


Health and Wellbeing Board Tuesday 9 th August 2016	
Report of the London Borough of Tower Hamlets	Classification: Unrestricted
Housing Strategy 2016 – First Stage consultation	

Lead Officer	Aman Dalvi – Corporate Director - Development and Renewal
Contact Officers	Martin Ling x 0469
Executive Key Decision?	No

Summary

- 1.1 The Council's last Housing Strategy ran from 2009 to 2012 and has not been updated since. Under Part 2, Article 4.01(a) – Policy Framework of the Council's Constitution, the Housing Strategy is listed as a discretionary strategy which if produced must be approved by the Council.
- 1.2 The Council is currently consulting over a new Housing Strategy and which will be taken to full Council for approval in November 2016.
- 1.3 The provision of decent affordable housing for all sections of the community is inextricably linked to the health and wellbeing of the community. Issues such as tackling overcrowding, reducing homelessness ensuring residents have access to disabled aids and adaptations are just a few examples of such interdependency. The Health and Wellbeing Board are asked to consider the key issues as set out in the Challenges and Options paper at Appendix A in order to further inform the next round of consultation.

Recommendations:

The Health & Wellbeing Board is recommended to:

- To consider the Challenges and Options paper set out at Appendix A
- To discuss any relevant issues related to the development of the Housing Strategy

2. **REASONS FOR THE DECISIONS**

No decision required from this meeting.

3. **ALTERNATIVE OPTION**

No alternative option requires consideration from this meeting.

4. **BACKGROUND**

5.1 The Council has embarked upon a six month programme to develop a new Housing Strategy.

5.2 The programme was launched on Monday 15th May 2016 with an article in East End Life by Mayor John Biggs setting out his concerns with regard to the measures contained in the Housing and Planning Act 2016 and informing residents that the Council will respond by developing a new Housing Strategy.

5.3 **The first stage consultation** (16 May 2016 - 31 July 2016) comprised publication of:

- An online survey for respondents to complete (there is a short and a long survey, seeking people's opinions and comments on issues that we have identified that will be important to the borough's new housing strategy)
- A housing strategy challenges and options paper – Attached at Appendix A
- Internal and external partner consultation programme
- Resident engagement programme

5.4 **The second stage consultation** (August 2016 - November 2016) comprises publication of:

- A detailed draft housing strategy document with a proposed action plan.
- Draft 'daughter' documents of the strategy potentially including the housing allocation scheme, tenancy strategy, homelessness strategy, overcrowding action plan and equalities impact assessment draft documents.
- Housing Conference

A link to the online survey and related papers can be viewed here:

http://www.towerhamlets.gov.uk/News_events/News/May_2016/Shape_the_future_of_housing_in_the_borough.aspx

5.5 At present the Council has the following housing and policy statements:

Allocations Scheme (statutory)	Approved 2013
Tenancy Strategy (statutory)	Approved 2013
Homelessness Statement 2013 /17	Approved 2013
Older Persons Housing Statement 2013 /15	Approved 2013
Overcrowding and Underoccupation Plan	Approved April 2016
Private Sector Renewal Policy	Approved April 2016

5.6 All other policy areas will be updated following the consultation process and incorporated into an overarching housing strategy with links to fuller documents as appendices where appropriate.

5.7 In taking forward the Housing Strategy, the Division will need to be mindful of other strategic developments elsewhere in the Council including:

- The Community Plan
- The Strategic Plan
- The Local Plan

Commissioning Strategies relating to vulnerable adults:

- Hostels Plan
- Sheltered Housing Plan
- Accommodation Strategy for people with Learning Disabilities

Other corporate documents including:

- Health and Wellbeing Strategy
- Children and Families Plan

5.8 In addition the outcomes from the Housing and Planning Act 2016 and Mayor of London election can be taken into account. The Housing Strategy has to be in general compliance with the 2014 London Housing Strategy.

