

Meeting:	Tenants and Leaseholders' Consultative Forum
Date:	22 July 2008
Subject:	Minor amendments/revisions to the Housing Allocations scheme
Responsible Officer:	Divisional Director of Housing – Gwyneth Allen
Portfolio Holder:	Portfolio Holder for Adults and Housing - Councillor Barry Macleod-Cullinane
Exempt:	No
Enclosures:	Appendix A – list of proposed amendments to the Allocations Scheme

Section 1 – Summary and Recommendations

This report sets out detailed proposals for amendments to the Council's Allocations Scheme (the document "London Borough of Harrow Lettings and Transfer Scheme").

Recommendations:

The TLCF is requested to comment on the report prior to its submission to the Portfolio Holder for approval.

Reason: (For recommendation):

It has been identified that the London Borough Of Harrow's Choice Based Allocation Scheme (or "Locata") for permanent housing might need amendment to fully comply with existing legislation. Upon further consideration of the Scheme, it is apparent that there are also areas that would benefit from updating, in order that they might reflect current best practice. The proposed amendments and improvements are not representative of major change, which would be subject to formal consultation. There is an intention to invite tenants and leaseholders to have the opportunity to give consideration to the proposed improvements and revisions and offer comment before formal adoption.

Section 2 – Report

1. Introduction

- 1.1. The aim and objective of improving Locata should result in enhanced levels of customer satisfaction as the policy will be better balanced, and seek to be more accessible, fair and transparent.
- 1.2. The purpose of the proposed changes is to look at the operational functionality of a more meritocratic, fair scheme in favour of underlying housing need in Harrow, lessening the risk of costly legal challenges.

2. Background

- 2.1. The current Lettings and Transfer Policy was agreed in April 2003 when London Borough of Harrow joined the West London choice based lettings scheme (Locata). This dispensed with the old “points” based scheme in favour of a “banding” arrangement. The allocations scheme then allows applicants to register compete and bid on the basis of “*reasonable preference*” for access to permanent social housing. Since April 2003, there have been a number of minor amendments, the last of which were agreed by the Planning, Housing and Development Portfolio Holder in April 2006.

3. Current Situation

- 3.1. A number of additional events have occurred, notably :-
 - a *Changes in environmental legislation have rendered certain aspects of the scheme out of date. A new regime for inspection and environmental standards (the Housing Health and Safety Rating System - HHSRS) was introduced following the enactment of the Housing Act 2004 and came into force in April 2006.*
 - b *London Borough of Harrow is aware that there is a need to change part of the scheme, which prohibits “dual” registrations. This is where a number of applications are made with reference to the same household’s underlying housing needs. The amendments made seek to ensure full compliance with current housing legislation.*
 - c *Other housing case law has emerged pertaining to allocations of permanent housing, which has implications for the London Borough of Harrow’s scheme (* see below). Following this judgement there are now specific requirements in lettings schemes that need to have a clear policy reflecting this “cumulative preference” (i.e. “**multiple needs**” or “**composite need**”)*
 - d *Recent Ombudsman decisions in relation to both processing medical assessments for applications, and on the matter of homeless priority dates clearly imply that amendments would be necessary.*

* (R (ON THE APPLICATION OF (1) SACIDA CALI (2) FAHMO ABDI (3) FAIZA SHARIF HASSAN) V WALTHAM FOREST LONDON BOROUGH COUNCIL (2006)

“a local authority housing allocation scheme was unlawful as it did not permit a proper judgment to be made in accordance with the Housing Act 1996 Part VI on the respective needs of persons whose needs were cumulative. In addition the scheme had failed to define the criteria for awarding a reasonable preference to those entitled to it under the s.167(2) of the Act”

- 3.2. The proposed changes are being sent to the Housing Association Forum for consideration in July/August 2008.
- 3.3. There will be further and more substantive changes during 2009/10, as part of the West London partner authorities' response to the London wide mobility scheme (Capital Moves). There are also imminent proposals for London Borough of Harrow's Overcrowding Action Plan. It was felt that the minor changes that are proposed in this report would not benefit from further delay. The more major and significant changes will still be subject to the minimum twelve week stakeholder consultation period recommended in the Allocations Code of Guidance Ch 6, Para 6.6.

