

<b>Committee:</b> Overview & Scrutiny	<b>Date:</b> 2 <sup>nd</sup> July 2013	<b>Classification:</b> Unrestricted	<b>Report No:</b>	<b>Agenda Item:</b>
<b>Report of:</b> Corporate Director Isabella Freeman  <b>Originating officer(s)</b> Paul Gresty, Strategy, Policy and Performance Officer, Corporate Strategy and Equality		<b>Title:</b> Mental Health and Housing– Report of the Scrutiny Challenge Session  <b>Wards Affected:</b> ALL		

## 1. **SUMMARY**

- 1.1 This report contains the findings and recommendations of a scrutiny challenge session on mental health and housing, for consideration by the Overview and Scrutiny Committee.

## 2. **RECOMMENDATIONS**

It is recommended that Overview and Scrutiny Committee:

- 2.1.1 Agree the draft report and the recommendations contained in it.
- 2.2 Authorise the Service Head for Corporate Strategy and Equality to amend the draft report before submission to Cabinet, after consultation with the scrutiny review group.

## 3. **BACKGROUND**

- 3.1 Appropriate and suitable housing is critical in enabling people to work and to take part in society, particularly for those people with mental health conditions. Many people with mental health conditions live in mainstream social housing but housing providers are sometimes not confident about how to best support such tenants. This can lead to people being allocated unsuitable accommodation. Furthermore, the lack of appropriate housing can impede a person's access to treatment, recovery and social inclusion as access to mental health services and employment is more difficult for people who do not have settled accommodation. .
- 3.2 The aim of the challenge session was to investigate the issues that people with mental health issues face in accessing appropriate housing, particularly in relation to securing prioritisation on the housing waiting list on the grounds of health need. This had been identified as an issue by a number of members through their casework. They wanted to explore whether the current lettings process discriminates against people with mental health problems and to highlight and address what aspects of the lettings process, if any, have a disproportionate impact on people with mental health issues.

3.3 The report with recommendations is attached at Appendix 1.

#### **4. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

4.1 This report describes the findings and recommendations of a scrutiny challenge session on mental health and housing by the Overview and Scrutiny Committee.

5.2 The report's recommendations have implications for the Development and Renewal Directorate as the Council's housing client with Tower Hamlets Homes, and also the Education, Social Care and Wellbeing Directorate with responsibilities for mental health, together with Health partners.

5.3 There are no specific financial implications emanating from this report but in the event that the Council agrees further action in response to this report's recommendations then officers will be obliged to seek the appropriate financial approval before further financial commitments are made.

#### **5. CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL)**

5.1 The Council is required to comply with the requirements of Part VI of the Housing Act 1996 when allocating housing accommodation. This section has been subject to a number of changes since it was first passed, the latest being changes introduced by the Localism Act 2011 which returns the Council to the position before the Homelessness Act 2003 and allows the Council to exclude whole classes of people e.g. those in rent arrears or to prescribe whole classes of people who will qualify for social housing. It enables the Council to determine who will qualify based on particular circumstances in Tower Hamlets (subject to direction from the Secretary of State who retains overall control) 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. Until now the Council has called its allocation scheme the Lettings Policy.

5.2 Section 166A of the Housing Act 1996 specifies a number of matters that the Council's allocation scheme must contain. In particular, the scheme must secure that reasonable preference is given to the following categories of 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 The scheme may also give additional preference to these categories of people.
- 5.4 Following the House of Lords decision in *R (on the application of Ahmad) v Newham LBC* [2009] UKHL 14, it is also clear that reasonable preference does not mean absolute priority over everyone else and that a scheme may provide for factors other than those in section 166A to be taken into account in determining which applicants are to be given preference. It is important, however, that such additional factors do not dominate the scheme and that the scheme continues to operate so as to give reasonable preference to the above categories of persons. The Council's existing allocation scheme was framed with these requirements in mind.
- 5.5 The Secretary of State has published statutory guidance under section 169 of the Housing Act 1996 which deals with the making of allocations schemes following the Localism Act amendments. The guidance is entitled "Allocation of accommodation: guidance for local housing authorities in England" and was published in June 2012. The Council is required to have due regard to the guidance when carrying out its functions under Part 6 of the Housing Act 1996.
- 5.6 Section 166(1)(b) of the Housing Act ensures that the most vulnerable applicants are not disadvantaged in gaining access to the accommodation available. A local housing authority shall ensure that advice and information is available free of charge to persons in their district about the right to make an application for an allocation of housing accommodation. Additionally, any necessary assistance in making such an application should be available free of charge to persons in their district who are likely to have difficulty in doing so without assistance.
- 5.7 The report makes a number of recommendations about the process and procedure by which individuals with mental health difficulties may be given priority on the common housing list on medical grounds. There is a duty to assess the needs and provide services for people with a range of health needs and including mental health needs under community care legislation. Health and social care also have a joint responsibility under section 117 of the Mental Health Act 1983 to provide after care services to persons who are discharged from certain of the compulsory detention provisions in the 1983 Act. Aftercare services are a form of community care service and can include accommodation. Any aftercare services must be provided free of charge.
- 5.8 The Equality Act 2010 imposes a public sector equality duty requiring local housing authority to have 'due regard' to the need to-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it

