Borough. Lambeth accepted this and put those families back on its Waiting List.

The only real difference with the scheme proposed for Tower Hamlets is that the local connection last for three years instead of two. However, very few of these households are likely to make a successful bid for rehousing within the three-year period, so they will be removed from our Housing Waiting List. This is not a fair way to treat families who are part of our local community.

## **Alternative Course of Action**

1. For the reasons explained above, we call on the Mayor to revise his decision in Cabinet on 23rd September removing existing social tenant's under-50 from Band 3 and reinstate all these applicants to their former position within the Common Housing Register.
2. Given the incorrect apportionment of lettings into sheltered accommodation within the Band 3 quota, we call on the Mayor to instruct officers that the current 5 per cent quota should be retained and only General Needs lettings be counted towards it. Consideration should also be given to making good the shortfall in General Needs lettings to Band 3 applicants against the 5 per cent quota over the next two or three years.
3. For the reasons stated above, we call on the Mayor to revise his decision in Cabinet on 23rd September restricting homeless households placed outside Tower Hamlets to three years on our Common Housing Register by making this period indefinite, so that they remain LBTH's responsibility until they successfully bid for social housing or they voluntarily withdraw their housing application.
4. Additionally, the Mayor should instruct officers to commission an independent review of the practice of discharging LBTH's duty to homeless families into the PRS, including speaking to those families this has been done to, and bring that review to the Housing & Regeneration Scrutiny Sub-committee within the next six months.

It is open to the OSC to either resolve to take no action (which would have the effect of endorsing the original Mayoral decision/s), or to refer the matter back to the Mayor for further consideration setting out the nature of its concerns and possibly recommending an alternative course of action.

## **RECOMMENDATION**

That the Overview and Scrutiny Committee (OSC) considers:

1. The contents of the attached report, review the Mayor in Cabinet's decision (provisional, subject to Call In) arising; and
2. Decide whether to accept the decision or to refer the matter back to the Mayor with proposals and reasons.