

NORTH LINCOLNSHIRE COUNCIL

HIGHWAYS & NEIGHBOURHOODS CABINET MEMBER

CONSULTATION ON ALLOCATION OF SOCIAL HOUSING

1. OBJECT AND KEY POINTS IN THIS REPORT

1.1 To advise the cabinet member of the government's consultation on guidance to be issued to local authorities on the allocation of social housing in response to changes introduced by the Localism Act.

1.2 To seek the views of elected members and initiate consultations with the council's partners in the Home Choice Lincs choice based lettings scheme.

1.3 The key points of the report are as follows:

1.3.1 The Localism Act makes fundamental changes to the social housing system that the government hopes will make it fairer.

1.3.2 The council in its role as a local housing authority has until 30 March to respond to the government's proposals.

1.3.3 The government wants council's to encourage older people to plan for the future and give priority to working families and ex-service personnel.

2. BACKGROUND INFORMATION

2.1 The Government is consulting on new draft statutory guidance on social housing allocations for local authorities in England. The new guidance is intended to assist authorities to take advantage of the provisions in the Localism Act 2011 which give back to local authorities the freedom to manage their own waiting lists, and make it easier for them to move existing social tenants to more suitable accommodation.

2.2 It also encourages authorities to make use of the existing flexibilities within the allocation legislation to ensure that social homes go to people who need and deserve them the most.

- 2.3 The council has a joint allocations policy with the other members of the Home Choice Lincs partnership – North Lincolnshire Homes, Shoreline Housing Partnership, Longhurst & Havlok, and North East Lincolnshire Council.
- 2.4 The Localism Act makes significant amendments to Part 6 of the Housing Act 1996. The main policy objectives of the changes are:
- To enable housing authorities to better manage their waiting lists by giving them the power to operate a waiting list focused on meeting local circumstances.
 - To make it easier for existing social tenants to move
 - To maintain protection provided by the statutory reasonable preference criteria to ensure that priority for social housing goes to those in greatest need.
- 2.5 The guidance, once finalised, will replace the following:
- Code of guidance on the allocation of accommodation, issued November 2002
 - Code of guidance on choice based lettings, issued August 2008
 - Circular 04/2009: Housing Allocations –members of the armed forces
 - Fair and flexible: statutory guidance on social housing allocations, issued December 2009
- 2.6 The full consultation document is available on line at
- <http://www.communities.gov.uk/publications/housing/allocationofaccommodation>
- A document summarising some of the issues and local circumstances that members may wish to consider has been circulated separately.
- 2.7 The consultation period ends on 30 March. A number of consultation questions have been set to help structure responses. These include several questions regarding details of local housing authorities existing allocations policies.
- 2.8 The secretary of state considers that local housing authorities should consult all those who might be affected by, or have an interest in, the way social housing is allocated before making any major changes to it.
- 2.9 At this stage it is proposed to limit consultation on the draft guidance document to elected members and the Home Choice Lincs partnership. Any response that is made to the consultation will not commit the council or Home Choice Lincs to any changes in policy.
- 2.10 A response to the consultation will be sent on behalf of the Home Choice Lincs partnership.
- 2.11 Any changes to the Home Choice Lincs common allocations policy that might be made after the government finalises the statutory guidance on

allocations policy will be published and consulted on via the council's Forward Plan procedure.

3. OPTIONS FOR CONSIDERATION

- 3.1 Option 1 – to respond to the consultation via the Home Choice Lincs partnership.
- 3.2 Option 2 – for the council to make its own independent response.
- 3.3 Option 3 – not to make any response to the consultation document

4. ANALYSIS OF OPTIONS

- 4.1 Option one would reduce duplication of effort and facilitate discussions regarding potential changes of the Home Choice Lincs common allocations policy.
- 4.2 Option two is the preferred option as it allows members to formulate a response that more accurately reflects the council's priorities.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 There are no resource implications for the council.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 CRIME AND DISORDER, RISK AND OTHER)

6.1 Environmental

There are no environmental implications relating to this issue.

6.2 Section 17

The consultation document suggests amending the way in which eligibility for social housing can be restricted on grounds of behaviour.

7. OUTCOMES OF CONSULTATION

- 7.1 Members of the Home Choice Lincs partnership have indicated that joint discussion on the guidance and the implications of any future policy changes would be beneficial.