5.9 In bringing in a new scheme, there is a duty to consult with those affected. Any decisions regarding the classes of people to be excluded must not be unreasonable and the policy must be proportional to the stated goals. Failure to achieve this could result in judicial review challenges

5.10 By implementing the recommendations in the report the Council will be having regard to its obligations under the Equalities Act 2010, specifically the need to eliminate discrimination. Further, the Council will be fulfilling its obligation under Section 166A of the Housing Act 1996 with regard to who to move on medical or welfare grounds.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

6.1 The recommendations contained in the summary report will advance equality of opportunity for those people with a mental health condition that are accessing the Housing Service. In line with the Equality Act 2010 and Public Sector Equality Duty, embedding the recommendations will also ensure that those with mental health issues are shown due regard and their needs are considered in service design and delivery.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

7.1 There are no direct environmental implications arising from the report or recommendations.

## **8. RISK MANAGEMENT IMPLICATIONS**

8.1 There are no direct risk management implications arising from the report or recommendations.

## **9. CRIME AND DISORDER REDUCTION IMPLICATIONS**

9.1 There are no direct crime and disorder reduction implications arising from the report or recommendations.

## **10. EFFICIENCY STATEMENT**

10.1 There are no direct efficiency implications arising from this report or its recommendations.

## **11. APPENDICES**

Appendix 1 – Mental Health and Housing Scrutiny Challenge Session Report

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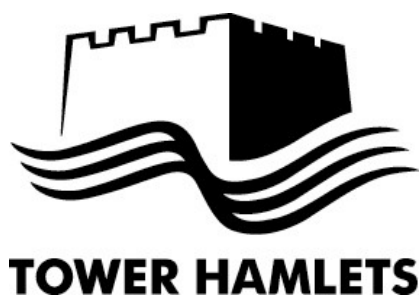
**Local Government Act, 1972 Section 100D (As amended)**  
**List of “Background Papers” used in the preparation of this report**

Brief description of “background papers”      Name and telephone number of holder  
and address where open to inspection.

**NA for this report**

## **APPENDIX ONE**

### **Mental Health and Housing Scrutiny Challenge Session Report**



#### **London Borough of Tower Hamlets January 2013**

##### **1. INTRODUCTION**

- 1.1 Appropriate and suitable housing is critical in enabling people to work and to take part in society, particularly for those people with mental health conditions. Many people with mental health conditions live in mainstream social housing but housing providers are sometimes not confident about how to best support such tenants. This can lead to people being allocated unsuitable accommodation. Furthermore, the lack of appropriate housing can impede a person's access to treatment, recovery and social inclusion as access to mental health services and employment is more difficult for people who do not have settled accommodation. .

