

Cabinet 19 th September 2017	
Report of: Asmat Hussain Corporate Director Governance and Monitoring Officer, Director of Place	Classification: Unrestricted
Under Occupation Review – Action Plan	

Lead Member	Councillor Sirajul Islam, Statutory Deputy Mayor and Cabinet Member for Housing
Originating Officer(s)	Ahmed Choudhury, Senior Strategy, Policy and Performance Officer
Wards affected	All
Key Decision?	Yes
Community Plan Theme	A Great Place to Live

Executive Summary

This report submits the report and recommendations of the scrutiny review of Under Occupation of social housing in Tower Hamlets, by the Housing Scrutiny Sub-Committee, and the action plan for implementation.

Recommendations:

The Mayor in Cabinet is recommended to:

1. Consider this report of the scrutiny working group and agree the action plan in response to the review recommendations.

1. REASONS FOR THE DECISIONS

- 1.1 The Council's constitution requires the Executive to respond to recommendations from the Overview and Scrutiny Committee. The action plan within this report outlines the Executive response to the seven recommendations arising from the review.

2. ALTERNATIVE OPTIONS

- 2.1 To take no action. This is not recommended as the proposed recommendations are strategic, measurable and attainable. The action plan is outlined in Appendix B.

3. DETAILS OF REPORT

- 3.1 This report submits the report and recommendations of the scrutiny review of Under Occupation of social housing by the Housing Scrutiny Sub-Committee, and the action plan responding to the recommendations.
- 3.2 Approximately 37% of those families on the Common Housing Register (CHR) are living in overcrowded accommodation, which represents approximately 70% of those applicants in housing need. The council's former housing Allocations policy prioritised families living in overcrowded accommodation based on the number of bedrooms lacking.
- 3.3 Tower Hamlets Homes (THH) and all the major RPs in the borough manage a Common Housing Register and Allocations scheme, which is a unique agreement within London. A single housing register and allocations scheme means there is a single housing waiting list for all prospective tenants and existing tenants can, if they want to move home, have potentially a far larger choice of alternative accommodation than would otherwise be available.
- 3.4 In 2010 the council changed its housing Allocations policy and placed families living in overcrowded accommodation on the same band 2 category as homeless families. This change proved effective in reducing both homelessness and increasing the number of families living in overcrowded conditions, who were rehoused through the waiting list rather than the homelessness route.
- 3.5 The council has traditionally had a generous policy, compared to many other London Boroughs, towards assessing space needs for housing. Unlike many councils - a family with two children, one of each sex under the age of 10, have been eligible for a three-bedroomed home, with a separate bedroom for each child. The council's policy is not aligned with the bedroom standard (for example, eligibility for a child having their own room, or not being eligible if they are under ten years old). In addition, it is not in line with recent welfare reform changes which introduced the 'bedroom tax' which means housing benefit will only cover bedrooms required and therefore some under occupiers will have a shortfall in their rent through housing benefit.

- 3.6 The council also gives priority, to sons and daughters over 18 in their own right living in an overcrowded home. Under the Council's Allocations Scheme 'sons and daughters' of under-occupying tenants, and those tenants that are severely overcrowded could be given enhanced housing priority under the Priority Target Group scheme. This is to ensure larger size homes are released for allocation to overcrowded applicants and to relieve overcrowding in existing tenanted accommodation. In order to qualify, the son or daughter must be over 18 years of age and lived at the address as their only or principal home for more than 5 years. The enhanced priority will only apply if by rehousing the under occupying tenant and the son or daughter there is still a net bedroom gain e.g. a tenant and her daughter occupy a 3 bedroom property and by offering them 2x1 bedroom accommodation the council releases a 3 bedroom property which results in a net gain of 1 bedroom. For tenancies that are severely overcrowded the transferring tenant must still lack 2 or more bedrooms even though the son or daughter will be rehoused separately e.g. tenant occupies a 2 bedroom property and is assessed as needing at least 4 -bedroom or larger home.
- 3.7 The Under-occupation and overcrowding of social housing of both the council owned and Registered Provider (RPs) housing has always been a high-profile issue within the borough. Consequently, the council and registered provider partners have developed policies and identified resources to addressing the problem of under-occupation.
- 3.8 Scale of the under-occupation (beds more than need), according to the 2016 Common Housing Register (CHR) figures:
- There are 1,333 (as at 1st April 2016) known socially rented under-occupied properties in LBTH of which:
 - 78% have one bedroom in excess of need;
 - 18% have two bedrooms in excess of need; and
 - 3% have three bedrooms in excess of need
 - The council owns 45% of these under-occupied properties.
 - For RPs, Poplar HARCA has the highest with 16% of the total.
 - Tower Hamlets Community Housing, Eastend Homes and Old Circle Ford, all have around 6% of the total.
 - The remaining properties are dispersed across the other RPs in the borough
- 3.9 The review was Chaired by Cllr Amina Ali and specifically considered:
- LBTH's under occupation policy and reviewed its action plan;
 - Other local authorities with similar demographics and considered their approach, to encouraging tenants to downsize;
 - lessons learnt elsewhere and whether these are applicable to the circumstances of Tower Hamlets;
 - whether some incentives available have been more successful than others and establish the reasons for this; and