8. RECOMMENDATIONS

- 8.1 That the cabinet member expresses his views on the issues in the consultation document.
- 8.2 That the council comments directly to government in response to the consultation document.

DIRECTOR OF NEIGHBOURHOOD AND ENVIRONMENTAL SERVICES

Neighbourhood and Environmental Services
Church Square House
Scunthorpe
North Lincolnshire
DN15 6XQ

Author: Mark Sherwood
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Background papers used in the preparation of this report

- Allocation of accommodation: guidance for local housing authorities in England – consultation. Department of Communities & Local Government issued January 2012.
- This document is available on line at <http://www.communities.gov.uk/publications/housing/allocationofaccommodation>
- Summary of allocation issues and local circumstances

Consultation on
Draft Guidance on Allocation of accommodation for local housing authorities in
England.

Summary of Issues and Local Circumstances

Introduction

The government is seeking the views of local housing authorities before 30 March.

Full details of the consultation are available on

<http://www.communities.gov.uk/publications/housing/allocationofaccommodation>

The council, as a local housing authority, has various duties and powers in relation to provision of social housing to meet local needs. In particular the council has nomination rights with housing associations to ensure that those in housing need are provided with a home.

The Localism Act makes fundamental changes to the social housing system that aim to make the system fairer, whilst balancing the needs of new and existing tenants.

The draft guidance makes clear that the government expects social homes to go to people who genuinely need them, such as hard working families and ex-servicemen and women, and not to those who do not – such as people who already own a home that is suitable for them to use.

It encourages councils to adopt a modern measure of overcrowding – so families in crowded housing will find it easier to move into more suitably sized homes. It encourages councils to prioritise tenants who want to downsize, helping those whose children have fled the nest to move to smaller, more manageable properties.

Locally, “downsizing” may be a significant issue. North Lincolnshire Homes are assessing the number of their tenants that are under- occupying their homes in relation to the welfare benefits proposals. There is the possibility that several hundred tenants may be looking to move to smaller homes when these proposals are implemented.

Scope of guidance and definition of an allocation

The Secretary of State is issuing this guidance to local housing authorities (referred to as ‘housing authorities’) in England under s.169 of the Housing Act 1996 (‘the 1996

Act'). Housing authorities are required to have regard to this guidance in exercising their functions under Part 6 of the 1996 Act ('Part 6').

For the purposes of Part 6, the allocation of housing by a housing authority is defined in s.159(2) includes nominating a person to be an assured tenant of housing accommodation held by a Registered Provider (i.e. a housing association) or a Private Registered Provider (i.e. certain private developers). This is what happens in North Lincolnshire.

The term 'assured tenant' includes a person with an assured shorthold tenancy (as well as a full assured tenancy) and includes the Affordable Rent properties housing associations are now being required to provide.

Local Circumstances in North Lincolnshire

The council exercises most of its nomination rights through a common allocations policy agreed between North Lincolnshire Homes, Longhurst & Havlok Housing, Shoreline Housing Partnership, and North East Lincolnshire Council under the Home Choice Lincs partnership. Home Choice Lincs is a choice based lettings scheme that ensures that properties that are available for letting are advertised and let to those in housing need that have expressed an interest in the individual properties advertised.

A number of other housing associations with whom the council has nomination rights also advertise their vacancies via Home Choice Lincs.

It is this common allocations policy that the council is being asked to consider amending in response to the Localism Act and the government's allocations guidance.

The council is represented both on the Home Choice Lincs governing board and the policy and operations officer group that oversees the effective running of the scheme on a day to day basis.

Key terms and jargon

The consultation document makes reference to various pieces of legislation that are explained below.

"Part 6 of the Housing Act 1996"

This is the legislation that governs how housing authorities can allocate homes, including the requirement for an allocations policy and the procedures necessary to implement it. Part 6 includes the requirement for social landlords (e.g. housing associations such as North Lincolnshire Homes and Guinness Northern Counties) to co-operate with local authorities.

“Constraints on tenant transfers under Part 6”

Currently existing tenants who apply to move home have to be considered on the same criteria as new applicants for social housing. They cannot at present be given any preference as a reward for good behaviour or for their contribution to their community.