- 1.2 The aim of the challenge session was to investigate the issues that people with mental health issues face in accessing appropriate housing, particularly in relation to securing prioritisation on the housing waiting list on the grounds of health need. This had been identified as an issue by a number of members through their casework. They wanted to explore whether the current lettings process discriminates against people with mental health problems and to highlight and address what aspects of the lettings process, if any, have a disproportionate impact on people with mental health issues.
- 1.3 The objectives of the challenge session were therefore to:
- develop members' understanding and knowledge of the Housing Options and Mental Health Services
  - analyse the relationship between housing and mental health
  - understand on how the council's lettings policy and process impacts on the housing choices of people with mental health issues;
  - assess and compare how health prioritisation decisions are taken in regard to mental and physical health issues.
  - explore how the lettings policy and process could be improved or simplified in light of any identified impacts.
- 1.4 The session was facilitated by Paul Gresty from the One Tower Hamlets service on behalf of Cllr Rachael Saunders, Scrutiny Lead for Adults Health and Wellbeing and Cllr Sirajul Islam, Scrutiny Lead for Development and Renewal. It took place on Wednesday 12<sup>th</sup> December 2013.
- 1.5 The session was attended by:
- |                       |   |
|-----------------------|---|
| Cllr Rachael Saunders | Scrutiny lead, Adults, Health and Wellbeing                                     |
| Cllr Amy Whitelock    | Scrutiny lead, Children, Schools and Families                                   |
| Cllr Sirajul Islam    | Scrutiny lead, Development and Renewal  |
| James Caspell         | Tower Hamlets Homes   |
| Colin Cormack         | Service Head, Housing Options   |
| John Harkin           | Assistant Lettings Manager, Housing Options                                     |
| David Amery           | Housing Link  |
| Deborah Cohen         | Service Head, Commissioning and Strategy, Education Social Care and Wellbeing   |
| Richard Fradgley      | Mental Health Commissioning Lead  |
| Carrie Kilpatrick     | Commissioning Manager, Education Social Care and Wellbeing                      |
| Peter Airey           | Look Ahead Housing  |
| Sarah Barr            | Senior Strategy Policy and Performance Officer, Corporate Strategy and Equality |
| Paul Gresty           | Strategy, Policy and Performance Officer, Corporate Strategy and Equality       |

## 2. BACKGROUND

### *The Equality Act*

- 2.1 Disability (including mental health) is a protected characteristic under the Equality Act 2010 and Public Sector Equality Duty. As a public facing organisation, the council has a legal obligation to show 'due regard' in all its functions, including housing and lettings policies and processes.

### *The housing list and the Housing Options Service*

- 2.2 The council and its Registered Housing Provider partners have jointly created a Common Housing List to register everyone who applies for housing and is eligible to go on the list. All available housing is offered to people on the list. Tower Hamlets Housing Options Service is responsible for maintaining the list and ensuring vacancies are let in accordance with the Lettings Policy. The service also offers housing advice to families and single people, and works to identify and prevent homelessness. They also acquire and maintain a portfolio of temporary accommodation of around 2,000 units.

There are four bands in the lettings policy. Everyone is put in one of these bands based on the information given on application or following any change in circumstances. It is a statutory requirement to give 'reasonable preference' to people who are overcrowded, homeless, or need to move on medical, welfare or hardship grounds. The law also says that people can be given 'additional preference' because of serious medical, emergency or social and welfare problems.

In terms of those granted prioritisation on medical grounds, Band A includes people with a serious medical or safety factor in urgent need, and those who need a ground floor property for medical or disability reasons. Band B includes people with a serious health problem that is affected by their housing circumstances and those who need to move urgently on social, safety or welfare grounds.

### *Supporting People*

- 2.3 Supporting People commission services which support vulnerable people to access and maintain settled accommodation. Currently, the budget for Supporting People is £14million per annum. The Supporting People team provides support services that improve the quality of life for vulnerable people, including those with mental health, by helping them to live more independently in the community. Nearly half (24,429) of all clients with disabilities accessing Supporting People housing related support in 2008/09 defined themselves as having a disability specifically in relation to their mental health.

### *Mental health in Tower Hamlets and services available*

- 2.4 Tower Hamlets has a registered population of 267,293 of which 42,782 have a common mental health problem. There are 19,552 individuals on the depression register and 3,067 on the serious mental illness register with 1,247 people registered as having dementia. 90% of people with mental health problems are seen in primary care. During 2011/12, 3,503 people entered treatment in primary care. 3,472 adults of working age are accessing services at East London NHS Foundation Trust.



- 2.5 Mental health services for adults are commissioned jointly by the NHS and the council, through the mental health commissioning team. They have developed the Tower Hamlets Mental Health Strategy which will deliver improvements for service users in line with the “No health without Mental Health” national outcomes strategy.

### **3. KEY FINDINGS AND RECOMMENDATIONS**

#### **3.1 Common Housing List priority on medical grounds**

- 3.1.1 The challenge session mostly focused on the process by which people with mental health conditions may be given priority on the Common Housing list on medication grounds. The feedback that members had from residents, and through their casework suggested that it was really difficult to gain priority status on the basis of a mental health condition, relative to a physical health condition, even where the household felt strongly that their housing circumstances were the cause of or exacerbating the problem. Members were also concerned that the process is not very clear to residents, and the decision-making process is not particularly transparent throughout.
- 3.1.2 In order to be prioritised on the housing wait list on medical grounds, households need a Priority Medical Award. This will be granted if someone in the household has, a long term, limiting illness, or a permanent and substantial disability and their health or quality of life is severely affected by the home they live in. Households who think they qualify for medical priority request and complete an application form. These are assessed by an external medical advice company who assess the form against the above criteria. The final decision is made by the Housing Options service, based on the information provided in the form and the assessment of the external agency. If the applicant disagrees with the decision, there are a further two stages of review available to them.