- if some Registered Providers (RPs), operating inside or outside the borough - whether have been more successful than others in reducing under occupancy and the reasons why this has happened.

3.10 The report with recommendations is attached as Appendix A. There were seven recommendations arising from the review which is outlined below:

Recommendation 1:

Deliver targeted communication and events: Housing and Regeneration Division should further develop information and engagement with local people looking to downsize by:

- delivering targeted communication;
- develop clear and concise information;
- delivering events aimed at both registered and unregistered under occupiers.

The council's traditional media channels along with electronic and social media should be utilised

Recommendation 2:

That the Housing and Regeneration Division proactively identify under occupiers and staff working across frontline service. And develop an information toolkit for frontline staff which will enable them to encourage and support tenants, wishing to downsize.

Recommendation 3:

That the Housing Regeneration Division should consider creating a single integrated Housing Mobility Team.

Recommendation 4:

That the Place Directorate consider the possibility of building bespoke downsizer homes, on council owned land or estates which are specifically aimed at under occupiers.

Recommendation 5:

That the Housing and Regeneration Division should review the current Tenancy Strategy to agree under what circumstances fixed term tenancies would not be renewed.

Recommendation 6:

That the Housing and Regeneration Division further enhance 'post move' service - to ensure tenants who are downsizing are supported through any difficulties e.g. settling in, providing information on local area and sign posting to local services etc.

Recommendation 7:

That the Housing and Regeneration Division builds on the existing strategic partnership with its key partners and stakeholders. And, continue to develop the role of Tower Hamlets Housing Forum – especially the Common Housing Register Group as the main area for innovation and delivery of under occupation initiatives.

- 3.11 The subsequent Under Occupation Action Plan (which, The Mayor and Cabinet is asked to agree) produced by the Housing & Regeneration Division is in Appendix B.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 This report asks the Mayor in Cabinet to consider the Under Occupation Review that was undertaken by the Housing Scrutiny Sub-Committee in April 2017 and seeks approval for the adoption of the action plan that is proposed to address the review's recommendations.
- 4.2 The recommendations set out a range of activities and priorities for the Council and key partners that will provide a focus for the promotion of housing moves to release currently under occupied properties for re-letting. This will require a co-ordinated approach and possible aligning of funding from all major partners, and will require that best value for money is obtained from limited sources of funding, given that the Council's mainstream resources to support the proposals are extremely limited.
- 4.3 Although the costs of implementing several of the recommendations can be met from within existing revenue resources, the financial consequences of certain initiatives will be subject to the availability of funding, and further reports will assess the financial impact of these proposals as appropriate. In particular this will relate to Recommendation 3 - the creation of a single integrated Housing Mobility Team; Recommendation 4 – the construction of bespoke downsizer homes on Council owned land; and Recommendation 6 – that an enhanced 'post move' service be offered to tenants.

5. LEGAL COMMENTS

- 5.1 The recommendations arising from the review and set out in the action plan must be in line with statutory obligations placed on the Council in respect of housing provision.
- 5.2 Section 8 of the Housing Act 1985 imposes a duty on every local housing authority to carry out a periodical review of housing needs in their area and consider the provision of further housing. The under occupation review has assisted the Council to fulfil its duty in this regard.
- 5.3 In relation to recommendation 4 of the review, the Council has the power under section 9 of the Housing Act 1985 to provide housing accommodation by building houses on land acquired by it.
- 5.4 With regard to recommendation 5, the Housing and Planning Act 2016 requires that most new local authority tenancies are granted on a fixed term (two to ten years). It also prescribes that any succession (transfer of tenancy after death) to a family member other than a spouse or civil partner must be a fixed term tenancy. Chapter 6 of the Act which provides for the phasing out of secure 'lifetime' tenancies, will be brought into force in Autumn 2017 and implemented by way of Regulations which will prescribe the circumstances in

which councils are entitled to offer further 'lifetime' tenancies to existing tenants who agree to move home.