“Reasonable preference” criteria

Part 6 of the 1996 Housing Act requires that housing authorities must ensure that “reasonable preference” is given to the following categories of people:

- People who are homeless within the meaning of Part 7 of 1996 Housing Act
- People that are owed a duty by any housing authority under other duties under the 1996 or 1985 Housing Acts
- People occupying insanitary, overcrowded or otherwise unsatisfactory housing
- People who need to move on medical or welfare grounds (including disability)
- People who need to move to a particular locality in the housing authorities district, where failure to meet that need would cause hardship

“Qualifying persons”

Housing authorities may only allocate housing to people who are defined as “qualifying persons”. Legislation defines persons from abroad who are ineligible but otherwise housing authorities may decide which classes of people do or do not qualify for housing. For example owner occupiers might be disqualified, either completely or only where they needed to move on medical or disability grounds.

Overview of the amendments made by the Localism Act 2011

The Localism Act introduces significant amendments to Part 6 of the 1996 Housing Act.

The main policy objectives behind these amendments are:

- To enable housing authorities to better manage their housing waiting lists by giving them the power to determine which applicants do or do not qualify for an allocation of social housing within their district. This may allow housing authorities to manage unrealistic expectations by excluding people who have little or no prospect of being allocated accommodation
- To make it easier for existing social tenants to move by removing the constraints of Part 6 from those social tenants who apply to the housing authority for a transfer.
- To maintain the protection provided by the statutory reasonable preference criteria – which ensure that the priority for social housing goes to those in the greatest need. The detailed changes to Part 6 contained in the Localism Act 2011 are set out in the following paragraphs.

Housing authorities are obliged to comply with the provisions of Part 6 in the allocation of, or in the council's case, nomination, to introductory and secure tenancies or nomination of applicants to assured tenancies in Private Registered Providers' stock.

Secure tenancies now include new flexible tenancies that are to be introduced.

Social housing may only be allocated to 'qualifying persons' and housing authorities in England are given the power to determine what classes of persons are or are not qualified to be allocated housing.

These are new requirements and are in addition to the provisions on eligibility in respect of persons from abroad which continue to be set centrally.

The power for a housing authority to decide that an applicant is to be treated as ineligible by reason of unacceptable behaviour serious enough to make him unsuitable to be a tenant is redundant and has therefore been repealed.

The power is no longer required, as housing authorities may set their own qualification criteria, including (but not limited to) disqualifying people who are guilty of serious unacceptable behaviour.

Locally, the Home Choice Lincs common allocations policy (the "HCL policy") will need to be amended. Currently a small but significant number of applicants are suspended from the allocations system due to anti-social behaviour. It is proposed to reword the policy to achieve a similar effect as at present.

Housing authorities are required in England to allocate accommodation in accordance with a scheme which must be framed to ensure that certain categories of applicants are given "reasonable preference" for an allocation of social housing.

The Localism Act amendments include a new requirement for an allocation scheme to give a right to review a decision on qualification, and to be informed of the decision on the review and the grounds for it.

Locally, the HCL policy already gives applicants a right to request a review of decisions on qualification or preference and the grounds on which they were taken. This includes the information on which the decision was based.

This is in addition to the existing right to review a decision on eligibility. There is also new requirement that housing authorities must have regard to their homelessness and tenancy strategies when framing their allocation scheme.

The requirement for an allocation scheme to contain a statement of the authority's policy on offering a choice of accommodation or the opportunity to express preferences about their accommodation is retained.

Locally, the HCL policy already meets this requirement.

List of consultation questions

The consultation document sets out a number of questions that it invites local authorities to respond to. These are listed below together with information as to how these issues are currently dealt with under the HCL policy.

1. Does your allocation scheme/transfer policy already provide for social tenants who are under-occupying to be given priority?

The HCL policy currently places existing tenants who are under occupying by two or more bedrooms in Band 2, the second highest priority rating. Less than 4% of applicants are in the highest priority Band 1, so the priority accorded to under occupation would seem to be appropriate.

Band 3 is priority given to households with intermediate levels of need or where a move would allow more efficient use of the housing stock.

Band 4 is for households with a lower level of housing need.

2. Do you intend to revise your allocation scheme in order to make it easier for under-occupying social tenants to downsize to more appropriately sized accommodation?

The HCL policy already allows under-occupying tenants to register their interest in smaller properties as they are advertised. This issue is to be discussed with the housing associations to see what further incentives would be appropriate.

3. If so, what changes to your allocation scheme will you be considering – to make it easier for under-occupying tenants to downsize?

As above, so far no changes have been identified but this issue will be discussed with the HCL partners.

4. Do you agree that members of the armed forces and former service personnel should not be disqualified on residency grounds?