##### *Application form*

- 3.1.3 If households believe they qualify for housing list priority status on medical grounds they can ask for and complete an application form. Forms are requested in paper form from the Housing Options service. To limit the number of people applying for medical priority, the forms are not freely available but given out by staff on request. This in itself could be a barrier to people with mental health conditions as they may find it difficult to request a form and may then be refused, particularly given their medical condition is often not visible. People could be screened out by Housing Options staff, in a non-transparent way. No information was available from the service as to the extent of this i.e. number of people who request forms relative to the number completed, but there was anecdotal evidence that requests for forms are sometimes refused, particularly when a medical condition was felt to be temporary, a broken arm or leg for example.
- 3.1.4 Once they have received the form, households are asked to articulate the nature of their condition, the treatment they are receiving and the involvement

of health professionals. Members felt that people with mental health conditions faced a number of challenges in articulating their needs and issues through the form.

- 3.1.5 Firstly, the application is 12 pages long and there are very few questions which relate to mental health and wellbeing. The focus of the questions is overwhelmingly physical health, making it difficult for someone with a mental health condition to convey their circumstances and how their current housing situation is impacting on their mental health. Furthermore, physical health and its link to where someone lives is a lot easier to describe compared with mental health – insufficient consideration is given to the impact that poor or inappropriate housing could have on a person’s mental wellbeing. It was also felt that the long, detailed nature of the report may be challenging for someone with a mental health condition to complete properly without support.
- 3.1.6 Support to complete the application form is available to households, but very few people take this up. Members felt this could be partly because people with poor mental health are reluctant to discuss their situation with someone they don’t have a trusting relationship with.
- 3.1.7 The lack of questions which relate to mental health on the form, and the challenges of someone with poor mental health explaining their condition and how it relates to their housing, mean it is very difficult to demonstrate medical priority on the basis of mental health using the current form. This in turn means there is little evidence for the Housing Options service to base their decision on. People with mental health problems could ‘fall through the system’ and not get the support in terms of their accommodation that they need.
- 3.1.8 Members felt that many of these issues could be addressed by reviewing the application form to ensure it enables people with mental health conditions to better articulate their situation. People should be able to link their mental health to their housing needs, if this is an issue. This will ensure the Housing Options service have more information on which to base their decision.

**Recommendation 1: That the medical priority application form is reviewed, eliminating the bias towards physical health and enabling people with mental health conditions to articulate their situation.**

*Initial assessment and award criteria*

- 3.1.9 Health priority application forms are assessed against a series of criteria set by the council. An external group of medical professionals does the assessment and makes a recommendation; the final decision is made by Housing Options. Most of the external medical professionals are GPs, but they will refer to a consultant psychiatrist for cases requiring more in-depth knowledge of mental health conditions.
- 3.1.10 For medical priority to be awarded in cases where an individual has a mental health condition, the current criteria requires that there is evidence of on-going support or a recent psychiatric hospital admission for a non-drug related

illness. Evidence of current psychosis or extensive past psychiatric illness is also considered. If the individual is taken anti-psychotic medication or depot injection therapy are likely to be awarded health priority.

- 3.1.11 Medical priority is not awarded when the condition is considered less serious, or there is insufficient evidence of the ongoing support required. In terms of individuals with mental health conditions, priority status would be refused if the person has not been referred to a psychiatrist, or their hospital admissions were to Accident and Emergency with no psychiatric follow up. Depression isn't considered a serious enough condition to award medical priority and being on anti-depressant medication along would not score highly against the current criteria. Drug-induced mental health conditions are also unlikely to warrant medical priority status.
- 3.1.12 Members were concerned by the clinical focus of the criteria in relation to mental health conditions, and the emphasis on only the most serious conditions. Mental health is a complex issues and cases should be considered on a more individual basis. An individual may not have sort medical treatment for a variety of reasons, including the stigma still associated with mental ill health, and would not have the evidence base required by the current criteria. That does not mean that their condition isn't serious, or that their wellbeing couldn't be improved by moving house. Furthermore, Members heard that some people with serious mental health conditions are being treated in the primary care environment, rather than being referred to specialist psychiatric treatment. Again, this shouldn't preclude them from being awarded health priority if their case is otherwise strong.
- 3.1.13 Overall, particularly in relation to people with mental health conditions, decisions about medical priority should be based on a more flexible set of criteria, and, where possible, a broader range of information should be considered by the Housing Options service.