4. Main Option/s

- 4.1. There are existing pressures from external bodies, partners, together with our need to meet the aforementioned legal requirements, which necessitate making these minor amendments. Failure to make amendments at this time might present difficulties on typical "day to day" operational matters
- 4.2. It would be possible to change only the relevant parts of the scheme required to comply purely with housing law. However, it is felt that there is also an opportunity that exists presently to bring the scheme more fully up to date. It is imperative that from the point of view of staff in housing needs and from the service users perspective, Harrow is able to use the most accurate and current information.
- 4.3. Full detailed explanation on the proposed amendments is attached as Appendix A (wherever possible, each topic is referenced to the relevant paragraph of the current allocations scheme).

5. Other Options Considered

As an alternative, it would be possible to consider completely re-writing the housing allocations scheme. In itself, this would require extensive consultation and a great deal of staff time to review the policy in this way. It is proposed that the main format of the scheme is "refreshed" to reflect current housing law rather than overhauled and/or rewritten. A large number of amendments have been inserted for clarification and compliance.

In relative terms, there have been fewer complaints about the existing policy, as it is generally perceived to be more popular than the old "points-based" system.

6. Implications Of The Recommendation

6.1. Resources, Costs & Risks

6.1.1. Risk included on Directorate risk register? Yes

6.1.2 The associated risks of not making changes mean that the council might be open to legal challenge from housing applicants who identify inconsistencies with current law and practice. The net effect might be a successful legal challenge to the allocations scheme/policy, and resultant costs or the possibility of an adverse finding by the Ombudsman (with the possibility of compensation).

6.2. Staffing/Workforce

6.2.1. There would be no significant impact on staff as a consequence of the proposed amendments/enhancements, other than minimal staff time required for the basic administration in implementing the changes

6.2.2. There is benefit for staff to have clearer and more current information in place and to hand. This in turn should lead to improved service delivery and outcomes together with better meeting the needs of the service users.

6.3. Equalities impact

6.3.1. There is an intention to bring the allocations scheme into line with current corporate practice and priorities with full regard given to the Council's "Older People's Housing Review". Previous use of language and wording does not sit evenly with the aims and objectives of the review and the amendments will promote the interests of older people in this wider context. An Equalities Impact Assessment will also be carried out before the report is sent to the portfolio holder.

6.4. Legal Comments

6.4.1 The matter of amendment for instances of "dual" registrations on Locata will align with current legislation and case law ensures full compliance with housing law.

6.4.2 "Composite needs" assessments required following judgement in R (ON THE APPLICATION OF (1) SACIDA CALI (2) FAHMO ABDI (3) FAIZA SHARIF HASSAN) V WALTHAM FOREST LBC (2006) would bring Locata into line with legal requirements.

6.5. Community Safety

7. Financial Implications

7.1. The resources and costs are minor and will be absorbed within the existing Housing Needs budget, and comprise:

- a Re-printing of the Scheme in order that it is available on demand in Housing Reception. There is also alternative means of access via the Harrow website.
- b Training requirements on the new policy – these will be minimal, as officers have good awareness of the issues involved.

7.2. There are no specific cost implications associated with changing the policy in the ways proposed.

8. Performance Issues

8.1. Whilst there are no measurable performance indicators affected by these changes proposed for in the Allocations Scheme, it is clear that a better performing allocations scheme might prove to be beneficial to the aims and objectives of other initiatives. Examples of this would include the London Borough of Harrow's Temporary Accommodation Reduction Plan recently submitted to the Department of Communities and Local Government (DCLG), and the proposed Overcrowding Action Plan.

Section 3 - Statutory Officer Clearance

Name: Donna Edwards.	<input checked="" type="checkbox"/>	on behalf of the* Chief Financial Officer
Date: 9 July 2008		
Name: Paresh Mehta	<input checked="" type="checkbox"/>	on behalf of the* Monitoring Officer
Date: 9 July 2008		

Section 4 - Contact Details and Background Papers

Contact: Rosy Leigh, Housing Assessment Manager, tel: 020 8420 9209

Background Papers: The Council's Lettings and Transfer Scheme can be found on the Harrow website at

http://www.harrow.gov.uk/site/scripts/download_info.php?fileID=644

If appropriate, does the report include the following considerations?