Members' views are sought on this issue.

Since the HCL policy went live in November 2010, the number of service personnel seeking accommodation in North Lincolnshire has been very small. Should the status and role of the Kirton military base change there is the potential for the number of armed forces personnel seeking homes in the area to increase significantly.

Is 5 years from the date of discharge an appropriate time limit for this restriction? If not, what would be a more appropriate period?

Members' views are sought on this issue.

5. Does the draft guidance provide sufficient clarity on how to implement the new power for housing authorities to set their own allocations qualification criteria? If not, in what areas would more guidance be useful?

The draft guidance is not detailed and this allows a measure of freedom. This issue will be discussed further with the HCL partnership to see if there is a consensus regarding the need for further guidance.

6. Do you agree that the bedroom standard is an appropriate measure of overcrowding for the purpose of according reasonable preference? If not, what measure do you consider would be more appropriate?

The bedroom standard is an appropriate measure that can be understood by the public. It is satisfactory for this purpose.

The bedroom standard allocates a separate bedroom to each:

- Married or cohabiting couple
- Adult aged 21 years or more
- Pair of adolescents aged 10 – 20 of the same sex
- Pair of children aged under 10 regardless of sex

7. Should this guidance provide advice on how to define 'overcrowding' for the purpose of according additional preference? If so, would an appropriate measure be two bedrooms or more short of the bedroom standard?

The limited number of larger social housing properties available in North and North East Lincolnshire meant that after public consultation on the HCL policy it was agreed that households who were overcrowded by 3 or more bed spaces would be given Band 2 priority and households two bedrooms short of the standard would be given Band 3 priority.

- 8. How does your allocation scheme currently define 'overcrowding' for allocation purposes? Does it, for example, use the bedroom standard, the statutory overcrowding standards in Part 10 of the Housing Act 1985, or another definition? If the last of these, please provide brief details.**

The HCL policy uses the bedroom standard to define overcrowding.

- 9. The Government proposes to regulate to require housing authorities to frame their allocation scheme to provide for former service personnel with urgent housing needs to be given additional preference for social housing. Do you agree with this proposal?**

Members' views are sought on this issue.

As noted in the response to Q4 above the number of former service personnel seeking social housing has been very low since the HCL policy was introduced but there is potential for this to change in the future.

- 10. Does your allocation scheme already make use of the flexibilities within the allocation legislation to provide for those who have served in the armed forces to be given greater priority for social housing? If so, how does your scheme provide for this?**

There is no specific provision for prioritizing former service personnel in the HCL policy at present. However, depending on their circumstances they may often meet the Band 2 criteria as being unintentionally homeless.

- 11. If not, do you intend to take advantage of the flexibilities in the allocation legislation to provide for former members of the armed forces to be given greater priority for social housing? If so, what changes might you be considering?**

Members' views are sought on this issue.

The HCL partnership will also be considering this issue but no proposals have been put forward so far.

- 12. Does your allocation scheme already provide for some priority to be given to people who are in work, seeking work, or otherwise contributing to the community? If so, how does your scheme provide for this?**

Yes. People who need to move to a particular locality within North or North East Lincolnshire in order to take up an offer of employment, education or training, or to be nearer family or friends to give support are given Band 3 priority.

13. If not, do you intend to revise your allocation scheme to provide for more priority to be given to people who are in work, seeking work, or otherwise contributing to the community? If so, what changes might you be considering?

Members' views are sought on this issue.

The HCL partnership will also be considering this issue but no proposals have been put forward so far.

14. Are there other ways in which housing authorities can frame their allocation scheme to meet the needs of prospective adopters and foster carers?

The HCL policy already has provision for adoptive or prospective adoptive parents who need to move to be given Band 2 priority if their current residence is unsuitable.

Households that are fostering as part of a long term agreement and need a larger home may also be given Band 2 priority.

The HCL partnership will also be considering this issue but no proposals have been put forward so far.

15. Does the draft guidance provide sufficient clarity on the extent of flexibilities available to housing authorities when framing their allocation scheme?

The HCL partnership will be discussing this issue in detail.

Next Steps

Members' views are welcomed at any time before 23 March.

Members of the HCL partnership are meeting on 14 February to discuss these issues with a view to formulating a response to the government's consultation.

Responses to the consultation and any requests for further information on this topic should be addressed to Mark Sherwood via email mark.sherwood@northlincs.gov.uk or phone on extension 7628.