5.9 The Challenges and Options and paper sets out its vision as follows:

Tower Hamlets Council wants to ensure that:

- there are housing choices for all sections of our diverse community
- the homes people live in are in a decent condition, warm, and weathertight
- the most vulnerable people's housing needs are met in a fair and inclusive way
- all homes are in safe, prosperous and thriving areas

To deliver this vision, we have broken down our approach into four broad themes, identifying challenges and options. The themes are:

- Delivering affordable housing, economic growth, and regeneration
- Meeting people's housing needs
- Effective partnership working with residents and stakeholders
- Raising private rented housing standards

To achieve this we need to understand what the borough's strengths and weaknesses are; where the opportunities are; and chart a way forward with our residents and other stakeholders, to realise our vision

The final housing strategy adopted will be more outward facing than in the past and will need to address private rented housing issues in more depth, as well as considering investing beyond our borough boundaries, using our own resources and initiative, to develop and implement housing options for people in housing need.

The Government's has just passed a new Housing and Planning Act which will have a big impact on our strategy. The Act includes the following proposals:

- Charge up to market rents to council tenants on incomes of over £40,000 a year
- Require council planners to allow a new 'affordable' home product called Starter Homes for sale at no more than £450,000 which will replace other forms of affordable housing
- Make fixed term tenancies mandatory for new council tenancies
- The assumption that high value council homes will be sold to fund the extension of right to buy to housing association tenants.

This Act and associated interventions detailed in the Government's 2015 Spending Review, such as the four year 1% rent reductions and wider welfare reform changes (including the rolling out of Universal Credit) will present major challenges to all stakeholders in the borough – residents, housing associations, advisory agencies and the council itself.

The council will need to be flexible in its approach to dealing with the implications of the changes being proposed and come up with ideas and initiatives that will mitigate the negative impacts that are likely to emerge.

6. COMMENTS OF THE CHIEF FINANCIAL OFFICER

- 6.1 This report provides an update to the Health & Wellbeing Board on the proposed preparation of the council's Housing Strategy for 2016 to 2021, and asks the Board to consider the Challenges and Options paper (Appendix A), and to discuss any relevant issues related to the development of the Housing Strategy.

- 6.2 The Housing Strategy will contain various policies and statements setting out a range of activities and priorities for the council and key partners that will provide a clear focus for ensuring that available resources are targeted to and in line with these needs. The individual statements and policies are itemised at 5.5 above, and have all been considered separately by Cabinet.
- 6.3 The implementation of the various elements of the strategy will be subject to the availability of funding and further reports assessing the financial impact of individual proposals will be submitted to the Mayor in Cabinet. Delivery of the strategy will be extremely challenging in the current economic climate, particularly in view of the uncertainty surrounding the implications of the recently enacted Housing and Planning Act where much of the financial detail will only become clear when secondary legislation is published over the coming months. The strategy will require a co-ordinated approach and alignment of funding from all major partners, and will also require that best value is obtained from limited sources of external funding, given that the council's mainstream resources to support the strategy are extremely limited.
- 6.4 The costs of preparation and subsequent consultation on the Housing Strategy and its constituent elements will be met from within existing revenue resources.

7. LEGAL COMMENTS

- 7.1 The Council is a local housing authority and pursuant to section 333D(1) of the Greater London Authority Act 1999 ('the 1999 Act') when exercising any function relating to housing or regeneration, the Council shall have regard to the London housing strategy. Section 333D(2) of the 1999 Act provides that any local housing strategy prepared by a local housing authority in Greater London must be in general conformity with the London housing strategy.
- 7.2 The term 'general conformity' is not defined in the Act. In the context of the 1999 Act, 'general conformity' would allow a considerable degree of movement between the London housing strategy and the Council's housing strategy. There does not have to be strict conformity but providing that the Council considers or includes the main features or elements of something then that will be sufficient.
- 7.3 A local housing strategy is defined in the 1996 Act as any statement of the local housing authority's policies or proposals relating to housing. Therefore the six (6) housing and policy statements listed in paragraph 5.5 of this report are local housing strategies.
- 7.4 Whilst the Council is not under a duty to have an overarching Housing Strategy, the overarching strategy can reflect the core values and goals and the underlying strategies for achieving them. The overarching strategy can provide clear direction for the Council and its partners in meeting housing expectations.