**Recommendation 2: That the Housing Options service work with colleagues and partners who deliver support people with mental health conditions to review the current medical priority award criteria.**

- 3.1.14 The Housing Options service doesn't rely solely on the assessment against the medical criteria when making decisions about medical priority. They use the 'Pereira Test' which asks *"if homeless, would this person be less able to fend for themselves than an ordinary homeless person so that injury or detriment will result when someone less vulnerable would be able to cope without harmful effects"*. This is a general principle, used widely in homeless services, on which officers base their final decision.
- 3.1.15 In terms of officers being equipped to make informed judgements and decisions about people with mental health problems and whether they should be awarded medical priority, Members felt that officers had insufficient training specifically on mental health and were less confident in dealing appropriately with these cases. With additional training, officers' ability to gather appropriate

evidence and understand the needs of people with mental health problems in relation to their housing could be improved.

**Recommendation 3: That Housing Options officers tasked with assessing medical priority applications receive regular mental health specific training.**

*Reviewing decisions*

- 3.1.16 If a household disagrees with a decision to refuse medical priority there is a two stage review process which they can request. The first review would be done by a GP and/or consultant psychiatrist as with the initial assessment. If it goes to a final review, this would involve a senior officer from the Primary Care NHS Trust (now the Clinical Commissioning Group). Support is available to guide households through this review process, although this was support was identified as an area for improvement in a recent review.
- 3.1.17 The table below shows the number of applications for health priority that were made in the last 5 years, in relation to both mental and physical health conditions. It also shows the number of households which were awarded medical priority, the number of reviews undertaken and the number of decisions which were revised. It should be noted that these figures are not exact – some cases relate to both physical and mental health conditions. The primary condition is the one recorded.

Stage	Mental health	Physical health
Initial assessment	1176	3726
Awarded medical priority	141	815
First review requested	470	922
Decisions revised after first review	94	130
Final reviews undertaken	94	130
Decisions revised after final review	7	26

*Table 1: Applications for health priority*

3.1.18 Members were concerned that households were requesting reviews of their application because they didn't know why it had been refused. Overall there is a lack of transparency in relation to the criteria for awarding medical priority, the process as well as the review process. The Housing Options service indicated they were looking to reduce the number of review stages to one. If this happens, members stressed that the decision and the review process need to be robust and more transparent.

**Recommendation 4: That the Housing Options service explore the possibility of a more robust and transparent decision and review process.**

### **3.2 Supported housing**

3.2.1 As well as households seeking to move, there are a number of single people with mental health conditions who have housing needs. This group are able to access supported housing through the Housing Options service, and are given priority in accessing this service. The Housing Options service work closely with the Housing Link service based at Mile End Hospital, and the Community Mental Health team to identify and support the people who are eligible for this service. Members felt that there was sufficient support and housing available to this group, and the housing needs of single people with mental health problems were being relatively well met.

### **3.3 Information for Members on lettings and housing**

3.3.1 A significant amount of Members' casework is related to lettings and housing enquiries on behalf of constituents, issues around housing are regularly raised at members' surgeries, and they are the subject of a significant number of member enquiries. Members at the challenge session reported that many members feel ill-equipped to deal with many of these cases, and have limited understanding of the medical priority award process in particular. Providing members with some guidance on these processes and common issues would increase their knowledge and understanding of the lettings process, enabling them to better support their residents directly and reduce the number of members enquiries sent to the Housing Options service.

**Recommendation 5: That the Housing Options service produce a guidance document for Members on the lettings process, including the application process and criteria for awarding medical priority.**

#### **4. CONCLUSIONS**

- 4.1 This challenge session involved an in-depth discussion on the barriers that people with mental health conditions face when trying to move through the lettings process, particularly in gaining medical priority. Overall, Members felt that the process was weighted too heavily towards people with physical health conditions – the questions on the application form were overwhelmingly about physical health, the form didn't allow people with mental health conditions to articulate how their housing situation was affecting their health, and Housing Options staff didn't have a sufficient understanding of mental health.
- 4.2 Furthermore, mental ill health and its impact on a person's wellbeing is very complex. Each application should be considered carefully, gathering as much information as possible, and thinking flexibly about the criteria used.