1.	Consultation	YES
2.	Corporate Priorities	YES

Appendix A

Proposed Amendments

1. West London Locata is now an established scheme. Some of the language used in the introduction which was written at the scheme's inception (referring to its "pilot" status and "recent set-up") are clearly now irrelevant. This scheme is now well established and the wording throughout the document will need necessary amendment to reflect this. As the scheme has expanded over the last five years to include additional partners, together with several housing associations who have also joined West London Locata, there is a risk that the current wording relating to key issues might give a misleading impression. (e.g. the matter of partnership stated in Para. 1 of the scheme).

2. The Move-UK Mobility Scheme. The HOMES mobility moves scheme came to an end and it's proposed successor (MOVE UK) subsequently failed to become operational. In relation to inward mobility moves, the Council will still seek to prioritise elderly people who need to relocate back into Harrow. In the case of outward mobility moves, there is no longer a "Fresh Start" Team in existence, and the references to it will logically need to be deleted. There are additional but minor amendments that would need to be made in a similar manner. In line with this, mention will now need to be made for newer initiatives for mobility moves (e.g. Capital Moves). It is likely that this might necessitate further minor amendments/changes at a later stage.

3. The scheme must include the council's detailed procedures for assessment of "composite need" (see 3.1 [c]). In order to effectively meet current legal requirements, London Borough of Harrow will now need to include a reference to the new policy on assessment of "composite need". This will be placed under the section "Assessments and Banding Decisions". This will amend the reference to use of the Medical Adviser (Para. 3) in line with the revised policy. The policy will then be added as an Appendix C to the scheme.

4. All claims for medical priority must be put before a qualified medical advisor. Current arrangements in the scheme allow for housing officers to exercise a level of discretion when determining medical priority. This is done without the absolute need to put the case before the Council's medical advisor. Consequently, it can present potential vulnerability in instances where the Ombudsman examines applications. In turn, they might then find that could be construed as maladministration. A clear amendment to Para 11a) will resolve this matter.

5. The scheme cannot now prohibit applicants from registering with more than one Locata partner. In line this, the last bullet point of Paragraph 4(b) of the Lettings and Transfer Scheme document will need to be deleted (*i.e. "...are currently registered with another Locata partner (subject to Board decision)"*). There are occasions where a neighbouring council might accommodate homeless applicants within the London Borough of Harrow's boundaries. London Borough of Harrow are no longer able to refuse dual registrations by applicants. This measure will ensure that applicants who have been accepted as homeless by another local authority (but placed in temporary accommodation in Harrow) would not get priority over homeless households to whom Harrow owes a duty.

The addition of a new category (Para 15) will now specify the way in which these applications will be treated. In line with legal requirements, there is no intention to fetter discretion, and this will be made clear in the revised scheme. The individual merits of a case will still be considered, and higher priority may still be given where

Harrow is ultimately satisfied that the original local authority is unable to provide suitable accommodation.

6. Applicants should not get priority dates in band A, B or C predating a period of being adequately housed. There have been a number of complaints from applicants received that relate to banding arrangements and the appropriate priority that a case would attract. It is proposed that a clearer explanation is now written into the scheme.

7. Homeless people's priority date It is intended that applicants should receive priority from the date they were actually homeless, and not the date the council accepted a duty towards them, which could be some considerable time later. A recent Ombudsman case against Hounslow Council highlighted this issue and minor amendment will resolve it.

8. Language and wording on housing for older people To appropriately reflect current corporate practice it is proposed that wording in Paras. 16 and 17 should reflect the language and priorities of the Council's "Older People's Housing Review".

9. Withholding Debts Due To The Council The scheme does not currently allow us to suspend the application of a person who has deliberately withheld council tax or other debts to the council. Para. 12 to be revised to reflect this