- 7.5 The Housing Strategy is a discretionary policy within the Council's Budget and Policy Framework and therefore its final approval is for Full Council. However, pursuant to the Council's Budget and Policy Framework Procedure Rules, the Mayor as the Executive has the responsibility for preparing the draft plan or strategy for submission to the full Council. It will therefore be for the Mayor in Cabinet to recommend the draft strategy to Full Council.
- 7.6 There is no statutory requirement to consult but the Council must consider whether a common law duty arises. This common law duty imposes a general duty of procedural fairness upon public authorities exercising a wide range of functions which affects the interests of individuals (see *R (Moseley) v Haringey London Borough Council* [2014] UKSC 56, [2015 1 All ER 495 at [35] per Reed LJ). In considering whether a common law duty arises, has there been a promise that the Council would consult on a particular issue. This can be as a result of a decision or statement by Members (or an officer). This gives rise to a legitimate expectation. Specifically, the decision or statement must be clear, unambiguous, and not have any relevant qualification. The decision or statement must also have been made by someone who had actual or apparent authority to make that decision or statement. If it is not then the decision is *ultra vires*. This would also arise where the Council does not have the legal power to act in the way proposed.
- 7.7 Further has the Council's past practice been to consult on such proposal? If so, then again a legitimate expectation arises and which has been induced based upon the Council's past behaviour.
- 7.8 The common law duty would also arise where, in exceptional circumstances, a failure to consult would lead to conspicuous unfairness. Specifically a legitimate expectation can arise even without a decision/ statement or past practice, so as to prevent a public authority from acting so unfairly that its conduct amounts to an abuse of power. For example, is what is proposed likely to have a harmful impact on service users?
- 7.9 On balance, it is considered advisable to consult and this report sets out how such consultation is planned.
- 7.10 The consultation should comply with the following common law criteria:
- (a) it should be at a time when proposals are still at a formative stage;
 - (b) the Council must give sufficient reasons for any proposal to permit intelligent consideration and response;
 - (c) adequate time must be given for consideration and response; and
 - (d) the product of consultation must be conscientiously taken into account.
- 7.11 The duty to act fairly applies and prior to undertaking a consultation exercise, consideration must be given to whether the matter to be consulted on impacts on those with protected characteristics. If it does then the method of consultation should be adapted to ensure that those persons are able to respond to the consultation so as to inform the decision making process. For

example, if a group of persons with a protected characteristic is a 'hard to reach' group then they may not be reached by traditional consultation techniques.

- 7.12 When deciding whether or not to proceed with the proposals, the Council must 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 don't (the public sector equality duty). To inform the Council in discharging this duty an Equality Assessment will be carried out on the Housing Strategy prior to the 2nd stage consultation.

8. ONE TOWER HAMLETS CONSIDERATIONS

- 8.1 An Equality Assessment will be carried out on the Housing Strategy prior to the 2nd stage consultation.

9. BEST VALUE (BV) IMPLICATIONS

- 9.1 The proposals set out in Housing Strategy will be required to align with the Council's Best Value Duty.

10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 10.1 The Housing Strategy will have implications for sustainable actions for a greener environment and these will be considered within its development.

11. RISK MANAGEMENT IMPLICATIONS

- 11.1 The proposals set out in the Housing Strategy will carry risks for the Council. Each action is separately monitored and subject to local risk management conditions by either the Council or its partners.

12. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 12.1 Not applicable.

13. SAFEGUARDING IMPLICATIONS

- 13.1 Not applicable.

Linked Reports, Appendices and Background Documents

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

- Appendix 1: Challenges and Options paper
- **Background Documents – Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations**
- None

Officer contact details for documents:

- Martin Ling
martin.ling@towerhamlets.gov.uk

0207 364 0469