- 5.5 Section 118 of the HPA 2016 will impose mandatory use of fixed term tenancies of between two and five years, on the expiry of which a further tenancy may be granted following a review of the conduct of the tenancy (and the tenants) by the landlord. Once the provisions are in force, local authorities in England will be prevented from offering lifetime tenancies in most circumstances.
- 5.6 Other changes to be brought in by the HPA 2016 in relation to secure tenancies will be in relation to succession rights and mutual exchanges. Succession rights will be restricted to spouses and civil partners or a person living with the tenant as a partner unless the council elects to include an express term in the tenancy agreement allowing for succession to anyone other than a spouse or civil partner. The length of the tenancy on succession will be limited to a fixed term of five years. In relation to transfers or mutual exchange, the Localism Act 2011 has been amended to remove the right of existing lifetime tenants to be granted a new lifetime tenancy when they agree to a mutual exchange. Social landlords will have discretion over whether to offer a new lifetime tenancy. Amendment 81ZA is to ensure that the introduction of flexible tenancies does not act as a barrier to mobility.
- 5.7 In relation to offering financial incentives to tenants downsizing, these are covered by paragraph 2 of schedule 18 of the Housing Act 1996. Such payments can cover not only the provision of goods or services, such as carpets or redecoration but also cash incentives. Further the discretionary housing payment (DHP) fund remains available to provide temporary financial assistance to tenants affected by the provisions of the Welfare Reform Act 2012. Working age social housing tenants in receipt of housing benefit who experience a reduction in their benefit entitlement if they live in housing which is deemed to be too large for their needs, can claim DHP. This acts as an incentive for tenants to downsize to smaller properties.
- 5.8 The Council's allocations scheme, tenancy agreement, succession policy and tenancy strategy will need to be reviewed and updated to ensure they comply with the provisions of the HPA 2016 when in force.
- 5.9 The allocations scheme currently allows direct offers of accommodation to be made, if the circumstances justify it. This includes facilitating a move due to under occupation. This would allow allocation of the downsizer homes referred to in recommendation 4.
- 5.10 The tenancy strategy which the council must prepare under section 150 of the Localism Act 2011, sets out the matters which registered providers of social housing in its area are to have regard to in formulating policies, this includes:
 - the kinds of tenancies granted;
 - the circumstances in which particular tenancies will be granted;
 - where tenancies are granted for a certain term, the lengths of the term and

- the circumstances when a further tenancy will be granted when the existing tenancy comes to an end.

5.11 The tenancy strategy must summarise those policies or indicate where they can be found. The council must have regard to the strategy when exercising its housing management functions, publish its strategy and keep it under review and may modify or replace it. Any modifications must be published.

5.12 When deciding whether or not to proceed with the action plan, 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 do not (the public sector duty).

6. ONE TOWER HAMLETS CONSIDERATIONS

6.1 The key objectives of this review was: to carry out an assessment of how the council's under occupation plan is assisting to reduce overcrowding; learn from good practices; and makes a series of recommendation on way the council could help release under occupied properties to alleviate overcrowding pressures. The recommendations seek collaborative working across the organisations as well as building on the existing strategic partnership with local partners and stakeholders.

7. BEST VALUE (BV) IMPLICATIONS

7.1 The recommendations in this report are made as part of the Overview & Scrutiny Committee's role in helping to secure continuous improvement for the council, as required under its Best Value duty.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

8.1 There are no direct sustainable actions for greener environment arising from this report.

9. RISK MANAGEMENT IMPLICATIONS

9.1 There are no direct risk management implications arising from the report or recommendations. Any risks arising as a direct result of implementing the Under Occupation Action Plan will be managed through appropriate mitigating action(s).

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

There are no direct sustainable actions for greener environment arising from this report.

11. SAFEGUARDING IMPLICATIONS

There are no direct safeguarding implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

- NONE

Appendices

- Appendix A: Under Occupation – Promoting Housing Moves
- Appendix B: Under Occupation – Action Plan

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- Under Occupation Review – Housing Scrutiny Sub-Committee Report, 24th April 2017